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(Hansard)**

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des débats
(Hansard)**

Thursday 10 October 2002

Jeudi 10 octobre 2002

Speaker
Honourable Gary Carr

Président
L'honorable Gary Carr

Clerk
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LEGISLATIVE ASSEMBLY
OF ONTARIO

Thursday 10 October 2002

ASSEMBLÉE LÉGISLATIVE
DE L'ONTARIO

Jeudi 10 octobre 2002

*The House met at 1000.
Prayers.*

PRIVATE MEMBERS'
PUBLIC BUSINESS

SOLICITORS AMENDMENT ACT
(CONTINGENCY FEE AGREEMENTS), 2002

LOI DE 2002 MODIFIANT LA LOI
SUR LES PROCUREURS
(ENTENTES SUR DES
HONORAIRES CONDITIONNELS)

Mr Bryant moved second reading of the following bill:
Bill 178, An Act to amend the Solicitors Act to permit and to regulate contingency fee agreements / *Projet de loi 178, Loi modifiant la Loi sur les procureurs pour permettre et régler les ententes sur des honoraires conditionnels.*

The Acting Speaker (Mr Michael A. Brown): The member for St Paul's has up to 10 minutes for his presentation.

Mr Michael Bryant (St Paul's): This bill seeks to improve access to justice in the province of Ontario. It is not a panacea; however, it is time for Ontario to join every other province in this country in regulating and providing legislation that addresses the subject of contingency fees.

This bill seeks to break down the major barrier to Ontarians accessing our courts, and the major barrier is cost. The vast majority of Ontarians do not meet the legal aid requirements and would not get legal aid. The vast majority of Ontarians, in turn, cannot afford in most cases the cost of counsel in this day and age to bring a matter to our courts. And that means that the courts in many cases, in many ways, in every part of Ontario have become the exclusive preserve of the very wealthy. This bill seeks to give everybody in Ontario, all Ontarians, the opportunity to have a matter heard in a forum where economics and politics do not rule the day, where, rather, justice rules the day. That's in our courts.

When I first introduced a bill on contingency fees in the spring, the law of Ontario was that contingency fees were forbidden. That was the position that the Attorney General took before the Ontario Court of Appeal in hearings last spring in the McIntyre case. The Attorney General of Ontario was articulating the law as everybody

assumed it to be; the statute said, in essence, that if contingency fees were forbidden by the common law, then they were forbidden in Ontario. It turns out, in a decision by Mr Justice Dennis O'Connor, the same Justice Dennis O'Connor who headed up the Walkerton inquiry, and a panel of very esteemed jurists, Justices MacPherson and Abella, that the common law of Ontario is that contingency fees are not forbidden.

Therefore, what we have in the province of Ontario quite simply is a situation where contingency fees are legal but totally unregulated—totally unregulated. We need to join every other province in the country in providing protection for consumers, to ensure that this currently totally unregulated market protects them from the various abuses that always may exist.

Every province in the country has had contingency fee legislation in place. Manitoba has had it in place since 1890. Every other province has had it in place for at least 25 years. The experience of those provinces has been that the legalization of contingency fees has not led to the abuses that I know are a concern—and I want to address them in my remaining time—as long as there's regulation. The concerns are about excessive fees. You address that by providing caps on fees. You address that by ensuring that high fees are regulated by the courts. You address that by permitting consumers to appeal a fee to the courts through a taxation assessment procedure. You permit it by setting out the circumstances in which a contingency fee arrangement would take place. For example, under no circumstances should a contingency fee arrangement take place for criminal matters or family law matters. That is set forth in this bill, as is the regulatory scheme that is needed to deal with this totally unregulated market.

As I said, the main purpose of the bill is to ensure that we get access to justice. The Supreme Court of Canada said in a decision in 1994—Mr Justice Cory said this: "Truly, litigation can only be undertaken by the very rich or the legally aided. Legal rights are illusory and no more than a source of frustration if they cannot be recognized and enforced." It's common ground that our justice system is inaccessible to the vast majority of people because of cost, at least on civil matters. That's why we need to give people the opportunity to pay for the fees after they may achieve the damage awards and create circumstances where the risk is borne not by the consumer but instead by the lawyer.

The advisory committee to the Attorney General in September 2000 recommended contingency fee regulation through legislation. That was an effort by the Advo-

cates' Society, the Law Society of Upper Canada, the Ontario Bar Association, the Ontario Trial Lawyers Association and a representative from the academic community, Professor Michael Trebilcock, to come together and make recommendations on what a contingency fee bill would look like.

I am attempting as best I can in a private member's bill to fulfill that mandate given to the Attorney General through the advisory committee's recommendations, but I would be remiss if I didn't quickly address the concerns that I know are out there on the subject of contingency fees. The first one, the obvious one is with respect to the Americanization of our litigation system, that somehow people will be heading off to the courts in droves, clogging up the dockets and achieving multi-million dollar settlements. In Canada, it is just impossible to do so, as a result of the caps put on damage awards by the Supreme Court of Canada. In particular, the Supreme Court of Canada has said that unlike the United States, we do have a cap on what are called non-economic losses. "Canada has limited the amount of court awards for non-economic losses (pain and suffering, loss of amenities, reduced life expectancy) to \$269,000 in 1999 dollars." That's the limit in Canada for non-economic losses. In the United States there are no such limits and there have been damages in the millions as a result.

Another concern with contingency fees was, as I referred to before, excessive fees being absorbed by the lawyers. How do you address that? You address it by regulating it, by putting forth caps, by having judges supervise the orders.

1010

I also say, and I'm quoting from Mr Justice Dennis O'Connor, who was appointed by the Attorney General, the Honourable Mr Flaherty, who's here today listening to this—and I think every member of the House has nothing but admiration for Justice O'Connor. He said this of the concerns regarding contingency fees: "While historically these concerns about the potential for abuse by lawyers or damage to the lawyer-client relationship were frequently expressed, there is little, if any, evidence to show that the fears were well-founded." He went on to say, "In addition, we have the benefit of the experiences of the many jurisdictions that have enacted legislation permitting regulated contingency fee agreements. This court was not shown any evidence to show that lawyers in these jurisdictions, properly regulated, are more likely to engage in the types of abuse to the administration of justice that were once feared to be the result of" these agreements.

So, yes, there are concerns and, yes, they have been fulfilled to some degree in the United States. But in Canada we've addressed them by putting forth laws and by putting forth regulations to curb abuse; not only to right wrongs but also to ensure that everybody who's involved in contingency fees knows the way the rules work.

Time is not going to permit me to read the letters I'm very grateful to have received from the Advocates'

Society and from the Law Society of Upper Canada in support of the regulation of contingency fees, nor from the comments of Professor Michael Trebilcock, who has endorsed this private member's bill on contingency fee arrangements.

Rather, I only have time to say this: we have a justice system that is paid for by the taxpayers. We fund the administration of justice in Ontario; it's the province's responsibility. It is a justice system, on the civil side, that is not accessible to our constituents. And so I say to you that while this is no panacea, this is an opportunity for us to permit the people of Ontario to redress grievances and injustices in the court where they might not otherwise be able to do so, and I ask for your support.

The Acting Speaker: Further debate?

Mr Gerry Martiniuk (Cambridge): It is a pleasure to be here today to speak to Bill 178, An Act to amend the Solicitors Act, which has been introduced by my good friend from St Paul's. This is an interesting piece of legislation, which certainly provides for excellent discussion.

As the government and the minister have stated, we are not in any way philosophically opposed to the idea of contingency fees. However, there are some concerns with this particular legislation as presently framed.

In regulating a contingency fee system, the rights of both the public and the legal community must be balanced. According to the proposed legislation, applications can be made behind closed doors to award a lawyer an amount exceeding the prescribed maximum. I ask, where is the accountability when proceedings like these occur away from public scrutiny?

Our government is committed to ensuring that all Ontarians have access to our justice system. While we are open to the idea of contingency fees, the reality is that this legislation raises some significant issues. We must strike a balance. That balance may not exist with the legislation reading as it presently does.

Just as lawyers have a right to be adequately compensated for their services, the public has a right to be able to access the legal system and not face exorbitant fees. We recognize that contingency fees open the justice system to vulnerable people who might not qualify for legal aid yet cannot retain the services of a lawyer.

These are all important issues, and I look forward to debating them in committee.

A strong, accessible justice system is integral to the functioning of any society. Our government has continued to take great strides in improving access to justice. It is an issue that is of paramount importance.

We have also taken steps to improve access to justice through reforms of the civil justice system. The Ministry of the Attorney General has worked closely with the judiciary and the bar to make the civil justice system more streamlined and efficient.

For example, case management, rule 77, and mandatory mediation, rule 24.1, have been successfully implemented in both Toronto and Ottawa and will be expanding to Windsor effective December 31, 2002.

Both these initiatives have helped improve access to justice. A two-year independent evaluation of the mandatory mediation program concluded that mediation has had a positive impact on the speed, cost and outcomes of litigation.

Another recommendation of the civil justice review, simplified procedure, under rule 76, improves access to justice by reducing the number of pre-trial procedures in cases involving smaller amounts. This reduces the cost to litigants and the time required to get the matter to trial. The simplified procedure rule first came into effect in 1996 as a pilot project for cases up to \$25,000. Following a positive evaluation, rule 76 became permanent across Ontario in 2001, and the monetary limit was increased to \$50,000 as of January 2002.

A discovery review task force, which was appointed by the Attorney General and the Chief Justice of the Superior Court of Justice, is reviewing the discovery process to identify problems with the current procedure and possible reforms.

This government has continued to demonstrate its commitment to ensuring access to justice. A balanced contingency fee system would be welcomed as part of this commitment. The key is balance. The system must safeguard the public while ensuring that lawyers are adequately compensated for their services.

The member's legislation is an important bill, and I look forward to the debate in committee.

Mr John Gerretsen (Kingston and the Islands):

From his last comment I'm not sure whether the member is in favour or not, but from his earlier comments I assume that he is not.

This is an issue that has been talked about within the law society of Ontario, and I would dare say within the general public, for at least the last 30 or 40 years. We are the only province in Canada that doesn't allow contingency fees.

Is the bill perfect? Probably not, and that's why it should go to committee after it receives second reading here. But to suggest that this government has done things that make it easier for people to have access to justice simply isn't the truth.

The truth of the matter is that anybody who wants to initiate or proceed with a civil action is paying fees much greater than they used to before 1995. To start a Small Claims Court action is more than a hundred bucks; to file a defence is more than \$100; to have any of the intermediate steps costs a lot more money than it ever used to. To suggest this government has taken actions that have improved people's access to justice just isn't the truth.

Look at what's happened with legal aid. In 1994-95, 20,000 certificates were issued under the Ontario legal aid plan for civil actions, either on the plaintiff or the defence side. Do you know what happened in 1997, just three years later? That had been reduced to 3,700. In other words, what happened within the legal aid plan is that civil actions have pretty well dropped off the radar screen. If you want to initiate a civil action, you're on

your own. If you haven't got the money, the legal aid plan isn't going to help you.

1020

Let's deal with the reality of the situation. Contingency fees have been in effect in most civil situations in the province for the last 30 or 40 years. I've practised law for 30 years and have contact with many colleagues, and I darned well know that the fees they charge to somebody involved in a civil action will greatly depend on their success. Whether we want to somehow not acknowledge that fact here is one thing, but the reality of the situation is that if you get more money, the lawyer charges more. So let's deal with the reality of that situation, like nine other provinces in this country have.

If there are some aspects of the bill that the member doesn't like, let him bring those aspects to the committee, let him bring in amendments. But the basic concept promoted in this bill is correct. The law society has been unwilling to deal with this. They've done report after report after report and the bottom line is that they're still not recommending it. Yes, there are various committees that have recommended it and various reports that are recommending it now, but the bottom line is that the government is not prepared to act on the request.

In other civil actions, the number of certificates has dropped by something like 80% from 1994 to 1998. One of the problems is that the legal aid system is simply not accessible to the same extent it was seven or eight years ago, so many people who have legitimate causes are prevented from taking action because they quite simply don't have the financial resources to promote their particular position.

So I beg this House: since this is a private member's bill, let's have a look at it within the legislative system; let's have a committee look at it. If there are problems with respect to certain aspects of it, yes, we can deal with them at that point in time by way of amendments. But to simply put your head in the sand and take the position that this is not an issue out there as far as access to justice is concerned and that this is not an issue for the general public out there that wants to promote its claims, that wants to advance its claims and simply isn't able to do so because of the financial constraints that are involved, isn't realistic.

Most of the other jurisdictions in Canada have a clause in their legislation that the contingency fees have to be reasonable. If, at the end of the day, someone doesn't find that they are reasonable—and remember, they're only charged in situations where the person is successful in their particular claim; in other words, funds are coming to them, rights are coming to them. If that person feels they're being overcharged, that the contingency aspect of it is too large, that person has a right to go to court under their legislation because of the reasonable provision aspect in the legislation.

So I say to the members opposite, this is one step to finally deal with an issue that's been around in this province for at least 30 or 40 years that I'm aware of. Let's move it along. Let's get resolution to it. Let's not

once again refer it to the law society. They have done numerous studies on it. Various committees have approved it and then, for whatever reason, the government didn't want to act on it or the law society as a whole didn't want to act on it. It is time to take action. Let's have some hearings on it after second reading of the bill. Let's send it to a committee and have some hearings on it, because it all deals with one issue and one issue only: access to justice, which by and large has been denied to those people who somehow are not able to fund their court actions currently.

I think the legal aid statistics speak for themselves. When you have a 70% or 80% drop in the number of certificates that are being issued in civil actions, it tells me only one thing, that there are a great number of legitimate claims out there that aren't being prosecuted because of the excessive amount it costs a person to do that.

So I urge all members on this side: let's give this bill second reading and let's send it to committee.

Mr Rosario Marchese (Trinity-Spadina): Right off the bat, I support this bill put forth by my friend from St Paul's, and I say "my friend" quite sincerely. Secondly, I'm not a lawyer. So for those who might be watching these proceedings, if I say anything untoward, not legalistic enough, please forgive me. I'm just a humble teacher, or used to be.

We've got the former Attorney General here, Mr Flaherty, and I was hoping—I allowed us to skip a turn just to see whether he would be speaking today. I'm not quite sure whether he is or he isn't. But I wanted to say to Jim that it was he who requested that an ad hoc committee be struck to study the issue of contingency fees, chaired by OBA member Donald Kidd, with representatives of the law society and the Advocates' Society. And the committee concluded in September 2000 and said that contingency fees would provide access to justice for individuals with valid claims.

My concern is, when a minister strikes such a committee—ad hoc, advisory, what have you—we do that with an understanding that once they conclude, we're likely to take the recommendation and do something with it. Well, in this particular instance, this ad hoc group agreed that we should move forward with contingency fees because they would provide more justice to many, and he refused to accept their recommendation.

I'm not quite sure whether it was he who refused to move on it, whether cabinet discussed this issue or not, whether it simply died when the former Attorney General didn't act on that recommendation; I'm not quite sure. But why in heaven's name do you strike some ad hoc committees to give you advice that you then refuse to take? This I do not understand. And that's why I was looking forward to Jim Flaherty, the former Attorney General, to comment on this, because it would shed some light on why the government is resisting this bill that is in place in all the other provinces, as has been mentioned by all the previous speakers.

We know that it works in practice, that there are no problems we are aware of, those who are advocating for

this; in fact, the Insurance Corp of British Columbia, a public auto insurer, I would add, revealed that in British Columbia, in 86% of the cases, lawyers earn less, the same or slightly more in contingency arrangements than they would on an hourly fee basis. So that issue ought not to be of concern to the government, based on that particular experience. We assume that's the case in many other parts of Canada.

I'm desperately trying to understand what the objections of this government are to this bill. You understand that this practice was going on illegally here in the province until Judge O'Connor ruled on this matter. So, yes, it is true that lawyers were making secret arrangements with their clients on a regular basis before Justice O'Connor ruled on this. And so it would seem to me that the member from Cambridge would want to get this into the open and regulate it so as to avoid the very things that I think he was speaking to earlier on; I'm not quite sure. But if it is happening illegally, in secret, shadily perhaps, I don't know, wouldn't the member from Cambridge want to take that out of the backrooms and put it out in the open and regulate it? I would think the member from Cambridge, who is a lawyer, I believe, or was, would understand this a little more than I and say, "Yes, we need transparency. We need regulation in this field. And, yes, it gives access to so many people who otherwise might not get the justice they deserve."

Vern Krishna, the treasurer of the Law Society of Upper Canada, commented that this bill could be of significant benefit to individuals making between \$30,000 and \$80,000 per year, since those earning more than \$30,000 cannot qualify for legal aid.

I say to the member from Cambridge and others who are lawyers in his caucus and those who are interested in this issue: the majority of people are in that category, making anywhere from \$30,000 to \$80,000. Those who make more are a small percentage of people, 1% to 10%. The rest of society is anywhere from \$30,000 to \$80,000 a year. That means we want to help and protect in some way the majority of Ontarians and give them access to the justice they deserve.

So I don't know what the member from Cambridge was saying. I don't know what this government is saying. I don't know what Jim Flaherty, the former Attorney General, is saying or has said, whether he's going or whether he'll speak or not, or whether other lawyers will speak to this. I'm not sure. But it is interesting to review aspects of the hypocrisy of this government where—you think that's too strong, Speaker?

1030

The Acting Speaker: While I'm up, I might remind you that you are not to use members' names. You may refer to their constituency or their ministerial position but not their name. Thank you. Would you withdraw?

Mr Marchese: I will withdraw that because the word might be a little bit too strong for the Tories. Speaker, just to remind you, I constantly refer to "Jim Flaherty, the former Attorney General." I constantly make reference to his title.

The Acting Speaker: We're not going to do this. Withdraw that too and refer only to people's positions. Withdraw?

Mr Marchese: I already did.

The Acting Speaker: The name.

Mr Marchese: Withdraw the name? I withdraw the fact—the former Attorney General doesn't have a name, therefore he doesn't exist, and I should never have made reference to him because he only has a title; he doesn't exist in person. That's bad. I've got to tell you, people exist not only in title but in person. Otherwise, they wouldn't be alive; they wouldn't be here in this place. It's an odd ruling to be making. That's why I usually combine the name and the title, so people know that behind the title there's a name. Yes or no, legally?

Interjection.

Mr Marchese: Yes, of course.

The word I was asked to withdraw which I will not repeat—but here's the contradiction in terms of the position this government is taking. The Ontario government is pursuing tobacco litigation on a contingency fee basis with its US legal counsel, but won't back such an agreement here in Ontario. You've got to help me, Speaker. To the person who doesn't exist, what does this mean? We want to pursue tobacco litigation on a contingency fee basis. That's the government suggesting that, but contingency fees, they say, are wrong in other cases. You follow? It's a problem.

It isn't just legally difficult to understand. As a matter of common sense—because even people with common sense can understand this, particularly Tories, who advance a common sense concept of behaviour. I am waiting for two of the members I mentioned earlier, who do not exist in name but exist in title, to respond to what I'm saying on this contradiction in particular and why it is that the ad hoc committee that was established by the former Attorney General, who exists, because he's here—why he didn't listen to their advice. I need to know from the former Attorney General why he didn't listen to that advice. If he can't do this, then I need some other lawyer in this caucus—because there are a couple of them here today, at least two—to stand up and say, "We couldn't do it for the following reasons. Yes, good advice, but we didn't listen to them for the following reasons." Help me and indirectly help those who are watching this program understand.

"In the decision in McIntyre, Justice O'Connor of the Ontario Court of Appeal encouraged the Ontario Legislature to regulate contingency fees:

"... I urge the government of Ontario to accept the advise (sic) that it has been given for many years to enact legislation permitting and regulating contingency fee arrangements in a comprehensive and coordinated manner."

It seems to make sense, like common sense.

"There are obvious advantages to having a regulatory scheme"—he says, and I agree.

Mr Rob Sampson (Mississauga Centre): A regular Tory scheme?

Mr Marchese: Sorry, former banker? "A regulatory scheme." Yes, thanks for helping out.

Mr Sampson: I didn't hear what you said.

Mr Marchese: We need bankers in this place. I've got to tell you, we need them. You need them especially.

Interjection.

Mr Marchese: Yes, your government needs your advice all the time.

"There are obvious advantages to having a regulatory scheme that is clearly and specifically addressed in a single legislative enactment. There is no reason why Ontario, like all the other jurisdictions in Canada, should not enact such a scheme." I would not have used the word "scheme" because "scheme" sometimes can be derogatory in its connotation, but he says "scheme" and it doesn't matter. What he means is an arrangement, a plan, etc. That's good advice from a judge.

Why is it that the former Attorney General isn't advocating for such a scheme? It is now, in his view, legal. It used to be, in the past, illegal. We want to put it out in the open, give greater transparency to the folks, and regulate. That is a good thing, but not, it seems, for the common-sense-revolutionary types. This is where the contradictions come together from time to time. They argue on the one hand in one way and argue differently on the other. That to me is incomprehensible.

I've got to say that there are things that we would suggest. We may want to consider demanding that the government provide public education and perhaps even a helpline whose number wouldn't always be busy—it would help if the line could be a little more open from time to time; a service to ensure that individuals entering into such arrangements with their lawyer have access to independent advice about the fairness and reasonableness of such an agreement before entering into it, and information about the regulations governing such agreements.

I think this is very useful stuff. Often we pass bills and we do not accompany those bills, which may be reasonable, with public education that helps those who otherwise wouldn't get the help to understand what they're getting into. A whole lot of people never quite know what they're getting into, so even though we would be regulating this practice, we still argue and feel that those entering into those arrangements ought to be given the information they need to be able to make good judgments as they enter into such contingency fee arrangements. We think it's good.

I've got to tell you, we never do public education. This is not limited to this government. It happens in all governments where we do not follow through well enough with public education to help the public understand what we do in this place and what we pass in this place.

I am hoping and assuming that the majority of Tories here present are going to support this bill today. I'm assuming they will and that they will send it to the committee of justice, in particular, to have this reviewed. We believe there should be full, open, public hearings so that we can ensure that the most vulnerable people are

protected, that the majority of people who would be helped by this bill would have an opportunity to come and speak to this issue and, through their examples and histories, we can get a better sense of what else we might do to improve on the bill, if necessary. It would give the opportunity to the Tories, New Democrats, Liberals and others, and the majority of people who are interested in this, to come, debate, discuss, give advice and be critical of the bill if they need to be. That's what we expect.

That's why we support this bill. We think it's a good bill. We want it to go to committee. We hope all the members of this Assembly will support it. I think that I've had my say on this bill.

1040

Hon Doug Galt (Minister without Portfolio): I appreciate the opportunity to be able to join in the debate on Bill 178. Certainly, our government is not philosophically opposed to contingency fee agreements. In fact, we feel that this debate is indeed a very positive step forward in improving access to justice here in the province of Ontario.

At the same time, we also think it is essential that the proper safeguards be in place to ensure that vulnerable members of the public are protected. We must also ensure that lawyers are adequately and fairly compensated for their work. This is an important balance that must be achieved through any legislation that regulates the use of contingency fees. It must be both fair to the public and fair to the lawyers.

As I mentioned, it is our view that access to contingency fees can improve access to justice. Contingency fee agreements could help ensure that no one is left out of the legal process. They help that segment of society, usually the middle class, that doesn't qualify for legal aid but doesn't have the resources to pay for an expensive legal battle. You have probably heard of people with strong cases but who could not afford legal services. For these individuals, access to justice is a real problem, not just an abstract issue.

Improving access to justice is a priority of our government. That is why we recently introduced legislation to increase the flexibility that Legal Aid Ontario has to provide the people of Ontario with modern, accessible legal services.

Improving access to justice also means making sure we have modern court facilities. That is why since 1996 we have committed more than \$269 million to build and renovate court facilities throughout Ontario.

Courthouses are strong symbols of justice. They remind us that the justice system is an essential part of community life. They must also be practical facilities that ensure the efficient and effective administration of justice. The Ministry of the Attorney General's court operations are located in over 200 facilities across the province. Many of these facilities require ongoing investment to ensure the public receives the best service possible.

There are courthouses in Ontario that need to be renovated, modernized or even replaced. Over the last six

years, new, consolidated courthouses have opened in Brampton, Cornwall, Hamilton, Welland and Windsor. These consolidated courthouses make justice services convenient and accessible, and utilize courtroom resources efficiently. As a result, the justice system operates more smoothly, cases are dealt with more quickly and public safety is enhanced.

Other major capital projects are currently under development or underway in the municipalities of Brockville, Chatham, Owen Sound, Pembroke and Toronto. A Toronto landmark, Osgoode Hall, is in the later stages of a 10-year, multi-million dollar renovation to ensure that it continues to meet user needs well into the future.

Clearly the time has come to consider the use of contingency fees in Ontario. I'm sure all of you are aware of the recent court ruling on this matter. As a matter of fact, last month the Court of Appeal held that contingency fee agreements are indeed permissible.

Our province is the only jurisdiction in North America that does not currently allow contingency fees for individual claimants; in fact, the province of Manitoba has permitted them for more than 100 years.

While contingency fees have been linked to increased litigation and higher damage awards in the United States, Canadian jurisdictions have reported few difficulties. So again I would like to state that as a whole we think contingency fee agreements are a good idea. We just have to ensure that we have regulations in place that protect the public and allow for fair and adequate compensation of lawyers.

We feel that this is indeed an important issue to debate in committee. I'll certainly be supporting the bill at second reading, and look forward to discussing some of the issues we have raised when the bill is considered at committee.

Mr Sean G. Conway (Renfrew-Nipissing-Pembroke): I'm pleased to rise in support of Bill 178, which has been introduced by my colleague and friend Mr Bryant from St Paul's. I've enjoyed the debate. My sense of the House this morning is that there is a wide range of support for the principle of at least taking a good look at Bill 178, and certainly I appreciate that.

I want to say a couple of things generally about the legal system. I think Mr Bryant is very, very right to point out, as a number of other members in the debate this morning have observed, that there is a growing problem with the broad base of the middle class not being able to or not feeling able to access the justice system. I know myself, when I was involved in a libel action a few years ago, that I got a bit of a wake-up call as to what some of the costs were going to be.

As Mr Bryant has indicated, if you've got a lot of money, no problem; if you qualify for legal aid—the qualification criteria there have been tightened, as we all know—at least there's some relief; but if you are the majority of Ontarians and you have some occasion to need the justice system, particularly on a civil matter, you quickly find out that it's going to be very expensive, and,

as the 1995 report prepared by the civil justice review made plain, the cost of engaging legal services for a lot of middle-class folks is sufficiently prohibitive that in many cases they don't proceed. So I do think there is a case to look at a creative and acceptable alternative, and certainly contingency fees seem to be one possibility there.

I think, as Mr Bryant has pointed out, the fact that it's already occurring in this province on an informal, unregulated basis ought to give us some real pause.

Interruption.

The Acting Speaker: Order. Stop the clock, please.

While I'm up, it's just getting way too noisy in here. Private conversations should be taken outside.

Interjection.

The Acting Speaker: The member for Niagara Centre may want to take his conversations outside.

Mr Conway: I'm particularly pleased that Mr Flaherty and Mr Sampson are here and I really do want their attention just briefly. I want to say something about an issue in my part of southeastern Ontario, where Mr Sampson's father was a distinguished crown—

The Acting Speaker: I reminded members earlier that using names is not permitted in this place.

Mr Conway: I happen to think this is a good debate and I'd like to participate in some sensible way. I want to make some comments about Brockville. The legal system in Brockville, in Leeds-Grenville, if anybody has been paying attention—I know the member from Durham, the former Attorney General, will know some of this.

I went up to the library a few minutes ago and picked up the most recent half dozen issues of the Brockville Recorder and Times, and I'll say to all members of the Legislature, but particularly anybody with involvement in, experience with and responsibility for the legal or justice system, what's going on in Leeds-Grenville and around the system in Brockville is absolutely outrageous. The legal aid system has been held up to complete ridicule.

Interjection.

Mr Conway: That's a fair point. I accept that. I know more, perhaps, than most people in here.

But I'm going to tell you, the agents of the Attorney General on this legal aid matter there—

Interjection.

Mr Conway: Well, I say to the former Attorney General that the issue at hand is what has been going on with the legal aid system. We've got the Attorney General in the Legislature announcing one policy, his agents in the courts in Brockville saying and doing something quite to the contrary and a whole bunch of collateral issues to which he has made some parenthetical reference that are not helping.

The Brockville Recorder and Times—the editor, Barry Raison, and the reporter, Jack Walker—has done an excellent job of highlighting some of the problem and some of the challenge. We as a provincial government and Legislature don't look very good in the exercise. So if I look at the legal aid system in a place like Brockville—and it's probably worse there than in much of the

rest of province. I don't know, but it would not give me a lot of confidence. I want to have some confidence, I want the public to be able to look at this justice system and the legal system that's so important a part of it, and to say, first of all, it's accessible and affordable to all of us on a reasonable basis. And I want to know that some of the other entitlement programs around it, whether it's the correctional system or the legal aid system or the panoply that my friend from St Paul's and the Minister of Economic Development and Trade would know better than I, are also to a reasonable extent working with some effect and credibility.

1050

You cannot read the last six weeks of the Brockville Recorder and Times and honestly conclude that it's a system of very much credibility or legitimacy. The Ontario government is not entirely responsible, let me make it clear, for some of the problems, but we have a considerable measure of responsibility for them. Just like the previous speaker talking about all the good work that's going on with courthouse renewal—and it's true there is a lot of good work that is going on with courthouse renewal. We are trying to build a new provincial courthouse in Pembroke, and it appears to be an Olympian task.

Not all of the problems reside with the provincial government, and I accept that. But if I'm a taxpayer in Renfrew county watching Her Majesty's provincial government trying to build a courthouse in the city of Pembroke, I would think it must be beyond human possibility: seven years and I don't know how many person-hours. Good work being done by the current Attorney General, the former Minister of Corrections and people locally. All I know, however, as a local citizen, and I won't tell you chapter and verse of the local bar; the Renfrew county bar really does think we are incapable of building a courthouse. It doesn't matter whether they're Liberal, Tory or independent lawyers; they've pretty well all come to that conclusion.

I hope in the remaining months of my tenure I'm going to be able to say it is not beyond the possibility of a provincial government in the early days of the 21st century to do what we seem to have been able to do with some alacrity in the middle of the 19th century in county towns like Pembroke: namely, build a rather elegant and stylish courthouse, one that is functional and meets the needs of 2002, as opposed to 1867.

I say in conclusion, there is a need to look at the issues raised by my friend's Bill 178. Are contingency fees the only answer? I suspect not. But as a citizen with very limited experience here, I would say this: if these contingency fees now are the order of the day in all the other Canadian provinces, if they are the order of the day in most other jurisdictions in the developed world and certainly in North America, at least, and if in fact it's being done here on an informal, unregulated basis in Ontario, we'd better move on to recognizing that reality and at least regulating it in some sensible way. I would hope there would be a good committee hearing of people who know this issue much better than I in this Legis-

lature to see how we can move this forward. And I'll say again to my friends, the members from Mississauga and Durham, that situation around legal aid and other justice issues in Brockville, Leeds-Grenville, bears some very serious scrutiny, because regular people must be looking at that and saying, "My goodness, what on earth is going on?"

The Acting Speaker: Further debate? The member for St Paul's has up to two minutes to reply.

Mr Bryant: I'd like to thank the members for Kingston and the Islands, Renfrew-Nipissing-Pembroke, Trinity-Spadina, Cambridge, and Northumberland for their comments.

It seems clear that there is a great desire for this bill to be scrutinized at the committee stage, and I could not agree more. In the event that the bill does get the support of the House, I'll be seeking that the bill go off to the justice and social policy committee.

I've heard the concerns with respect to setting caps and legal fees by regulation versus by statute. I think that those concerns, obviously, can be addressed at the committee stage and by amendments before the bill reaches third reading. We are here debating the bill at second reading, which means we are debating the principle of the bill.

I appreciate the support that I have heard in this House. I've listened to the questions that have been raised and I want to say this: we have right now in the province of Ontario lawyers entering into informal contingency fee agreements with clients. Up until recently they were perceived to be contrary to the common law. Now we know, according to Mr Justice Dennis O'Connor, that they are legal. So we have it happening. We have these agreements taking place. We know that it is legal.

The Attorney General took the position before the Court of Appeal that contingency fee agreements ought not to be regulated ultimately by the courts but ought to be regulated ultimately by the Legislature. And here we are in the Legislature. I know that none of us wants to read in the newspaper one day a sad story of somebody who had been abused by an unregulated legal system on contingency fee agreements. Today is our opportunity to make sure that never happens and I'm asking for the House's support in that regard.

The Acting Speaker: This completes the time allocated for debate on this ballot item.

COLLISION REPAIR
STANDARDS ACT, 2002
LOI DE 2002
SUR LES NORMES DE RÉPARATION
EN CAS DE COLLISION

Mr Sampson moved second reading of the following bill:

Bill 186, An Act to further highway safety and establish consumer protection through the regulation of the collision repair industry, and to make a comple-

mentary amendment to the Insurance Act / Projet de loi 186, Loi visant à améliorer la sécurité sur les voies publiques et à protéger les consommateurs en réglementant le secteur de la réparation en cas de collision et à apporter une modification complémentaire à la Loi sur les assurances.

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

Mr Rob Sampson (Mississauga Centre): Before I get too far on in my 10 minutes, I want to thank various members of the collision repair industry who have come here today to witness our business this morning and to provide some support for the initiative that we have before the House. I also want to thank the member for Oak Ridges, who actually started this project, if you will, with me in about 1995 or 1996 when we collectively came to the conclusion that in order to help with some components of the auto insurance issues I was dealing with at that time we should take a look at bettering the environment under which people go to get their cars repaired. The member for Oak Ridges spent a number of hours consulting with the numerous stakeholders in this particular subject and came forward with some recommendations and proposals that, through subsequent discussions and negotiations, stand in the form of the bill that we're debating here today, the bill that stood in his name before he was elevated to cabinet just last week.

In the short time I have here, I think it's important for me to try to explain—and I know the member for Oak Ridges will do what he can to pick up where I have missed. Where we are now is that Ontarians are faced with a repair industry that for the large part is comprised of good operators such as we have here in this House in the galleries today: good, hard-working men and women who are making an honest living out of repairing vehicles that have been damaged, either through an accident, theft or whatever, or vehicles that just need repair because that's the way vehicles are these days. Every once in a while you do need to repair things, whether it was an accident or not.

The problem, of course, lies in that there are those in the industry who choose not to honour good business practices, good training practices, good customer relations practices that the good operators do. As a result of that, they tend to poison the relationship that these fine people have with their customers, and that's wrong.

1100

There are rules and regulations that are scattered among the various legislative books in this province, the various laws in this province, that deal with things these fine men and women must honour when they do their jobs—pollution control initiatives by MOE, training initiatives etc. But the challenge has been that there are no consistent standards which all operators within the collision repair industry need to meet or exceed in order to do business here in Ontario.

As a result of that, some insurance companies—not all, but some—who are the first payers, if you will, of the

bills of these individuals, have initiated on their own behalf, rightly or wrongly, correctly or incorrectly, programs to “certify” various members in the industry to do business for their—the insurance companies’—customers when claims are made, which sounds like a good initiative. The problem with that, of course, is that the standards by which these individual insurance companies certify these various shops to do business are themselves inconsistent to the point that some people who are still performing what I think the average and reasonable person would deem to be inappropriate business practices, get into that group.

In the sports analogy, there’s not a level playing field for the men and women who are investing their own personal cash and their own sweat and equity in these various businesses. There’s not a level playing field for competition among the various groups, and that’s problematic. Why? It’s because they are competing against people who may be breaking certain components of provincial legislation or maybe just demonstrating bad business practices, and that tends to bring down the quality, the performance and the public acceptance of that industry in general. It’s the bad apples who have spoiled the basket.

The bill we have before us attempts to deal with at least establishing minimum standards on performance, training for staff who are working, business practices, invoicing, the type of equipment being used, which will apply to everybody who’s playing in this business and maybe drawing in other provincial pieces of legislation so that encapsulated in one regulatory framework will be these minimum standards which anybody who chooses to repair automobiles in this province must adhere to.

By the way, this is not a novel concept. This Legislature, in its infinite wisdom, has done that in a number of other professional areas: lawyers, people who sell stocks and bonds, doctors, physiotherapists, optometrists, you name it. Most of the people who provide very important services to Ontarians have to meet some sort of regulatory environment in order to do that business in this province, and there’s some sort of a regulatory council. In many cases it’s governed by the members themselves; in some cases it’s the members and consumers; in some cases it’s the members, consumers and other groups. This bill proposes one, but that could change if this House so chooses. A regulatory council will certify the practitioner or lawyer or broker or insurance broker, or decertify if it’s deemed that their particular business practice is not meeting these minimum standards.

This bill is very simple. It simply establishes a framework under which this regulation—you can call it self-regulation if you choose—will happen. In fact, the regulations and business practices and rules of the game, if you will, will be those that have been recommended by this advisory group to the government through a ministry—I’m recommending one in this particular bill, but I’m open to others, if that’s the choice—and those rules deemed appropriate by government will be the

minimum playing field rules that will apply to anybody who’s operating in this business, in the hope that those who choose not to do it that way will eventually be weeded out—that’s good—but frankly in the hope that Ontarians and those who are using the service and those who are in the business themselves can have pride and confidence, and some faith, in what these individuals do to their vehicles.

It’s a consumer protection initiative as well, because one needs to realize that after a car is involved in a serious accident and gets repaired at these shops, it’s back out on the street again. It’s that car next to you as you look out the window. It’s the car ahead of you with the brake lights on. It’s the car behind you that’s having to stop because you had to put your brakes on quickly. These vehicles are around you, and you need to have confidence that the work that has been done to return them to the road after an accident has been done safely and effectively and, since you’re eventually paying the bill, efficiently. These are the standards under which I hope this House considers Bill 186.

We need to have some confidence in this industry. These men and women who are sitting here today need to have some confidence in their industry. Those of you who are paying the bills, the insurance company premiums, the repair bills that come before you because you’ve chosen not to go through the insurance company, you need to have some confidence that that bill is a fair bill, that the work has been done by people who are qualified to do it, and you can get in the car and safely drive it again.

I encourage the House to favourably consider this piece of legislation.

The Acting Speaker: Further debate?

Mr Monte Kwinter (York Centre): I am pleased to rise and support Bill 186, the Collision Repair Standards Act. I think it’s critical that an industry that is so important to the driving public, and that’s a vast majority of the citizens of Ontario, have some sort of minimum standards, some sort of level playing field. Having said that, I have some real concerns about the bill, which I hope will be addressed when it goes to committee, if it goes to committee, and I hope that this House will see fit to send it to that committee.

My concern is that—and as a former Minister of Consumer and Commercial Relations and a minister responsible for consumer protection—there seems to be an unlevel playing field when in fact the whole premise of this bill is to have a level playing field.

As a member who is now in his 18th year in this Legislature, over the years I’ve had many, many calls and complaints from people who have had difficulties with things related to automobile repairs, but not specifically. They have problems with the insurance companies; they have problems with the towing companies; they have problems with the repair companies. And there is a link. You can’t separate any of those parts, because the first point of contact after an accident is the tow truck operator. He comes to the scene. The driver is in a

traumatic state, may be injured, whatever it is, depending on the severity of the accident, and suddenly has to make a decision. And all of you know that the tow truck operators descend like vultures. They monitor the police reports. There's an accident and suddenly there are six trucks lined up to try to grab this car. When they do that and they say to the driver, "We're going to take this car to this particular place," unless the driver is really calm and settled down and says, "Well, I don't know about that," they'll say, "Fine, go ahead and do it."

I just had a recent case, to give an example, where that exact thing happened. The vehicle was taken to a repair service. The insurance company said, "They're not on our preferred list. We will not honour that claim. We've got to take it to someone that we want to take it to." The repair company that had it said, "There's no way. We have the car. We've already started. You're going to have to pay us or we're not going to release the car." My constituent had to wait a week to get their car out of that garage. That really isn't right.

1110

It's critical—and I applaud the minister, who is the member who introduced this private member's bill—that there be a level playing field. The critical part about it—and I hope it doesn't get diluted once we get into discussions—is that it is the consumer's choice as to where that car goes, not the tow truck driver's choice, not the insurance company's choice. It is the consumer's choice. They will decide where that car goes, with the proviso—and that's what this bill provides—that every automobile repair shop in Ontario will have to be certified. If they're certified, then everybody has to buy into the fact they are certified and, as a result, there can't be any manipulation as to where that car goes.

It would seem to me that if that can be assured, then I don't have a problem. We have to make sure the certification is there, that the shops that are certified have got adequately trained mechanics, body repairmen, people who have to deal with the mechanical aspects of it, including the repair part of it, and everybody has a level of satisfaction that in fact their car is going to be professionally repaired, is going to meet all of the safety standards, is not going to provide problems down the road and is not going to be a hazard to the driver or to anyone else. If we can get that, I think it's great. I have no problem with that.

The situation when we go to the actual bill gives me some concerns. Let me just tell you what those concerns are. The act provides that there be an advisory board. The advisory board is to be made up: "four shall be persons who work in the collision repair industry; three shall be persons who work in the automobile insurance industry; and two shall be persons who do not work in either the collision repair or the automobile insurance industry, and who are not employees of the Ontario public service."

That's a nine-member board and it seems to be representative, but again I think that somewhere along the line we've got to bring in that other component. We've got to bring in responsible people in the towing industry so that

they can buy into this process. If they're not at the table, they're not going to feel they're part of it and there's not going to be that ability to get a buy-in so that they can clean up their act. It would seem to me that that should happen.

The other problem I have is that, further along in the proposed act, they talk about "delegation." In the delegation, after I've just outlined to you the composition of that advisory board, you then put in what I consider to be a hook. You're talking about delegation and you say, "The advisory board may, subject to any conditions it sees fit"—talk about opening up the door. You're saying the advisory board, no matter what they think of, what they want to do, are allowed to delegate any of their "responsibilities under subsection (1)."

What can they do? Here you've gone to this great effort to make sure the advisory board is represented by the stakeholders, and I'm not talking about the drivers but in the industry. Then you're saying they can change that any way they want to, subject to any conditions it sees fit and they can delegate it to "one of its members." You can take whatever responsibility, and instead of making sure there's a quorum, making sure there is fair representation of all of the stakeholders, you suddenly find that they can delegate it to one member.

They can also delegate it to a committee of members. I have no problem with that as long as there are provisions for a minimum number of members to constitute that committee.

The next provision really puzzles me. In the original structure of the advisory board it specifically provides that "two shall be persons who do not work in either the collision repair or the automobile insurance industry, and who are not employees of the Ontario public service." Then we have, in "Delegation," that it can be delegated to "one or more employees of the ministry over which the minister presides." A couple of pages before, you specifically exclude them, and then, in the next couple of pages you provide that it can be delegated to them. We have a problem. It doesn't seem to make any sense. You say, "We don't want to have the government or public service employees involved," but then there is this delegation provision where they in fact can be. I have some very serious concerns about that.

When we get down to it, this is really a consumer protection act. I agree with the member. I give the industry the benefit of the doubt. The vast majority of the people out there are honourable, they're businessmen trying to do the best for their clients and themselves to make sure they're viable and can be competitive, and that there's a fair marketplace where they can get a fair return on their investment, on their equipment, and can prosper.

We have the insurance companies. Again, I used to regulate them. Most of them are honourable companies. I'm telling you, there's nothing more satisfying to a driver who has an accident: he calls the insurance company and gets a claims adjuster, they handle it smoothly, fairly and send you on your way, and you say, "Wow, I've got a great insurance company. They're going to see

that my car gets repaired and get me back on the road. They'll provide me with another car, if need be. They will do all of these things, and that's great."

Then you have the tow truck operators. Some of them are great and efficient, and they do the job and take you where you want to go. That's fine. But the reason we need regulation is for that small number of so-called bad apples. They're the ones who are not playing by the rules. They're the ones we've got to bring in the regulations to try and get rid of, quite frankly. We want them out of the business. If it's the insurance company, the tow truck operator or the repair shop, we want them out, because it gives everybody else a bad name. We want to make sure we can protect the consumer and protect the businessmen, the people who are in the repair shop business—this is their livelihood. As they say, they have made substantial investments in time and training. We want to make sure they're protected. We want to make sure that citizens get fair treatment from their insurance companies and from the companies that are towing their vehicles to start the repair process.

I think it's important that the regulations in the act address all those areas. I feel that at the present time it doesn't quite meet that standard. We will be supporting the bill, because the intent is good. It's a start, but there are some whole areas in this that have not been addressed that should be addressed. It's critical that we come up with something that does the job that people think it is doing and not paper over and just give us the impression that something is being done.

Mr Tony Martin (Sault Ste Marie): I'm very pleased to be here this morning in the very unusual circumstance of actually saying it will probably be unanimous today, that we will support an initiative, a bill coming forward, from a member of the government side. In my seven years across from these folks, this is the first time I can remember that I've actually been able to support anything they've brought forward.

This bill addresses a number of fundamental issues that are of concern to me, certainly of concern to my caucus and obviously to the member for York Centre and the Liberal caucus. It speaks about freedom in the marketplace, it speaks about protection for small businesses, it speaks about moving to protect workers in a very important industry where there are some concerns and it also speaks about protection of the consumers' interests in this instance.

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However, I do have some thoughts to put on the record here because we have some concerns, even though we are supporting it. Our concerns are tied into very much the pattern, the track record of this government to, in almost all instances, prefer and shower benefit on the larger business interests that operate in Ontario, in this case the insurance industry, which is very powerful and controls in many insidious ways almost every aspect of the business that they are either directly or indirectly connected to.

So we need to be making sure in this bill that there are ways we can ensure that even after this bill is passed—

because there are opportunities available in this bill, if you read it and as it rolls out, for this government to do as it has done so many times in its tenure here: on one hand to say, "Yes, we want to do this," but then when it actually comes down to it and given the opportunity to once again shower favour on those who contribute more generously to their coffers in terms of their need for money to run elections, we find that they do that which is not in the best interests of the smaller business interests, the worker in those industries and the consumer.

My concern here is, I think, well-founded and it goes a little bit further than the member for York Centre has elaborated so eloquently in terms of the concern re the advisory panel and then cutting out the bureaucracy and then bringing them in again. My concern is the control that the minister ultimately has over this and that anything the advisory panel decides must be delivered to the minister, who then will decide how that actually plays out in the legislation and in the determination and the putting together of regulations.

I give you, for example, for your perusal the instance of this government bringing in legislation and regulation to govern the delivery of services to seniors in our province under community care access. They put a whole series of regulations into a framework of legislation that was to be the framework within which that particular piece of public business would roll out. In a short time they found that it didn't suit their particular approach, it wasn't supportive of their need to manage more closely or spend less money in that sector, to bring in the private sector in a more direct and obvious manner, so they brought in other legislation which was, as my own colleagues would suggest, and Liberal colleagues that I've spoken to, rather a hostile takeover of that particular piece of public business, which changed the flavour, the tone and the very direction of that legislation in a very major and immediate way.

My concern in this instance is, looking at the bill and the power the minister has in taking into account the counsel given by the advisory panel, that maybe initially there will be an attempt, because this government wants to curry favour with a broader cross-section of this province as it moves toward an election—that there is in this the ability at some point, if not immediately, certainly down the line, for the minister to come back and begin to do things that would once again favour the bigger, corporate interests at the expense of the small business operator in every one of our communities across this province. I have to say that concerns me.

So I will be supporting the request that the member for York Centre made a few minutes ago to make sure this bill goes to committee, so that in that venue we can all insist on the government making sure there is provision in this bill to make sure that that in fact isn't what happens in the long run, because our concern in this whole piece is that we wrestle away from those bigger interests, particularly the insurance companies, the control and power they have right now to dictate where it is that vehicles that are in accidents go for repair and who

it is they will pay, because we know that behind the scenes there are other deals happening. There's money being paid that many small businesses cannot afford to pay in order to be a player in that market, and that concerns me.

It concerns me because I've done some work over the last five years in the area of franchising where I discovered, to my great chagrin—in my community I thought there were numerous small businesses, independent, in control of their own future, and if they made the investment, if they worked hard and lived up to the spirit of the product they were trying to deliver to my constituents, and they were good businesspeople, lived according to the law, that they could and would be successful, when in fact I discovered that there were so many controls and other manners of influence at play in most of the franchising operations that I had the pleasure of sitting down with and talking to, that many of them, even with their best effort, could never be successful or, at the very least, as successful as they hoped they would be. Having made the investment, having done the very hard work, having brought their expertise to the particular company and done all the right things, their ability to be successful was capped.

Even with the greatest of interest and commitment, participation and contribution, they were being controlled by bigger interests. There were deals being cut at another level by some of the big distribution systems. For example, some of the grocery chains—the very limited number of large grocery chains—that are out there right now delivering food products to our communities precluded many of the small businesses, franchisers in my community, ever either being successful or being successful in the way that the contribution they've made indicates they should have opportunity to be.

It's the same dynamic at play, I believe, in much of the repair industry of vehicles when accidents happen. We needed to bring in some regulation to somehow make the marketplace in Ontario free again, because the priority of the large corporate sector is not the same priority, sad to say, of those small business people who live in places like Sault Ste Marie, Sudbury, Blind River, Wawa and all of those communities across this province. We have to be careful here because we know from their track record that this government in fact is friendlier with the larger corporate entity than they are with individual small businesses in communities across this province.

We have some concerns, even though we agree that this is a good first step and that the member for Mississauga South, carrying a piece of legislation that was first introduced by the member from Oak Ridges, is wanting to do the right thing here. We just want to make sure in our capacity as critic to this government that in the long run it does become and continues to be the right thing, that there are no loopholes or end runs that can happen here that would take us back to the circumstance we're in today.

The other issue we have some concern with, and it's why we want this bill to go to committee, is that we want

to make sure the price of entry, the conditions that are imposed by the advisory committee and ultimately the minister, yes, in partnership or in cahoots with the larger corporate interest, might be put in place that would make the price of entrance into the industry itself so high—for example, the cost of equipment. You could set an artificial level for the investment that a small business person needs to make in a company so high that nobody could get in, or that they wouldn't qualify for the standard that is being set in this legislation and therefore wouldn't be able to take advantage of some of the business that was potentially coming their way. That concerns us as well.

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It concerns us that there continues to be some control on the advisory committee as it makes recommendations to the minister that they not bring forward—the advisory committee which can be changed by the government whenever it feels that it's not suiting their purpose, as we've seen in the instance of community care access centres where we had a hostile takeover. I was just looking yesterday at the list of replacements on those organizations that have happened in the last year; it's unbelievable. The government brought in people more sympathetic to their particular approach to that piece of public business so they then could have their way.

That could happen here too unless we're allowed in committee, Liberal, New Democrat and Conservative caucus, to have a very honest and frank discussion about this so that at the end of the day the recommendations and the regulations put in place preclude that, don't allow that to happen, so the standards that are put in place are in fact supportive of the very legitimate and hard-working small business people across this province who invest, in some instances their life savings, in this business so that they can make a living, support their families and look forward to retirement based on the profit they will generate in that business.

I realize from discussions we've had, that our research department has had with many of the small businesses in this sector across the province, that you are in favour of this bill. But I would invite you to work with us to make sure this piece of legislation goes before committee so that we can in fact put in place those things that are necessary to protect us from some of the possibilities I've just laid out for you this morning that could indeed happen, and have indeed happened, under this government as they are attracted to or persuaded or cajoled into, once again, showering benefit or favour on those big corporate interests that put so much money into their election campaign machine. We know that it has happened, we know it continues to happen and we know it will happen again.

So we are supporting the small businesses who are here this morning in their very real and genuine concern for their small businesses, for their colleagues in this business. We congratulate the members for Oak Ridges and Mississauga South for bringing it forward. On a more personal basis, I was disappointed that last year

when I brought a small bill forward to suggest that this government might want to give to people in the province living with disabilities a very modest increase in their income, they almost unanimously voted against it, and that was unfortunate. Even the two members who are bringing this bill forward to protect the interests of small business across this province, which I believe is the right thing to do, couldn't find it in their hearts to protect the interests of those in our province who are living with disabilities and have fallen some \$7,000 to \$8,000 below the poverty line in terms of their income and their ability to look after themselves. So if that attitude prevails where this bill is concerned, we're in difficulty. But if we bring it to committee and we all have a chance to give our input, if at the end of the day that's reflected in the bill and the legislation, I think we'll have something worthwhile here and we will support it.

Hon Frank Klees (Minister of Tourism and Recreation): First of all I want to thank the member for Mississauga Centre for agreeing to take up the cause on this bill. I also want to thank him for the number of hours he has spent with me over the last six years, approximately, working on this issue. I also want to thank members of the industry, many of whom are represented here in the galleries. I appreciate your being here and your support. I have to tell you, Speaker, that I have come to respect highly the men and women in this industry because, to a large degree they represent entrepreneurialism in this province. They represent individuals who are willing to risk their own dollars in terms of investment in businesses, have done so and work hard to deliver a very essential service to consumers in this province.

I want to thank members of the House because, without their unanimous consent this past week, we would not have been able to debate this bill today, simply because when I was asked to take on responsibility as minister, of course, my bill would have gone into the black hole, so to speak. So I appreciate the unanimous support of members of this House to allow us to debate this today.

I want to acknowledge that this process over the last six years has been a tremendous learning experience for me. It has been frustrating; it has yet at the same time been incredibly rewarding. This issue was first brought to me by a constituent. I had no idea, other than my personal frustrating experiences with collision repair, which I've had a few—none my fault, I might tell members of the House. But I had no personal experience with this industry in terms of what actually happens on the ground and what some of the background issues are. A constituent came to my office about six years ago and told me some of the issues around this industry. It was at that point in time that I said, "If what I hear is true, we have a responsibility as legislators to do something about it." So we started down that path.

It started with consultations with the industry, and there were representations from the towing industry, I say to the member for York Centre as well. He raises a very

important point, because there is a continuum of service here that involves not only tow truck operators but appraisers and people in the collision repair industry and the insurance industry. I agree that we have to somehow be able to deal with that on a seamless basis to ensure that everyone is treated fairly. But we went through that process of consultation, and the more I heard from people in the industry, the more I became convinced that this is an issue that we, as a Legislature, must address. It ranged from an issue of fairness in business practices that affect, yes, insurance companies and how they deal with repair shops; it dealt with how repair shops relate to each other in terms of the issue of a level playing field in doing business; it had to do to a large degree with the issue of consumer safety.

When I heard how there were actually repairs being done across this province today, and some are being done as we speak, that should not allow that car in its newly repaired condition to be back on the road because the minute there was any kind of a serious collision the lives of the people in that car would be at risk, something is very wrong. The fact that there is no province-wide standard in place today was a shock to me. I feel that we, as legislators, have a responsibility to act and to do this in the interests not only of the industry that's represented here today but, equally as important, in the interests of consumers who expect that we, as government, will take these initiatives on their behalf.

So before us we have a bill that I will admit is not perfect, and I thank members opposite who are saying, "Let's move this into committee," because that certainly would have been our intent and request as well. As I've explained to people in the industry, the process here is that we now take this bill that we agree to in principle—we agree something has to be done—and let's get input from the industry at that point. I'm sure there are some nuances that we have yet to consider here, certainly with the experiences of members opposite, and as a former minister of consumer affairs, we welcome Mr Kwinter's input on this as well, and members of the third party. It's at that stage in committee that we expect there will be some amendments proposed that we will accept to this bill so that we can then put it into a form where it will serve the industry as well as the consumers in this province well.

1140

With regard to some of the comments that have been made relating to the composition of the council, the composition of the board, if you will, the advisory council, I'm open to that as well. Again, let's have a look at that. In terms of the committee process, we will certainly want to do everything possible to make sure that this does the job that we intended it to do.

On the issue of the gatekeeper for this, I agree with the member from Sault Ste Marie. I think it's important that we not put up barriers here that prevent small businesses with low cash flow to become part of this process. I think some of that was actually addressed in the course of our consultation with the industry. There are ways that the

industry has of dealing with that. So we want to ensure that all of those issues are taken into consideration.

I know some of my other colleagues want to speak to this as well. I would have loved to take another hour on this, because so much has happened over the last number of years as I've dealt with this.

Let me just close my remarks by saying that for me this has been an encouraging, although, as I mentioned earlier, often frustrating process, because what it has shown is that one individual in a community can bring an issue to a member's attention and that that concern expressed can actually end up on the floor of the Legislature with legislation being introduced, debated, refined and ultimately then brought into force as law, which I hope—and I'm optimistic, with the expressions I hear today—will happen.

We hear so much about the parliamentary process and the lack of authority or the lack of influence that backbenchers may have or even cabinet ministers may have, indeed. I think this is a good day for Ontario. It's a great day for this Legislature when we see this kind of co-operation and this kind of progress being made.

Mr Mario Sergio (York West): Just a couple of points in my three minutes of time. Let me say that I do commend the member from Mississauga Centre for bringing this to the House. Yes indeed, it deserves all our support. Send it on to the committee and hopefully ask the—congratulations, by the way, to the new minister from Oak Ridges, Frank Klees, on his new position—that it indeed comes to the House with some amendments coming from this side of the House as well, amendments that I believe will be not only important but necessary. This is an excellent step. I commend the member for bringing this to the House.

But just quickly two points that I believe the member must address before this bill comes back to the House: one, I have a collision reporting centre in my area. In the same location we have insurance companies, company or companies, where they tell people, "You want this fixed, you've got to take it to such-and-such a shop." This goes for choice. I hope the minister is listening. This goes for choice to the consumer. I don't believe it is fair that we have insurance companies in a reporting centre saying to the client, "You want your car repaired," or truck, whatever, "you've got to take it to such-and-such a place." That is not a choice.

Regulatory body? Yes. But unless ultimately we attach some concrete, some solid control, this will become nothing more than another piece of red tape legislation, and who wants more red tape legislation? We want real protection for consumers. So I think this is a good step.

One important point that I want to address in the House—and I'm glad the minister is here; the member for Mississauga Centre is here as well—is this: a constituent of mine purchased a car from a car dealership, was involved in an accident, was sent back to the same dealership and the car was fixed. Then the client said, "Well, you know what? The car is three years old. I want to buy a new one. I like the make. I want to buy a

new car." Same dealer. Same agent. He says, "OK. Well, your car is worth so much, if you want to trade it on the market." Well, from \$20,000 the value came down to \$16,000 because the car was involved in an accident. Why is that? That is one area that must be addressed and this may be a good starting point to ensure that loopholes like this will be closed, that consumers will be really protected. If the car has been repaired to perfection, as it should be, then there is no reason why that car owner shouldn't get the market value, whatever that car may bear. Why should they be penalized because the car has been involved in an accident? They don't tell you that it's major or minor; the car has been involved in an accident.

So I hope that all of this will come out in the public hearings. I hope that the government will accept those amendments and we can—

The Acting Speaker: Thank you. Further debate?

Interjection.

Mr Wayne Wettlaufer (Kitchener Centre): Thank you, I say to the member for Mississauga Centre.

I'm very happy to stand here and speak in support of this legislation. I won't tell you that I don't have some minor reservations; I do, but they of course would be addressed in committee. I congratulate both the member for Oak Ridges and the member for Mississauga Centre for bringing this forward.

The purpose behind this bill is to enhance public safety and that is what's most important. It will also establish province-wide standards. That's important. If I was either the member for Oak Ridges or the member for Mississauga Centre I would have some concerns that the midnight operators who have been operating willy-nilly for the last number of years might be in town torching their houses right now, but that's beside the point.

I would like to address the fact, first of all, by saying I was in the insurance business for some 35 years. I've had a relationship with the body shops, the repair shops and repair facilities around this province and 99% of them are absolutely excellent facilities. A few are not and those few are the ones that need to be legislated. Those are the ones that need to be regulated, and regulated severely.

Saying that and saying that standards are necessary, that is not to say that body shops and repair facilities that use non-OEM equipment should be considered not certified. I don't believe that. I believe that non-OEM equipment is definitely acceptable. We've had presentations recently to the auto insurance committee to the effect that OEM equipment should be the standard. I'm sorry, I don't accept that. I've had too much experience; I would have to say that non-OEM equipment is used—we know it's used—by the original manufacturers. So I would say that any shop that uses non-OEM equipment could be certified.

However, that being said, we have to ensure that standards are in place to ensure that repair facilities are actually doing the work that they say they're doing and they are putting on the parts they say they are putting on that vehicle. We don't want a vehicle that shouldn't be repaired, however, to be on the road. Again, it's only a

small minority, a very tiny minority, of shops that are responsible for that happening.

In the bill there is a proposal to amend the Insurance Act to say that the shop must perform a repair at a price that is competitive with that charged by another certified collision repair shop. Provided that the member for Mississauga Centre is amenable to this, I would like to see that changed. I would like to see the words “competitive with” changed to “no greater than.” I do believe very strongly that “competitive with” could mean a 10% overcharge. I happen to believe that the people of this province want their insurance rates as low as possible. If we start allowing a 10% leverage in charges at body shops, that would affect insurance rates and I think the people of this province would object.

1150

Looking at some of the exceptions which would apply in the bill, I'd have to go along with them. Let's go to subsection (1) first of all.

“Payments only for certified collision repair shops

“263.2 (1) Despite the terms of any policy, an insurer may not make a payment for the repair of damage to an automobile due to a collision, unless the repair is performed at a certified collision repair shop within the meaning of the Collision Repair Standards Act, 2002.” Under the exceptions to that, “Repair of damage that takes place outside of Ontario”: I think that's quite acceptable. Everybody understands that easily enough. If Monte Kwinter is in Ohio and he has a repair that is necessitated from an accident, obviously he's not going to be asked to bring the automobile back to a certified shop in Ontario and have the repairs completed here.

The second one addresses many people's concerns: “Situations where there is no certified collision repair shop within the immediate geographic area.” In many rural areas, in northern parts of the province, there may only be one repair shop and that repair shop may have no interest in becoming certified, but there may not be another repair shop within 100 miles. Obviously the bill would not apply in those cases.

“Repair of damage to equipment that is not part of the structure or body ... including, without being limited to, electronic entertainment equipment”: I think we all know of too many cases where there might be a \$1,500 automobile that happens to have \$5,000 worth of electronic entertainment equipment in it. We can't expect a certified shop to conduct repairs on that equipment. It would be totally illogical and unfeasible for us to expect a repair shop to carry out those repairs. That's going to be done by an uncertified repair facility.

The Acting Speaker: The member for Mississauga Centre has two minutes to respond.

Mr Sampson: I want to thank members of the House for their contributions and their good suggestions this morning. Of course, should the House decide to carry this piece of legislation when the vote comes, we would be more than happy to see it come before committee to consider the suggestions you've raised and any other suggestions you might have. I would encourage members

to get those items to me so that we can consider them in a full and open hearing process to better this bill. I would be the first one to say it's not perfect. It probably won't even be perfect after we've considered all the regulations and amendments since none of us ever come up with perfect legislation, but I am prepared to work with you to try to find ways to better it.

Second, on the item of price of entry: I think the point the member from Sault Ste Marie was getting at is that we certainly don't want to disqualify the ma-and-pa shops, if you will, from doing legitimate business in this province. That is not, I would say to this Legislature, the intent of this bill. In fact, it's the actual reverse and opposite of that: that hopefully, through these regulations and standards, those individuals will have more access to providing this type of business than they currently do.

The item of whether the consumer has a choice of where to go is an interesting one. It's a valid one because this legislation doesn't propose to change that. That's dictated by the Insurance Act, which quite clearly is now saying that the consumer's choice is the consumer's choice. This legislation will effectively say and only limit that choice to those people who are certified to do that business. I believe that's the core of this bill. It's the core of the agreement I heard in this Legislature, and I look forward to further discussion of this in committee.

The Acting Speaker: This completes the time allocated for discussion of this ballot item.

At 12 o'clock noon I will place the questions regarding the two ballot items this morning.

Mr Sampson: On a point of order, Mr Speaker—you can't take it now? It's in recess?

The Acting Speaker: I'm afraid we can't take points of order at this point.

The House recessed from 1155 to 1200.

SOLICITORS AMENDMENT ACT
(CONTINGENCY FEE AGREEMENTS), 2002

LOI DE 2002 MODIFIANT LA LOI
SUR LES PROCUREURS
(ENTENTES SUR DES
HONORAIRES CONDITIONNELS)

The Acting Speaker (Mr Michael A. Brown): I will now deal with ballot item number 59.

Mr Bryant has moved second reading of Bill 178, An Act to amend the Solicitors Act to permit and to regulate contingency fee agreements. Is it the pleasure of the House that the motion carry? Carried.

Pursuant to the standing orders of the House, this bill be—

Mr Michael Bryant (St Paul's): I move that the bill be referred to the justice and social policy committee.

The Acting Speaker: Order.

Mr Bryant has asked that the bill be referred to the standing committee on justice and social issues. Agreed? Agreed.

COLLISION REPAIR
STANDARDS ACT, 2002

LOI DE 2002
SUR LES NORMES DE RÉPARATION
EN CAS DE COLLISION.

The Acting Speaker (Mr Michael A. Brown): We will now deal with ballot item number 60.

Mr Sampson has moved second reading of Bill 186, An Act to further highway safety and establish consumer protection through the regulation of the collision repair industry, and to make a complementary amendment to the Insurance Act. Is it the pleasure of the House that the motion carry? Carried.

Mr Rob Sampson (Mississauga Centre): I believe the finance committee is going to welcome this bill with open arms. I'd like to refer it to finance.

The Acting Speaker: Mr Sampson has asked that the bill be referred to the standing committee on finance. Agreed? Agreed.

All matters pertaining to private members' public business now being complete, this House stands adjourned until 1:30 of the clock.

The House recessed from 1202 to 1330.

MEMBERS' STATEMENTS

GOVERNMENT'S RECORD

Mr John Gerretsen (Kingston and the Islands): It's all about ethics and integrity, and it's clear the Ernie Eves government seems to lack both.

They don't have money for our seniors and those in need, but they certainly have it for themselves and their friends. They froze budgets for home care and refused to release the money committed four years ago by this government. They jacked up the rents for our frail and elderly living in nursing homes by 15%, when the law says everyone else could only get 3%. They have no money for our seniors, but they could spend \$8 million on the most expensive leadership campaign in history. They have no money for our most vulnerable, but they have \$10 million for sports teams in secret tax deals.

Let's look at the spending behaviour of some of the cabinet ministers: up to \$100,000 of taxpayers' money spent on totally unreasonable expenses. It's "Do as I say, not as I do" over on the other side of the House. They've got millions of dollars to spend on themselves with fancy dinners at steak houses, expensive hotel rooms and in-room movies, but when it comes to our seniors, our frail, our vulnerable, the government doesn't just say, "You're on your own." No, it's worse. They say, "You're on your own, and we're going to pick your pockets while we're at it."

It can't get much worse. The Harris-Eves government has lost touch with Ontario. They are looking out for themselves and their friends and they forget about the

people, especially the frail and elderly, here in the province of Ontario.

AUTISM SERVICES

Mr Peter Kormos (Niagara Centre): Curtis Moore lives in Stevensville. He's just a kid, but he's a kid with autism. His parents, Craig and Joanne, both incredibly hard-working, honest people, indeed both working people—you see, they can't afford not to, because they have to pay \$40,000 a year out of pocket for the autism treatment that Curtis requires.

They have no idea how they're going to pay back the borrowed money. They have no idea how they're going to finance this treatment at the cost of \$40,000 a year. They've embarked on it anyway. You see, they've been forced by this government to resort literally to pan-handling.

On Labour Day past, they got permission from Sherkston Shores resort to stand at the tollgate, the entry to Sherkston Shores, soliciting spare change from cars coming in, people visiting Sherkston Shores for the weekend.

This government should be ashamed of its abandonment of kids with autism and their families. It's imperative that this government move those children out of the ambit and scope of community and social services and make their treatment an OHIP-covered treatment so that Curtis Moore, Sarah Toner and so many other kids like them can get the treatment that they deserve, that they have a right to and that will enable them to live their lives fully and reach their full, real potential.

LORI BARBER

Mrs Julia Munro (York North): When a five-year-old girl put skates on and participated in her first learn-to-skate program at the then Keswick Figure Skating Club, something about the ice, the blades and the cold clicked with Lori Barber.

Lori used to wake her parents up at 6 am to get ready for the rink; then she waited for them in the car. Her enthusiasm never faded throughout the next 15 years of skating. Lori is still first at the rink and last to get off the ice.

In her skating career, Lori has had many ups and downs and disappointments. Throughout it all, Lori has never given up her dream to become a championship skater. Courage, determination and perseverance have given Lori many memorable moments, highlighted by her most recent accomplishment when she passed the highest competitive free skate test in Canada. It was a first for any Georgina skater.

Congratulations, Lori, and good luck with your skating this year.

GOVERNMENT'S RECORD

Mrs Leona Dombrowsky (Hastings-Frontenac-Lennox and Addington): It is truly disappointing to see

the double standard of this government unfold before the public of Ontario. The Harris-Eves government pledged that it would get rid of government waste and that taxpayers' hard-earned dollars would be spent fairly and wisely.

Well, the facts speak for themselves. Under Mike Harris, when Janet Ecker was Minister of Community and Social Services, she cancelled the \$32-a-month nutrition allowance for pregnant women on social assistance. However, that same minister turned around and billed Ontario taxpayers \$66,000 for her expenses. When John Baird was Minister of Community and Social Services, he spent \$4,900 on an image consultant for himself. Yet this same minister stood in the House and voted against a cost-of-living increase for people on the Ontario disability support program, who have not had a raise in more than a decade.

The people of Ontario are outraged as these Tory leopards are truly showing their spots. They will pounce on the poor while they greedily enjoy the spoils at the Eves trough. The people of Ontario want accountability, integrity, transparency and leadership restored to their government. That will happen when Dalton McGuinty is Premier of Ontario.

OKTOBERFEST

Mr Wayne Wettlaufer (Kitchener Centre): Tomorrow, Kitchener-Waterloo will kick off official celebrations for the 34th annual Oktoberfest. It's the second-largest in the world. This 10-day event is visited annually by Ontarians, citizens from other provinces, as well as our neighbours to the south from states such as Pennsylvania, Texas, Missouri, Ohio, Michigan and California. It's not uncommon to see busloads of people coming from states as far away as Virginia, West Virginia—everywhere in the States. Further to that, we even have visitors from overseas who come to enjoy some of the delectable cuisine, delicious desserts and, of course, some beer for those of age.

I am pleased to say that our own Minister of Tourism, the Honourable Frank Klees, will tap the keg tomorrow morning. Oktoberfest brings a direct annual economic impact to the area in the amount of \$18 million, including \$1.3 million to non-profit charities.

I want to congratulate Lois Peterson, president of Oktoberfest, and Larry Blundell, executive director of Oktoberfest, for their hard work, and of course the over 500 volunteers without whose efforts Oktoberfest would not happen. Let me take this opportunity to wish the Oktoberfest committee the best of luck for a successful Oktoberfest.

GOVERNMENT'S RECORD

Mr George Smitherman (Toronto Centre-Rosedale): Who knew a few short months ago that the Eves trough would be overflowing with such goodies for Ernie and his friends. Let's see if we can follow the timeline.

Ernie was elected leader of the Tories. A few days later he goes to a Toronto Maple Leafs game and sits with Mike Harris and Steve Stavro, the owner of the Toronto Maple Leafs. A few days after that, magically the Leafs and the other pro sports teams are handed a \$10-million tax break, a payback from the government of Ontario. A few people were trying to listen in on the conversation. Was Ernie saying he'd give him 10 bucks for the beer or \$10 million for the year? Either way, we know who picked up the tab. Joe Taxpayer. That's who.

Whether it's alcohol or pro sports teams, the Eves government is picking the pockets of Ontario's families and hoping nobody notices. When they passed their secret deal to help out the wealthy sports teams, it was such a secret that nobody even knew it happened. They'll make secret deals, quiet handshakes in dark hallways and hope that nothing ever sees the light of day. Ernie and his buddies are driving their limousines up to the loading dock at Queen's Park and shovelling the money out, millions of dollars at a time.

One by one those guys over there are lining their pockets, lining up for whatever goodies they can get their hands on. They'll charge the taxpayer for anything and everything. It's called greedy. It's called out of touch. It's called inappropriate and unacceptable. It's an entitlement mentality that is pervasive over there, and that's why they're on their way out.

Interjections.

The Deputy Speaker (Mr David Christopherson): Order, please. I would just ask members to watch the line. That last statement was certainly getting very close. Please bear that in mind when making statements.

1340

EMPLOYMENT IN NIPISSING

Mr AL McDonald (Nipissing): Today, I stand before the House to speak about the recent loss of jobs in my riding of Nipissing. I would first like to say that I realize the difficulties these people and their families are going through right now, because losing a job due to cutbacks or global competitiveness is not easy to take. It is especially difficult for those raising a young family and those already struggling with debt due to mortgages and the costs of day-to-day living.

I just want to say that as MPP for the riding of Nipissing, it does concern me to see people losing their jobs when currently we are struggling to keep people in the north at any given time. To have these people lose jobs specific to our area is hard for us northerners to digest.

One of my long-term goals upon taking my role as MPP for Nipissing was to promote job creation and the retention of people in the north, especially our young people. This is why I will continue to persevere in the goal to have more businesses set up in the north and to have more jobs created. I understand that many times job loss is beyond government's control when dealing with the ever-changing global marketplace, but when it is possible, I believe that all three levels of government

should work together to bring solutions to the table rather than deal with the terrible aftermath of job loss.

GOVERNMENT'S RECORD

Mr Dwight Duncan (Windsor-St Clair): Yesterday we learned that Tory ministers and their assistants will go to the ends of the earth and back, as long as they can charge the taxpayers for it.

More than \$2 million has been racked up by that Tory bunch in expenses charged to the average taxpayer. While families were opening skyrocketing hydro bills, Cam Jackson was eating expensive steaks and making us pay for it. While our elderly were hit with a 15% rent increase, the Harris-Eves government was handing over \$10 million to pro sports teams. While our vulnerable were told there would be no more home care services, ministers were living high on the hog and spending \$2 million. While our kids are in overcrowded classrooms with no textbooks, Ernie Eves was eating at Bigliardi's and charging it to Ontario's families.

There's a stench emanating from that side of the House. One rule for the province, one rule for the cabinet ministers. You want everyone else to tighten their belts, but when it comes to you and your friends, look out: the taxpayers' wallets are open and the money is flowing.

Ontario families are sick and tired of this double standard. They are sick of secret deals and being stuck with the tab for your expensive dinners. Ontarians don't want a Premier who puts himself and his friends first. They want a government that will work for them and give them open and accountable government with real integrity. They want ethical leadership. They want the leadership that Dalton McGuinty and the Ontario Liberal Party can provide in direct alternative to that. That's what this is about: honest and integrity in government.

RIDING NAME

Mr Ted Arnott (Waterloo-Wellington): One week ago, on October 3, I introduced Bill 185, the Representation Amendment Act that, if passed, would have changed the name of my riding from Waterloo-Wellington to Waterloo-Wellington-Kitchener.

At present the names of the provincial electoral districts, or ridings, are identical to those of the federal electoral districts. By adding specific reference to the city of Kitchener in the name of my riding, this bill proposes an exception to the rule.

Based on my 12 years of experience in the Ontario Legislature, first representing the riding of Wellington from 1990 to 1999 and now Waterloo-Wellington, I believe that this new name would better reflect the nature of the constituency that I am now privileged to represent. Waterloo-Wellington is the greatest riding in the province, a scenic diversity of small towns, rural areas and a significant part of a major urban area in the city of Kitchener.

Based on statistics used by Elections Canada, I can inform the House that right now 26% of my riding, or over 31,000 constituents of mine, reside in the city of Kitchener.

Under the new ridings proposed by the federal government, the Kitchener component of my riding would grow to almost 40% of the total population of the riding, or more than 43,700 constituents. Kitchener is a major city in Ontario, an important part of Waterloo-Wellington, and I believe that by changing the name of my riding to Waterloo-Wellington-Kitchener we will enhance my ability to represent all of my constituents.

The Deputy Speaker (Mr David Christopherson): Reports by committees? Hearing none, introduction of bills. Hearing none, motions.

Hon Chris Stockwell (Minister of the Environment, Government House Leader): Did you have a bill?

Interjection.

Mr Tony Ruprecht (Davenport): Yes, I do.

The Deputy Speaker: At this point I don't sense there will be any objection, so quickly place your bill, please, member for—

Mr Ruprecht: On a point of order, Mr Speaker: My riding has changed to Davenport.

The Deputy Speaker: Davenport.

Mr Ruprecht: Thank you.

INTRODUCTION OF BILLS

REMOVAL OF OCCUPATIONAL BARRIERS ACT, 2002

LOI DE 2002 SUR L'ÉLIMINATION DES OBSTACLES PROFESSIONNELS

Mr Ruprecht moved first reading of the following bill:

Bill 189, An Act to remove barriers to the practice of occupations, professions and trades in Ontario for persons with appropriate qualifications obtained outside Ontario / Projet de loi 189, Loi visant à éliminer les obstacles à l'exercice de professions et de métiers en Ontario par quiconque a obtenu ailleurs les qualités professionnelles appropriées.

The Deputy Speaker (Mr David Christopherson): Is it the pleasure of the House that the motion carry? Carried.

The member for a short statement?

Mr Tony Ruprecht (Davenport): This bill has two purposes: one, it will stop the brain drain, that is to say, the flight of highly trained foreign professionals, to the United States; and two, it will stop discriminatory practices against foreign-trained professionals, so that they can participate in the dynamic growth of this city and this country.

MOTIONS

COMMITTEE MEMBERSHIP

Hon Chris Stockwell (Minister of the Environment, Government House Leader): I move that following amendment be made to the membership of a certain committee: Mr Wettlaufer replace Mr Klees on the standing committee on general government.

The Deputy Speaker (Mr David Christopherson): Is it the pleasure of the House that the motion carry? Carried.

COMMITTEE REPORT

Hon Chris Stockwell (Minister of the Environment, Government House Leader): Mr Speaker, I need consent to put this motion.

The Deputy Speaker (Mr David Christopherson): Is there agreement to allow the motion to be put? I hear agreement.

Hon Mr Stockwell: I move that notwithstanding the order of the House dated October 15, 2001, the standing committee on the Legislative Assembly shall submit its report on the inquiry into parliamentary reforms to the assembly by no later than December 12, 2002.

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

VISITORS

Mr Jean-Marc Lalonde (Glengarry-Prescott-Russell): We have in the gallery today the mayor of Hawkesbury and his wife, Jacques Héту and Muguette, who are visiting us in the Legislative Assembly. Also, we have the president of a fundraising group for the cancer society, Léo Proulx and his wife, Diane, from St Isidore de Prescott. They have raised over \$80,000 for the cancer society in the last two years. Welcome to Queen's Park.

The Deputy Speaker (Mr David Christopherson): Welcome to our guests.

May I also take this moment to ask the House to welcome, seated in the Speaker's gallery today, the Honourable Matthew Roberts, Speaker of the Legislative Assembly of St Lucia, West Indies, and Mr Bob Speller, MP for Haldimand-Norfolk-Brant and chair of the executive committee of the CPA. Welcome, gentlemen.

Mr Gilles Bisson (Timmins-James Bay): I'm sure that members would want to know that M^{me} Réjeanne Wood, the wife of the former member from Cochrane North, is here, along with the mother of one of our pages, who is here to visit today.

Mr Wayne Wettlaufer (Kitchener Centre): On a point of order, Mr Speaker: I didn't hear you acknowledge that my wife, Marilyn, is in the east gallery. She enables me to do all the hard work for the people of Ontario.

The Deputy Speaker: You make it sound like I knew ahead of time; come on. Welcome.
Anybody else? All right.

1350

ORAL QUESTIONS

MINISTER'S COMMENTS

Mrs Sandra Pupatello (Windsor West): My question is to the Deputy Premier. Yesterday there was an exchange in this House involving the Minister of Northern Development. Mr Bisson said, quote, "You are threatening, Minister, to root out public servants who may have a political affiliation of one kind or another." The minister's response to this was clearly heard by many members of this House. He said, quote, "It's not a threat; I promise to do so."

Deputy Premier, yesterday your minister promised to fire any public servant who is not a PC Party member. Do you think it's appropriate for a minister to promise to fire public servants because of their private beliefs?

Hon Elizabeth Witmer (Deputy Premier, Minister of Education): I think we all know that Mr Wilson, the minister, takes the issues that face northerners very seriously. In fact he is out of the House today making a statement on a highway improvement in order to improve the safety for northern development.

Interjections.

The Deputy Speaker (Mr David Christopherson): Order. I can't hear the Deputy Premier responding, so I can't imagine anyone else can either. Please, we want to hear what the Deputy Premier has to say.

Sorry for the interruption, Minister.

Back to the deputy leader of the official opposition.

Mrs Pupatello: Deputy Premier, true democratic government rests on the foundation of a professional bureaucracy that rises above politics to serve people. Those comments yesterday set that principle on its ear. Threatening to root out and fire public servants because of their private beliefs is inappropriate. Promising to do it is undemocratic. It's bad enough that the NDP appointed David Agnew cabinet secretary. You filled the public service with names like David Lindsay, Deb Hutton and Bill Farlinger. Why should a minister be allowed to threaten public servants because of their private beliefs?

Hon Mrs Witmer: I understand that Minister Wilson has issued a statement of clarification. He will be in the House personally on Tuesday.

Mrs Pupatello: Deputy Premier, your minister promised to fire public servants because of their private beliefs. The people of Ontario will not accept a government that is stacked with government hacks. The people of Ontario will not accept a ruling party that attempts to stifle democratic debate. That's what you did yesterday, and that's what he said with his promise. You showed that this government fears everything it can't control. Deputy Premier, why does your government fear its

critics so much that you threaten to fire public servants because of their private beliefs?

Hon Mrs Witmer: I think it is important the minister have the opportunity to personally respond. I have just stated that he has issued a statement of clarification. He will be in the House on Tuesday. I think we all are well aware of the fact that he takes his responsibilities as Minister of Northern Development very seriously. Certainly he is busy today fulfilling that responsibility. He is making a very important and scheduled announcement on major safety improvements to Highway 11.

Interjections.

The Deputy Speaker: The member for Kitchener Centre and the member for St Catharines to start, and I'll go through the whole House if I have to.

PREMIER'S EXPENSES

Mrs Sandra Pupatello (Windsor West): My next question is also to the Deputy Premier. I'm holding in my hand new proof of the extravagant spending of Ernie Eves. These expenses were not part of the documents that were turned over to us under the freedom of information law. These were kept secret from us and from the public. These are several thousands of dollars in expenses, hidden by having senior public servants pay for them—not political staff—civil servants whose expenses would not be attributed to the minister or his office. Deputy Premier, why did the Premier attempt to cover up these expenses that he incurred and hide them from public view?

Hon Elizabeth Witmer (Deputy Premier, Minister of Education): I have no information wherewith the member opposite is talking about but I think the Premier has made it quite clear that the information that was asked for has been provided to the opposition. So we have no information whatsoever about what she has there in her hands.

Mrs Pupatello: Deputy Premier, let me read you some of the figures that are in this list: hotel in New York for Ernie Eves \$1,334, expensed by Michael Gourley, the deputy minister; accommodation for Ernie Eves, minister, in Tokyo, Japan, \$1,400, expensed by Michael Gourley, deputy minister; dinner, including Mr and Mrs Eves and three others, \$1,020, expensed by Tony Salerno, chair of the Ontario Financing Authority; hotel in New York for Ernie Eves \$1,072, expensed by Tony Salerno.

Minister, why were these expenses not released, why did Ernie Eves try to bury them in the bureaucracy and how much did Ernie Eves really cost taxpayers as he wine and dined his way around the world?

Hon Mrs Witmer: This is absolutely unbelievable. The Premier has released all of his expenses. However, I would ask the member opposite, are you the same individual who has overspent your global budget every year that you've been elected?

Mrs Pupatello: I'd like to send this list over with a page.

Interjections.

The Deputy Speaker (Mr David Christopherson): Please take your seat. The microphone is not on.

Interjections.

The Deputy Speaker: Order. It's the last day of the week. Let's try and get through it. Sorry for the interruption, deputy leader of the official opposition.

Mrs Pupatello: Thank you, Speaker. I'm going to send via a page this information to the Deputy Premier. Thank you, Rachel.

Minister, there is more: a \$2,550 fee for a conference in Chicago. It was expensed by Leanne Burkholder, a senior analyst at the Ontario Financing Authority, but it clearly says the expense was for E. Eves. The total for just these eight expense forms is more than \$9,000—\$9,000 hidden from people, \$9,000 kept from us and the public, \$9,000 expensed by the bureaucrats to shield the minister. Why did the Premier hide his expenses through the civil service?

Hon Mrs Witmer: Mr Speaker, I'm going to refer this to the Chair of Management Board.

Hon David H. Tsubouchi (Chair of the Management Board of Cabinet, Minister of Culture): It's amazing. On the rare occasions that the Liberals tell the truth, they only tell you part of the truth.

The Deputy Speaker: The minister will know that's not acceptable. Please withdraw.

Hon Mr Tsubouchi: I withdraw.

Let's put this in context. With tremendous fanfare, in the Toronto Sun—I'll refer to that tremendous newspaper—the Liberals say that Dalton McGuinty billed taxpayers \$34,319 in travel, accommodation, expenses etc. But let's put this in a real context; let's look at the real numbers. The real numbers are, the Toronto Sun goes on to say, travel to and from Ottawa \$41,000; other travel, whatever that means, \$19,000; family travel \$17,000. That's \$77,782 over seven years—I assume we're using the seven-year standard. That's \$544,474. That's over half a million dollars. Tell the whole truth.

Interjections.

The Deputy Speaker: Thank you. Order on the government benches and in the official opposition.

1400

MINISTER'S COMMENTS

Mr Howard Hampton (Kenora-Rainy River): My question is for the Deputy Premier. Yesterday, the Minister of Northern Development and Mines threatened to fire any members of the public service who answer questions of opposition MPPs regarding important issues in our constituencies. More specifically, where an MPP asks a member of the civil service, "How can the community hospital in my community that is struggling with an operating deficit achieve a balanced budget, and how can it make use of government initiatives?" the response of the minister was that he promises that any civil servant that provides information like that will be fired.

This is disgusting behaviour. It's an assault on the neutrality of the civil service and on democracy. Do you defend this disgusting behaviour or are you going to fire this minister?

Hon Elizabeth Witmer (Deputy Premier, Minister of Education): As I indicated in my previous comments, the Minister of Northern Development has issued a statement of clarification. But if we want to take a look at the whole issue of health care, I think we need to recognize, again, the passion and commitment that the minister has demonstrated for northern development and his concern, obviously, that the hospital receive adequate funding.

I think the leader of the third party also knows that our government has made a tremendous commitment to improve health services for people throughout the province of Ontario. Our funding for health has increased from about \$17.6 billion when we were first elected to well over \$25 billion. We are moving forward to provide the Sensenbrenner Hospital with the appropriate funding that it can use to service the people in that community.

Mr Hampton: This is not about passion; this is about intimidation. This is about a threat to fire any civil servant who answers questions about how a community could deal with its hospital deficit. This is the kind of thuggish behaviour that you find in dictatorships, "Answer a public interest question and I will fire you. I will shut you up."

My question is very direct: do you countenance this kind of bully behaviour, this kind of threatening, this kind of intimidation, or are you going to fire this minister who has a habit of engaging in this kind of thuggish behaviour? Which is it?

Hon Mrs Witmer: Again, I remind the leader of the third party that the Minister of Northern Development has issued a statement of clarification whereby he acknowledges that he is passionate about the issues for people in the north. He feels very strongly about the funding for the hospital. He stands by his commitment to the people of Kapuskasing. He believes that they deserve quality health care as close to home as possible. He indicates that he is working hard for health care in northern Ontario; he wants to make sure that they have access to quality health care. He wants them to also have safe highways, and that's why he's making the announcement today. Of course, his other priority is to give them whatever support they need for economic opportunity.

Mr Hampton: A member of the NDP caucus asked a very positive question, "In view of the announcement that this minister made in Kapuskasing, how could all the other hospitals that are struggling with operating deficits have their operating deficit dealt with?" The response was, "I threaten to fire any civil servant that provides that information." Then he got on his feet and he said, "I promise to fire any civil servant that responds to a community that asks that kind of information."

In case you've forgotten, the civil service isn't your partisan group of hacks. The civil service is non-partisan,

it's meant to serve the people of Ontario, not just a cabinet minister who engages in intimidation.

The question is very direct: will you banish this bully to the backbenches where he belongs, or do you countenance this kind of behaviour?

Hon Mrs Witmer: When we recall David Agnew, I don't think that our memories would lead to your having to lecture anybody about appropriate behaviour. But I will tell you personally: Mr Wilson has issued a statement of clarification. He does acknowledge that his words may not have been well chosen. However, it does reflect the passion that he feels as he advocates on behalf of people in the north.

As far as people in the civil service as concerned, I think we all appreciate and respect the work they do on our behalf.

Interjections.

The Deputy Speaker (Mr David Christopherson): Before we go to a question, the members for Vaughan-King-Aurora and Nickel Belt.

HOSPITAL FUNDING

Mr Howard Hampton (Kenora-Rainy River): To the Deputy Premier again: perhaps you can explain this. There are 120 hospitals in Ontario that are struggling to provide hospital services to their communities. They're struggling with operating deficits. When they ask your government for help, your government turns a complete backhand to them. Yet the Minister of Northern Development and Mines went into Kapuskasing and announced, magically, that a \$700,000 operating deficit will be covered.

Now the other 119 hospitals want to know: what are the criteria? How can they apply? The response from the Minister of Northern Development was that if any civil servant asks that question, he threatens to fire them. In fact, he promises to fire them. So maybe you can tell us, Deputy Premier: what are the criteria by which hospitals that are struggling with operating deficits can have their deficits covered?

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

Hon Tony Clement (Minister of Health and Long-Term Care): Let me assure this House that, of course, the Ministry of Health and myself as Minister of Health and Long-Term Care are working with every hospital in the hospital system in Ontario. There's no magic to this. We always review their operating business plans. We always review what their needs are in terms of population growth and demographic shifts and acuity ratios. That is a review that takes place with every single hospital in the province.

I might add that it is this government, the Ernie Eves government, that announced as part of Minister Ecker's budget a \$9.4-billion allocation to Ontario's hospitals, the largest in history, to meet the needs of Ontarians when in distress.

The Deputy Speaker (Mr David Christopherson): Supplementary?

Ms Shelley Martel (Nickel Belt): Minister, let me remind you that your government has agreed to pay off the full operating deficit of the Sensenbrenner Hospital. Other hospitals with operating deficits, in the north and in the south, are now wondering where their money is too.

I've got letters from the Timmins and District Hospital, the Notre-Dame Hospital in Hearst, who have already written to your government asking that their deficits be covered too. We know that the Sudbury Regional Hospital, the Niagara Health System, East York General Hospital and the Sault Area Hospitals all have deficits and all expect you, as a result of what you did in Kapuskasing, to fully fund their operating deficits too.

So the question is, are you going to give every hospital in Ontario that has an operating deficit the same deal as you did to Sensenbrenner in Kapuskasing, and when is the money going to flow?

Hon Mr Clement: It's clear that our commitment to hospitals is second to none. That is as a result of the announcement by the Minister of Finance in the budget.

It is also clear, year in, year out, that this government at least takes its responsibilities on an ongoing basis with hospitals seriously. Year in, year out, we have discussions with them over their operating plans. Year in, year out, we review the hospital funding formula and how it applies to particular hospitals. Year in, year out, we have those particular discussions, depending upon the need, the demographic pressures, the other pressures that hospitals face. Year in, year out, we do that, and this year, this government will continue to stand by our hospitals to deliver quality, accountable care to the people of Ontario. That is our commitment to the people of Ontario.

1410

EMPLOYER HEALTH TAX

Mr Gerry Phillips (Scarborough-Agincourt): My question is to the Deputy Premier. The issue of the tax for sports teams took another serious turn yesterday. Mr Tsubouchi, the cabinet minister who signed the document, said he had done that because he had been led to believe that the Minister of Finance, Mr Flaherty, had approved it but was simply away and couldn't sign the document. Mr Flaherty, the Minister of Finance at the time, has said that he was against it, that it was well known he was against it and that he would never have signed the document.

It's a serious matter involving at least \$10 million of taxpayers' money. The taxpayers, the public, have a right to know. It appears some official lied to Mr Tsubouchi about the approval of Mr Flaherty. Will you agree today to send this to an all-party legislative committee so we can have a public airing of this matter and so the public can understand what happened?

Hon Elizabeth Witmer (Deputy Premier, Minister of Education): I'm going to refer this to the Minister of Finance, who's addressing it.

Hon Janet Ecker (Minister of Finance): I think what is important to recognize here is that this particular decision did not meet the test the Premier felt was important for it to meet. That is why he has taken steps and I am taking steps to legally rescind this: to ensure the rights of our taxpayers are properly protected.

Mr Phillips: I don't think you understand what the public have a right to know. The document says, "And whereas the Minister of Finance recommends, and the Lieutenant Governor in Council concurs, that it is in the public interest to remit the EHT payable." In other words, the document alleges that the Minister of Finance, then Mr Flaherty, was recommending it. He's been very clear that he never would have recommended it, that he was against it. Mr Tsubouchi had been told that the reason he should sign this was that the minister was out of town, that it already had been agreed to by the minister and that he simply needed to sign it.

I say to you again, Minister: the issue for the public is they want to understand how this happened, how \$10 million of public money—someone signed a document saying the Minister of Finance agreed when he didn't. Someone is at least lying here—I'm not saying the ministers. I'm saying someone is lying—the officials. The public have every right to understand how that happened. Will you let the public see this by sending it to a legislative committee?

Hon Mrs Ecker: One of the things I think the honourable member should well know from their time in government is that ministers have alternative signing responsibilities for other ministers. That is a common process that happens many, many times in the absence of one or another minister. So I think that is one of the things that is very clear here—to keep on the record.

Second, decisions are made by cabinet, decisions are made through order-in-council—

Interjections.

The Deputy Speaker (Mr David Christopherson): I'm sorry to interrupt. I've been very careful not to let the government majority overwhelm opposition questions. I'm asking opposition members to show the same respect for ministers trying to answer.

Sorry for the interruption. Minister, please continue.

Hon Mrs Ecker: As I said, there are legal requirements for ministers to have signing responsibility on behalf of other ministers. That's something that has been in place for many years. It's a typical process that occurs. When discussions occur around a cabinet issue or an order-in-council issue, ministers sign them, ministers express views, ministers are briefed by staff. Those conversations, as the honourable member well knows, are confidential. It is a policy issue. The current Premier has been very clear about his view on this issue. We are taking steps to make sure the taxpayers are protected.

SENIOR CITIZENS

Mrs Julia Munro (York North): My question is for the Minister of Citizenship. As our population ages, it

will be increasingly important to provide seniors across the province with valuable information on healthy aging and healthy living. With the recent census release that highlights the aging population in Canada and in Ontario, can the minister detail for me what steps Ontario is taking to provide information and support to seniors?

Hon Carl DeFaria (Minister of Citizenship, minister responsible for seniors): I thank the member for the question. I know this member is very committed to the seniors in Ontario.

As minister responsible for seniors, I'm pleased to inform the House about this important initiative. Beginning this fall, a series of Ontario senior seminars will provide seniors across the province with valuable information on healthy aging and healthy lifestyles. They will include seminars on advance care planning, seniors' safe medication use, and avoiding financial frauds and scams. Studies show that 4% to 10% of seniors experience some kind of elder abuse.

These seminars are provided through the Ontario Seniors' Secretariat and are developed and delivered in partnership with Ontario's major seniors' groups and provincial organizations serving seniors. This education series—

The Deputy Speaker (Mr David Christopherson): The minister's time has expired.

Hon Mr DeFaria: —is just another example of Ontario's commitment—

The Deputy Speaker: Take your seat, please, Minister, now. Supplementary.

Mrs Munro: Minister, as you mentioned, public education initiatives are not only informative but also effective in addressing issues affecting the health and well-being of our seniors. By the way, of course, many of us are recognizing the fact that among our caucus there are people approaching that. Minister, are there any other educational undertakings of this government in planning for Ontario's aging population?

Hon Mr DeFaria: As part of our government's commitment to our growing senior population, we have invested in a wide range of strategies and programs. One example is our guide to advance care planning. This guide is delivered through the Alzheimer's strategy, which invests \$68.4 million in a strategy designed to educate people about the benefits of advance care planning. Through care planning, seniors can communicate to loved ones their wishes about their future care needs.

Additionally, later this fall we'll be launching a guide to programs and services for seniors in Ontario. Both initiatives will provide valuable information in one place about the programs and services that seniors are entitled to.

EDUCATION FUNDING

Mr Gerard Kennedy (Parkdale-High Park): I have a question for the Minister of Education. I want to ask you about the stealth cuts that your supervisor is making right here at schools in Toronto.

This morning Dalton McGuinty was at Rippleton public school. There are classes there of 26 and 27 in JK and SK, taught by a single teacher, Mrs Fox. Last year they had an education assistant. This year, thanks to the supervisor's hiring freeze, there is no help for Mrs Fox and all kinds of things have happened to do with the children's safety. In one, a child was vomiting in the JK class. She was unable to help and the child was directed to the garbage can. This child had her head in the garbage can for over half an hour waiting for the teacher to extricate herself from issues with other students.

These cuts are taking place all around Toronto. You told us you would protect children. They're not being protected here in Toronto. Minister, will you stand up in your place and tell us that you'll reverse the cuts your supervisor is undertaking in Toronto schools?

The Deputy Speaker (Mr David Christopherson): Before I call on the minister, there are three members of the government caucus who I would ask to please either take your conversation outside or take your seat. I'd very much appreciate it. Thank you.

Minister of Education.

Hon Elizabeth Witmer (Deputy Premier, Minister of Education): The member opposite knows full well that additional money has been given to the Toronto school board this year. In fact, their total funding is projected to increase by \$51.8 million in 2002-03 to nearly 2,000—which is almost \$2 billion. That is an increase of 2.7% over last year. Let's keep in mind that enrolment is remaining relatively stable and is only going up by about 0.6%. There has been additional money provided and I think staff have tried to allocate that money in a way that they think is most appropriate.

1420

Mr Kennedy: On August 28 your Premier said, and I quote from the National Post, "I would certainly not be in favour of reducing services in the classroom as a result of any supervisor going to these boards."

Your supervisor is running these schools, Minister, and you cut \$25 million this year, a total of \$600 million missing from these students. At Rippleton school, Dalton McGuinty saw it first-hand. Here is a parent, Brian Mitchell, at Jackman public school. They had four and a half EAs last year, and they were supposed to have three to start this year. They only have two. They are experiencing the same kinds of issues in their very large classes of 28 and 24.

They're worried for the safety of their children. You're running these school boards. It's your supervisor. You have to take responsibility. Will you commit to restoring the funds so these EAs can be hired and these children can be helped in safety? They're being denied recess; there are all kinds of other issues that have come up. And while you're at it, will you commit to a cap on class size, which you should have done in the first place, to help these kids get a decent education.

Hon Mrs Witmer: The member opposite would like to attribute everything to the supervisor, and he knows full well that is not the case. In fact, the supervisor has

not yet brought forward to us any plan as to how he is going to balance the budget. I would suggest to the member opposite that he needs to remember that this government has made a commitment to education. We introduced a funding formula that was going to provide equality to all the children in the province. Also, we have increased funding, not just for the Toronto school board; we have increased funding for everyone throughout the province.

RED TAPE TO SMART TAPE CONFERENCE

Mr John O'Toole (Durham): Thank you, Mr Speaker. I appreciate the style of the Chair today.

My question is to the Minister of Enterprise, Opportunity and Innovation. As you know, I was one of the founding members of the Red Tape Commission. I had the opportunity to meet with some of the international participants in the Red Tape to Smart Tape conference recently held in Toronto. The people we met were the highest level of leaders from business and state, from Australia, Denmark, France, Italy, India, the Netherlands, New Zealand, Mexico, Scotland, Uganda, US states, as well as many jurisdictions in Canada.

I'm sure you also had the opportunity to meet with the many distinguished delegates who followed your opening remarks, and I must comment on those, at the conference. What lessons did you take from the conference and the delegates with whom you were able to share your precious time?

The Deputy Speaker (Mr David Christopherson): Minister of Enterprise, Opportunity and Innovation.

Hon Jim Flaherty (Minister of Enterprise, Opportunity and Innovation): Thank you, Speaker, for getting the name of the ministry right; I appreciate that. And I thank the member for Durham—another incisive question from the member for Durham about the Red Tape to Smart Tape conference. The member for Durham is also a founding member, as I recall, of the Red Tape Commission. Not only that, but the member for Durham played an important role in acting as a moderator at one of the sessions at the Red Tape to Smart Tape conference. In all of that, he continues to serve the people of Durham region very well.

We welcomed more than 280 delegates to this Red Tape to Smart Tape conference in Toronto, people from around the globe: the Minister of Commerce from New Zealand, a member of the Scottish Parliament, a member of the Tasmanian Parliament, British Columbia's Minister of State for Deregulation, the Secretary of the Interior for the state of Florida, the head of the public service and secretary of the cabinet in Uganda.

We learned a couple of important things: first, we are one of the leading jurisdictions—

The Deputy Speaker: Sorry, Minister, time's up. There is a supplementary.

Mr O'Toole: Minister, I know there's much more to be said, and I hope in my supplementary you'll be able to

praise those who participated. At all levels, leaders from politics, academics and civil servants all played a particularly important part in addressing the important issues of over-regulation and red tape. The conference heard of many different examples to improve regulatory design, regulatory implementation; for instance, from the present CEO of the Insurance Bureau of Canada. Participants from the faculty of the Rotman business school and the Harvard Business School as well as the Standards Council of Canada all were exemplary spokespersons for the industries that create jobs in the economy.

The conference truly did document and highlight the achievements of Ontario, and more particularly this jurisdiction sets a high standard around the world for reducing red tape, eliminating red tape and replacing bad regulations with smart tape: regulations designed to make us a competitive economy.

Minister, could you tell my constituents in Durham and other leaders in this province and indeed this country what operators can do and what the best practices are here in Ontario?

Hon Mr Flaherty: We certainly heard that Ontario is a leading jurisdiction in reducing red tape and that there's more to do. We're fortunate to have Mr Gilchrist, the member for Scarborough East, and Mr Frank Sheehan, the former member for Lincoln, co-chairing, as well as the members on this side of the House who are active participants in changing red tape into smart tape in Ontario.

Ontario's Red Tape Commission received a strong endorsement that it's on the right track. We will build on its record. Its record is amazing: more than 1,900 regulations eliminated in Ontario, unnecessary regulations off the books in 1995, relieving the burden on business, particularly small business, in Ontario.

With the introduction of Bill 179, we identified over 400 new legislative amendments to improve government efficiency and customer service, and I hope the members on the other side will support that government efficiency bill, including the member for Kingston and the Islands.

ACCESS TO INFORMATION

Mr Howard Hampton (Kenora-Rainy River): My question is for the Minister of Energy. Minister, while hydro consumers watch their hydro bills go through the roof, and while you send them hydro bills that many of them can't understand—indeed, you can't understand the bills themselves—you continue to be focused upon keeping all kinds of secrets from the public. For example, you offer secret information to companies you're trying to entice into buying into Hydro One, information you won't provide to the public. You insist on keeping secret what the liabilities and responsibilities of Ontario rate-payers would be should Bruce Power go out of business. You insist on keeping information about which generating stations are up or down, even though some of your own private sector companies that are involved say it would be a good thing if the public were to know.

Minister, can you tell us why your government is so focused on keeping everything secret while hydro consumers watch their hydro bills go through the roof?

Hon John R. Baird (Minister of Energy, minister responsible for francophone affairs): Many in the energy sector operate in a commercial environment, and we want to ensure that the best interests of not just the consumer but of the shareholder are maintained. The member opposite, during the estimates committee this week, made some requests with respect to the default obligations with respect to Bruce Power and the release with Bruce Power and of course with its relationship to British Energy. I committed to look at the issue and in fact the default provisions of the contract not only have been reviewed by the federal regulator, not only have been reviewed by the Provincial Auditor but in fact that document with respect to default provisions has been disseminated widely in the public.

Mr Hampton: Minister, it works like this: it's the consumers of Ontario—the industries, the small businesses, the farms, the individual homeowners—who are being forced to pay the bill, yet if they want to find out why their hydro bill has gone so high, what's happening in terms of electricity generation, you and your government insist on keeping all of that secret. If they try to find out what your government is doing to try to entice a private sector investor to buy into Hydro One, they're not allowed to see that either.

Again I repeat the question. You're forcing hydro consumers across Ontario to pay hydro bills that they have never seen before, that are outrageously high, yet when they ask questions as to why this is happening, you say it's all a secret. Can you tell the hydro consumers of this province why all of this information that affects their hydro bills has to be kept so secret?

Hon Mr Baird: The member opposite cites three examples, one of which he had talked to me earlier in the week about, and then he continues to use the word "all." I just said that one of the three requests you have made in fact has been in the public domain for some time. So his use of the English language is somewhat a stretch, in my judgment.

On occasion, for commercial reasons and in the best interests of the shareholders, which are the taxpayers, the people of the province of Ontario, there is information that could become commercially sensitive.

With respect to rates, we've had one of the hottest summers in more than 50 years in the province of Ontario. That obviously had an effect on rates, but we saw rates go down in May and June. In fact, we've already seen rates come down in the month of October.

1430

SLOT MACHINES

Mr Monte Kwinter (York Centre): My question is to the Attorney General. Today it has been reported that Premier Ernie Eves has ordered his office to comb through the decisions made in the final days of his pre-

decessor, Mike Harris, to uncover any political bombshells similar to the controversial \$10-million tax break for the province's professional sports teams. We know that one of the last decisions, if not the last, made by the Mike Harris government was to approve the allocation of up to 800 slot machines to Picov Downs. Will you confirm today that this decision will be included in the Premier's review?

Hon David Young (Attorney General, minister responsible for native affairs): I thank the member opposite for his question. He has raised this issue before in the Legislative Assembly. He has chosen to do it again today, and I thank him for raising it.

I will say today what I have said to the member in this assembly before, and that is Picov Downs will proceed through the exact same process that 16 other racetracks have proceeded through in this province. It is my understanding that the Picov Downs application for an increased number of racing days is in front of the Ontario Racing Commission today. I stand to be corrected on that, but that is my understanding. When that process is complete, it will go to the Ontario Lottery and Gaming Commission. They will develop a business case to say whether or not it is appropriate to have one, two, three, 10, 200 machines at Picov Downs, and will make recommendations to the government. We will consider those recommendations when they are presented to us.

Mr Kwinter: On April 19, 2000, Minister Chris Hodgson announced a three-year pause for charity casinos at racetracks in the province. In an interview with Toronto Star's Richard Brennan on June 20, 2000, Minister Hodgson stated that two racetracks, one in Ajax and the other in Belleville, "will not be getting them for three years." He also said that the province will not even entertain requests from racetracks until April 2003 to become full-blown casinos.

We now know that after only two years, the Management Board decision was secretly amended to exclude racetracks from this directive. Although the government had said that they would not even talk about requests until April 2003, the cabinet approved up to 800 slots for Picov Downs. The only track to benefit from this secret amendment was Picov Downs.

Was it proper for Minister Flaherty to accept a contribution of \$80,000 and Ernie Eves to accept a contribution of \$10,000 to their respective leadership campaigns when this issue was before cabinet? And why were the rules changed to accommodate one racetrack?

Hon Mr Young: I will say to you, sir, that the premise of your question is incorrect. I have in my hand a letter from OHRIA, the Ontario Horseracing Industry Association, dated July 21, 2000. The executive director of that organization, Jane Holmes, authored the letter. In that letter—and remember this is a letter from July 2000—she confirmed that the expansion of slot machines at racetracks was not covered by the three-year moratorium. That moratorium related to casinos of various sorts, and that is confirmed by this independent body who issued this letter in a contemporaneous fashion.

Mr Gerry Phillips (Scarborough-Agincourt): How about the minister? Is he independent from all this?

Hon Mr Young: Thank you very much, member from Scarborough-Agincourt, for your assistance.

In terms of the minister, he did in fact make an announcement. I have a copy of the written form of that in my hand. I would be pleased to show it to you, sir. It too makes it very clear that there was a three-year moratorium relating to things like charity casinos and commercial casinos. That moratorium was not to apply to slot machines at racetracks.

The Deputy Speaker: Thank you.

Mr Kwinter: That is absolutely not true.

Hon Mr Young: Here it is.

The Deputy Speaker: Order, both of you.

New question. The member for Mississauga South.

HYDRO RATES

Mrs Margaret Marland (Mississauga South): Thank you, Mr Speaker, and I would like to compliment you on the job you're doing as Speaker.

My question is for the Minister of Energy. I know members in this place have recently heard complaints about the electricity bills for the months of July and August. I don't think there's one of us who hasn't had calls in our constituency offices. Our constituents are shocked at the huge price increases compared to the previous billing period. For example, I have sent the minister a constituent's bill that increased from \$309 in May and June to \$614 in July and August. The energy rate itself rose from 3.9 cents per kilowatt hour to 6.9 cents per kilowatt hour. The separate charges, of course, for distribution, wholesale market service, debt retirement and transmission also increased. Minister, can you explain these enormous increases in our electricity bills and tell us whether there is any relief in sight?

The Deputy Speaker (Mr David Christopherson): Thank you. Minister of Energy.

Hon John R. Baird (Minister of Energy, minister responsible for francophone affairs): Thank you very much, Mr Speaker. I want at the outset to completely agree with the member from Mississauga South. You're doing a great job. Well done.

The government's priority is to have a source of safe, reliable electricity at a reasonable cost to the people of Ontario. We went through the hottest summer in nearly 50 years in the province. I don't think it's fair to take the two hottest months in half a century as the benchmark on demand, but that of course has a major impact on price. As consumers' electricity demands go down, so will the associated cost with respect to transmission and distribution. I noticed in the constituent's case you mentioned that those charges went up as well, a significant increase in their demand. I know, as a consumer, that a lot of electricity was used for air conditioners. Certainly in my home it was no different.

Mrs Marland: Beyond normal conservation practices, which, with respect, I think everybody, even before they

were forced to do that, was certainly aware of, it's not like we have a choice about the use of electricity. It's not one of those commodities we can choose not to consume when they become too expensive. That could be a whole number of things, of course, even the type and year of car we drive.

Affordable electricity is critical to all of us. We're not prepared to go back to oil lamps and horses and buggies. People cannot absorb these increased costs, of this size, all at once. People talk about being on a fixed income. Most people are. Young couples fighting to pay their bills are on fixed incomes. The Premier has emphasized that our government will not tolerate any abuse of the competitive electricity market in Ontario. The Premier recently announced a complete review of the Ontario Energy Board's mandate. Minister, how will this review of the Ontario Energy Board help to ensure affordable electricity for the people of Ontario?

Hon Mr Baird: The member opposite mentioned the market surveillance panel. We have been watching the market very closely to ensure that consumers are protected. The first report of that panel found no evidence, but they'll continue to be vigilant for the consumers of Ontario.

The member opposite sent me an electricity bill. As to that rate, she would be most pleased and interested to know in terms of the sustainability of those high rates that on October 1 the rate was lower than that period, and for October 2, 3, 4, 5, 6, 7, 8, 9, electricity was less expensive than it was in the period of the bill she mentioned.

We are reviewing the Ontario Energy Board because consumers need a cop on the beat, a watchdog, to look out for and protect their interests. It's also tremendously important to have a neutral regulator to balance off the needs and protections of the consumers and the investments that investors in the province make.

The Deputy Speaker: New question?

1440

Mr James J. Bradley (St Catharines): My question is for the Minister of Energy. My constituency office has received an unprecedented number of telephone calls—a deluge of telephone calls—letters, e-mails and faxes regarding outrageously high increases in hydro bills. Let me give you some examples.

Kathy says she cannot afford to pay this month's hydro bill. She is a widow with two children. She says she lives in a small apartment, has a 12-year-old daughter who is handicapped and receives benefits from Ontario Works. Kelly is on disability and cannot afford the increase from \$80 to \$189. When she contacted her local hydro, they said, "Pay up or we'll cut you off." Another example is Nicholas: his last bill, \$197; this bill, \$430.75. His wife is disabled and requires extra care.

All kinds of people are contacting my constituency office. How on earth do you expect them to pay these outrageous and unjustified increases in their hydro bills?

Hon Mr Baird: When we made the decision in the province of Ontario to move forward with bringing com-

petition to our electricity generation system, what that did was that there would be a spot market. Prices would go up on some days and would go down on some days. If we take the first two months, July and August, as the benchmark, the two hottest months in almost half a century, I don't think that's a fair one. If consumers look over the first full year of the market, I think the results will be demonstrably better.

Moving to competition in Ontario has been an important public policy issue. I'd like to read the member a quote: "We believe that there should be deregulation in hydro and we should introduce competition." It was his own leader, Dalton McGuinty, who said that on February 5, 2001.

Mr Bradley: It's all right for the member. He's a smart aleck who gets up with his little answers that are not very helpful to people. That goes over well in here. But as in the case of the member from Mississauga South, these are real people who are suffering, and all they get is a smart aleck answer instead of an answer about what you're going to do about this. You have an opportunity to provide a rebate to these people. Over half the charge is not even for the commodity. Over half is all these special charges and taxes you've put on the bill.

I ask the minister, is he now prepared to provide an immediate rebate—as the member for Mississauga South wants as well—for these people who are having a very difficult time paying these increases, plus many other increases that they're confronted with on a daily basis? These are real people with real problems, and all we get are answers like that. That's not acceptable to my constituents.

Hon Mr Baird: Obviously, the two hottest months led to an increase in the price of electricity in Ontario. That has an effect on families and on small business in the province. That's why we're committed to following through on implementing the rebate as advertised. That's something that is important, to protect consumers through the market power of Ontario Power Generation. That's certainly something with which we'll move forward.

"Rates may very well have to go up. We've been getting a bit of a free ride here in terms of the debt that the now-defunct Ontario Hydro has amassed." That wasn't John Baird who said that; that was your leader, Dalton McGuinty, who said that. You cannot run away from your record. You and your party and your leader strongly supported the introduction of competition in the Ontario marketplace, and by its very nature, on some days prices will go up and on other days prices will go down. The member opposite can't have it both ways and run away from his own voting record and that of Dalton McGuinty and the Ontario Liberals.

EDUCATION FUNDING

Mr Garfield Dunlop (Simcoe North): My question today is for the Minister of Education and Deputy Premier. Since the inception of our student-focused funding

formula in 1998, our government has shown Ontario that the education of our young people is a priority. As the member for Simcoe North, I take comfort in the fact that our funding formula espouses the principles of equality and fairness, because students across the province are treated the same with respect to funding. It is reassuring to know that whether a student comes from Simcoe county, Windsor, Essex, Ottawa, Thunder Bay or Kingston, they receive a quality and equitable education.

Minister, we know that each board has its unique intricacies, and the boards outside urban centres have unique challenges that they face on a day-to-day basis. How does student-focused funding respond to the needs of district school boards in rural and northern Ontario?

Hon Elizabeth Witmer (Deputy Premier, Minister of Education): I'm very pleased to respond to the hard-working member from Simcoe North. He has correctly indicated that the boards in northern and rural Ontario do face some very unique challenges, and I think sometimes we tend to forget that. But I think it's important also to recognize that the government has not forgotten the fact that they have unique challenges. We have been making an extraordinary effort to meet the higher costs of delivering education programs in rural and northern areas.

First of all, let me say our student-focused funding makes provisions under our remote and rural allocation funding. That allocation has actually tripled, from \$40.3 million in 1997 to a projected \$117.6 million for 2002-03. So we are definitely investing more.

I would also add that unfortunately we continue to see a drop in the number of students enrolled in these schools, and so we're also giving them extra money for transportation.

Mr Dunlop: Thank you very much, Minister. You just started to touch on the next portion of my question, which deals with the issue of declining enrolment in many school boards across our province.

How will you assist the many school boards in Ontario that are facing a decline in the number of students who attend their schools? I understand that the ministry's own projections are that enrolment will continue to decline over the next few years. I know that school boards are concerned about losing revenue when enrolment declines, because not all costs change when a school loses students. How does student-focused funding address this problem?

Hon Mrs Witmer: Our government actually established a declining enrolment working group in order that we could address that whole issue of declining enrolment, which, as I indicated before, is a very serious issue for northern and rural school boards.

There were meetings with stakeholders in the fall of 2001. We took a look at how you address the gap between the revenue lost because of a loss of students and also the board's ability to reduce the costs. Obviously you can't immediately reduce costs. So what the group did was to recommend a declining enrolment adjustment that actually gives a school board two years to

reduce costs in keeping with its reduced enrolment. We have now top-up funding which allows boards to continue to operate schools that are not at 100% capacity by adding a top-up by as much as 20%.

SCHOOL CLOSURES

Mr Rosario Marchese (Trinity-Spadina): A question to the Minister of Education: Minister, you promised only trustees could close schools in those boards which you have taken over. But that is not the case. Today, your Ottawa supervisor is holding a board meeting. He has invited trustees and the public to bear witness to a motion to close three schools. The supervisor, His Excellency, is the only one who can vote on that motion—not the trustees elected by the people; just your supervisor. Are you going to tell him, Minister, that he can't close those schools in Ottawa, as you promised?

Hon Elizabeth Witmer (Deputy Premier, Minister of Education): It is truly regrettable that three school boards in the province of Ontario chose not to obey a law that has been on the books since 1933 and balance their budgets.

Yes, normal practice would be that trustees would be making decisions about school accommodation. We all know that these communities have growing populations; there's a need for new schools. We also know that these communities have, unfortunately, some areas where they're seeing a decline in population. We're certainly seeing that in Ottawa.

Unfortunately, when these trustees made the decision not to balance their budgets, they also abdicated all of their responsibility and their ability to make any decisions influencing school accommodations.

Mr Marchese: Minister, I just want to read for the record. On October 1, in response to a question, you said that "the decision about which schools are going to close and which new schools are going to be built to accommodate growth in different parts of a school board catchment area ... are decisions that will be made by the school trustees."

You go on to say, "The role of the supervisor, however, is to develop a plan that will allow for those boards to balance their budgets."

You said that only trustees could close those schools. We have a motion tonight that I can send to you, in case you doubt it, that will move to close Putman, Lakeview and Richview public schools. It's before the board. The supervisor is the board. He's the only person who can vote, not the trustees.

I'm saying to you, Minister, you've got to honour your promises, because that's what you said. Will you tell us now that no supervisor in Hamilton, Toronto or Ottawa can close a single school? Will you do that?

Hon Mrs Witmer: The supervisors in each one of the three areas are now in a position where, unfortunately, because the boards did choose to abdicate their power, the supervisor is taking a look at accommodation. I understand that the supervisor is looking to put in place a

very comprehensive accommodation review and will be making recommendations and decisions in accordance with that review.

1450

BUSINESS OF THE HOUSE

Hon John R. Baird (Minister of Energy, minister responsible for francophone affairs): As the House leader indicated, I'd like to give the business of the House for next week. Pursuant to standing order 55, I have the statement of business of the House for next week.

On Tuesday afternoon we will debate Bill 60. Tuesday evening's business will be debate on Bill 181.

On Wednesday afternoon we will debate Bill 151. On Wednesday evening we will debate Bill 179.

On Thursday morning during private members' public business we will debate ballot item 61, standing in the name of Mrs Marland, and ballot item 62, standing in the name of Mr O'Toole. On Thursday afternoon we will debate Bill 175. Thursday evening's business is to be determined.

PETITIONS

HIGHWAY 69

Mr Rick Bartolucci (Sudbury): This is a petition to the Legislative Assembly of Ontario. It deals with the multi-laning of Highway 69 between Sudbury and Parry Sound.

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

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

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

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

"Whereas, in the last three years 46 people have died; and

"Whereas so far this year there have been 10 people who have been tragically killed on that highway; and

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

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

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

I affix my signature and give it to Jonna to bring to the table as part of the 20,000-signature petition.

ADOPTION DISCLOSURE

Ms Marilyn Churley (Toronto-Danforth): I have hundreds of signatures in support of adoption disclosure reform. The petition reads:

“To the Legislative Assembly of Ontario:

“Whereas in Ontario, adopted adults are denied a right available to all non-adoptees, that is, the unrestricted right to identifying information concerning their family of origin;

“Whereas Canada has ratified standards of civil and human rights in the Charter of Rights and Freedoms, the UN Declaration of Human Rights and the UN Convention on the Rights of the Child;

“Whereas these rights are denied to persons affected by the secrecy provisions in the adoption sections of the Child and Family Services Act and other acts of the province of Ontario;

“Whereas research in other jurisdictions has demonstrated that disclosure does not cause harm, that access to such information is beneficial to adult adoptees, adoptive parents and birth parents, and that birth parents rarely requested or were promised anonymity;

“We, the undersigned, petition the Legislature of Ontario to enact revision of the Child and Family Services Act and other acts to permit adult adoptees unrestricted access to full personal identifying birth information; permit birth parents, grandparents and siblings access to the adopted person’s amended birth certificate when the adopted person reaches age 18; permit adoptive parents unrestricted access to identifying birth information of their minor children; allow adopted persons and birth relatives to file a contact veto restricting contact by the searching party; replace mandatory reunion counselling with optional counselling.”

I affix my signature to these petitions.

LONG-TERM CARE

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

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

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

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

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

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

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

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

Since I agree, I have signed this petition as well.

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

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

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

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

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

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

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

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

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

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

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

I gladly put forward this petition signed by hundreds of residents in my own riding and add my own signature.

COMPETITIVE ELECTRICITY MARKET

The Acting Speaker (Mr Bert Johnson): The member from Sault Ste Marie, I missed you on the last rotation. The Chair recognizes the member for Sault Ste Marie.

Mr Tony Martin (Sault Ste Marie): Apology accepted.

“To the government of Ontario:

“We, the undersigned residents of Ontario, recognize that,

“(1) Electricity rates in deregulated, private, for-profit markets such as Alberta and California fluctuate wildly in price and supply and are much higher-priced than in comparable public power systems;

“(2) Deregulation in California caused more blackouts than Ontario has suffered from ice storms or other natural disasters while public power has protected us from market fluctuations in supply as well as price;

“(3) At-cost electricity has helped build and support Ontario’s economy, while deregulation would destabilize the economy, with soaring rates, reduced reliability and increased production costs leading to plant closures, job loss and economic decline;

“(4) Soaring electricity rates would put a significant burden on school boards, hospitals, public transit and other public services which cannot afford to pay double for their electricity;

“(5) Seniors and other members of our communities on fixed incomes would be hard-hit by increasing rates, and the living standards of millions of Ontarians will be harmed;

“(6) Privatization will trigger NAFTA provisions, making it practically impossible to reverse this dangerous experiment and would cost us Canadian control over electricity;

“(7) Privatization, deregulation and loss of sovereignty would close the door on public accountability of the industry in regard to environmental safety and energy security concerns; and

“(8) An alternative exists in the form of a truly accountable, transparent and affordable publicly owned and controlled system operated at cost for the benefit of all Ontarians;

“Therefore, we demand that the Ontario government immediately halt the planned privatization, sell-off and deregulation of the public electricity system.”

I sign my name to this and I’ll give it to Philip from Oshawa to bring to the table.

1500

RICK KERR

Mr John O’Toole (Durham): I just want to comment that last night I had the privilege of standing beside the president of Durham College, Gary Polonsky, and the chair of the board, Bob Strickert, and met the Queen on behalf of the new University of Ontario Institute of Technology.

I have a petition from the college to the Legislative Assembly of Ontario.

“Whereas Rick Kerr has distinguished himself as a dedicated member of Durham College through 25 years of service; and

“Whereas his commitment to student success and professionalism has set him out as an outstanding example for Ontario’s college education sector; and

“Whereas his nickname of ‘Captain KPI’—that means key performance indicators—‘should in no way

diminish his accomplishments of organizing program mapping when no one else would; and

“Whereas Rick’s proficiency as a squash player and his status as the most physically fit person on campus has earned him only passing glares; and

“Whereas his commitment to student fashion has made the police foundations program clothing order an international event for the textile industry; and

“Whereas the Kerr family has an outstanding reputation in the community for teaching, and Rick also teaches;

“We, the undersigned, petition the Legislative Assembly of Ontario to recognize Rick Kerr’s long service and dedication to the Durham College community as follows:”

There are a number of petitions, and the member from Bramalea-Gore-Malton-Springdale has presented this on his behalf as well.

EDUCATION FUNDING

The Acting Speaker (Mr Bert Johnson): The Chair recognizes the member for Hastings—

Mrs Leona Dombrowsky (Hastings-Frontenac-Lennox and Addington): Frontenac—

The Acting Speaker: —Frontenac-Lennox and Addington.

Mrs Dombrowsky: Very good. Thank you, Speaker.

To the Legislative Assembly of Ontario:

“Whereas the funding for school boards is now based on the student-focused funding legislative grants for the 2001-02 school board fiscal year;

“Whereas the Hastings and Prince Edward District School Board is in a period of declining enrolment, a trend that is projected to continue over the next five years;

“Whereas application of the student-focused funding” formula “... does not allow sufficient funding to the Hastings and Prince Edward District School Board for secretarial support in schools, principals and vice-principals, transportation or school operations;

“Whereas costs in these areas cannot be reduced at the same rate as the enrolment declines;

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

“To reassess the student-focused funding legislative grants for the 2002-03 school board fiscal year to provide additional funding for those areas where funding is insufficient and to adjust ... student-focused funding legislative grants to address the situation of declining enrolments faced by the Hastings and Prince Edward District School Board and other boards in Ontario.”

I am very pleased to sign this petition.

CHILD CARE

Ms Shelley Martel (Nickel Belt): I have petitions sent to me by East Toronto Village Children’s Centre, Rosalind Blauer Child Care Centre at Brock University

and Lincoln Alexander Children's Centre in Hamilton. They read as follows:

"Whereas 70% of Ontario women with children under age 12 are in the paid workforce;

"Whereas high-quality, safe, affordable child care is critical to them and their families;

"Whereas the Early Years Study done for the Conservative government by Dr Fraser Mustard and the Honourable Margaret McCain concluded quality child care enhances early childhood development;

"Whereas this government has cut funding for regulated child care instead of supporting Ontario families by investing in early learning and care;

"Therefore, be it resolved that the Ontario government adopt the NDP's \$10-a-day child care plan and begin implementation by reducing full child care fees to \$10 a day for children aged two to five currently enrolled in regulated child care by providing capital funds to expand existing child care centres and build new ones, by funding pay equity for staff and by creating new \$10-a-day child care spaces in the province."

I agree with the petitioners, and I have affixed my signature to this.

LONG-TERM CARE

Mr John Gerretsen (Kingston and the Islands): I have a petition that's signed by many Ontarians, which I'm compiling on a daily basis, who are concerned about the level of long-term care in this province. It's addressed to the Legislative Assembly of Ontario.

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

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

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

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

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

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

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

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

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

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

I agree with the petition, I've signed it accordingly and I'm now handing it over to Megan to take to the table.

AMBULANCE SERVICES

Mr James J. Bradley (St Catharines): My petition is to the Legislative Assembly of Ontario.

"Whereas the Ontario Conservative government hastily amalgamated Niagara's ambulance dispatch service into the Hamilton Central Ambulance Communication Centre;

"Whereas an independent review of Hamilton's Central Ambulance Communication Centre found several major shortcomings, including inexperienced dispatchers, high call volume and out-of-date equipment, hindering the dispatch of ambulances in Niagara and in other parts of the province;

"Whereas poor training of Central Ambulance Communication Centre dispatchers by the Ministry of Health and Long-Term Care has led to improper emergency coding, resource misallocation and waste and increased wait times for those requiring ambulance services;

"Whereas the Central Ambulance Communication Centre dispatchers are handling 1,300 more calls a year than recommended by the Ministry of Health and Long-Term Care;

"Whereas these shortcomings in ambulance service restructuring are putting lives at risk in Niagara, Hamilton and throughout the province; and

"Whereas two regional coroners' investigations and a Ministry of Health investigation have been conducted in the Niagara region to investigate three deaths allegedly caused by the improper dispatching of an ambulance;

"We, the undersigned, petition the Legislative Assembly of Ontario to act immediately upon recommendations presented in the independent review of the Central Ambulance Communication Centre and eliminate the grievous imperfections which are placing our citizens at risk."

I affix my signature; I'm in agreement.

ORDERS OF THE DAY

LEGAL AID SERVICES AMENDMENT ACT, 2002

LOI DE 2002 MODIFIANT LA LOI SUR LES SERVICES D'AIDE JURIDIQUE

Mr Young moved second reading of the following bill:
Bill 181, An Act to amend the Legal Aid Services Act, 1998 / Projet de loi 181, Loi modifiant la Loi de 1998 sur les services d'aide juridique.

The Acting Speaker (Mr Bert Johnson): We will start with leadoff times for debate. The Chair recognizes the Attorney General.

Hon David Young (Attorney General, minister responsible for native affairs): Thank you, Mr Speaker, and with your permission, sir, I would like to divide my time with the member for Nipissing.

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

The Ontario government takes seriously its responsibility to provide for the proper administration of justice in this province. That is why we have introduced the Legal Aid Services Amendment Act, 2002.

Mr Peter Kormos (Niagara Centre): On a point of order, Speaker: I don't believe there's a quorum.

The Acting Speaker: Would you like me to check and see?

Mr Kormos: Yes, sir.

The Acting Speaker: Would you check and see if there is a quorum present?

Deputy Clerk (Ms Deborah Deller): Quorum is not present, Speaker.

The Acting Speaker ordered the bells rung.

Deputy Clerk: Quorum is now present, Speaker.

The Acting Speaker: The Chair recognizes the Attorney General.

1510

Hon Mr Young: Thank you. For the member for Niagara Centre who rose and asked whether or not there was quorum here, he left immediately thereafter—oh, I see he's now returning. So just for his edification, there is now a quorum. Thank you for assisting us in that regard.

If passed, this bill would provide Legal Aid Ontario, the agency that administers legal aid in this province, with increased flexibility—flexibility to ensure that legal representation is available to low-income and vulnerable people across this great province.

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

I want to be clear about what we envision with this bill and what we do not. Under this legislation, Ontario would not, and I want to emphasize, be moving toward a system based entirely on staff lawyers, the so-called public defender system. Rather, we envision a system where there is a balance in the way that legal aid services are delivered to the people who are entitled to receive that service. It would be a mix of the judicare system,

which currently exists across this great province, and a system of staff lawyers.

This mixed system of delivering legal aid services isn't new. It has been tried elsewhere, including the provinces of Manitoba and Quebec, and it has proven to be successful in both of those provinces. In fact, Gerry McNeilly, the executive director of legal aid in Manitoba, told CBC Radio last week that a mixed delivery model has worked very well in that province.

With your permission, I will quote from Mr McNeilly: "In Manitoba, since the inception of legal aid in 1972, we've had the mixed delivery system. I think it's ingrained here. I think the private bar is pleased with it. They provide about 60% of legal aid work via certificates; staff provides about 40%." Mr McNeilly also said that a mixed delivery system allows for choice of counsel.

If I may continue to quote Mr McNeilly, he said that "that's the good thing about the system and its choice of counsel.

"So if you have a choice of a private bar lawyer because you've heard about him or her, or similarly you've heard about a staff lawyer..." the system that we're proposing, like the system that exists in Manitoba, provides legal services in that particular area that you need.

Mr McNeilly went on to talk about how that works there and it could work in certain jurisdictions—in certain parts of this province here as well.

Quebec has roughly a 50-50 apportionment. That's a 50-50 split between private bar and staff lawyers for criminal cases. Both Quebec and Manitoba have had their mixed systems in place for well in excess of three decades. As a result, legal representation is available to people in need in those provinces and services are being provided in a cost-effective manner.

I want to emphasize that "cost-effective" does not equate with inferior quality of legal services. Comparative studies have shown that there are no inherent cost differences between private-based systems and mixed systems. There is no difference in quality of services provided or in the client satisfaction that is experienced.

It's helpful, I believe, to look at the work of Professor Zemans and Professor Patrick Monahan, both of Osgoode Hall Law School, who co-wrote a report in 1997, a report recommending that Ontario look seriously at the Manitoba model, the model I referenced a moment ago.

Professor Zemans spoke to the CBC last week and said that "all the studies show that in fact client satisfaction, rates of guilty pleas, rates of incarceration do not significantly change under a mixed delivery scheme." He also said that, "it's also important to point out that in Ontario we've had a mixed delivery system in civil legal aid going back to the early 1970s."

The Ontario clinic system is considered internationally to be one of the very top models for delivering legal services to poor people. We now have seen in recent years the increase in use of community-based clinics with community boards for clients in Ontario spreading.

I think what we need to see in Ontario is more experimentation, more willingness to try out different models, models that have worked in other jurisdictions, models on the criminal side in particular in the delivery of legal services.

I'd like to reference another study of note, one that deals with the issue that we're here to debate today. It's one authored by Professor Alan Young, also of Osgoode Hall Law School. Professor Young wrote a report at roughly the same time as the report I previously referenced, which was entitled *Legal Aid and Criminal Justice in Ontario*, in which he states that virtually every study has concluded that a mixed model of legal aid delivery is the path to take. I'll repeat that because I think it is of great import. He concludes that virtually every study has concluded that a mixed model of legal aid delivery is the path to take.

The experience in other provinces, such as Manitoba, also shows that mixed legal aid systems have few problems in hiring salaried lawyers. The advantages for legal aid lawyers are obvious. They have steady incomes, no overhead costs, and they don't have to manage an office and attract new business.

Here in Ontario, Legal Aid Ontario began a pilot project two years ago in which family law staff offices were opened in Thunder Bay and Toronto and there was an office in Ottawa as well. The pilot was recently evaluated and has been determined to be a success.

I want to be clear that if this bill is passed, the responsibility for administering the legal aid system in this province would still remain with Legal Aid Ontario. That is an independent agency and it would remain an independent agency. The source of funding for legal aid lawyers, private staff and duty counsel would also remain the same: Legal Aid Ontario.

No one suggests that private legal aid lawyers, who are paid through publicly funded certificates, are in any way influenced or beholden to the crown. I would expect that staff lawyers would be just as independent. They would be responsible to Legal Aid Ontario and of course to their clients, not to the government.

Neither is there any reason to expect a two-tier system that some have talked about. That has simply not been the case in other provinces. In provinces where there is a mixed system in place, that experience simply hasn't been had. Moreover, study after study has concluded that private lawyers and staff legal aid lawyers can both provide high-quality legal aid services.

Nor would this legislation, if passed, take away an individual's right to choose counsel. The bill is designed to have the opposite effect. It would restore legal aid services in communities that are affected by boycotts. It would provide Legal Aid Ontario with the flexibility to ensure that legal aid services would be available to everyone in need in a timely manner. In communities that did not have lawyers available, a staff office would be established. In other instances where Legal Aid Ontario deemed it appropriate to establish a staff office to ensure that proper representation was provided, that would occur as well.

As many are aware, our current system has been facing major disruptions in some areas of the province. The current legal aid system has effectively given the private bar a monopoly. Some legal aid lawyers have viewed this monopoly as a bargaining chip. Some have withdrawn their services in the hope of getting more pay. As a result, getting legal counsel has become more difficult, if not impossible, depending upon where you live in the province of Ontario.

1520

In fact, what began as a dispute with the government over hourly rates has escalated into a much larger dispute, one that could indeed damage the administration of justice. There is an unacceptably large number of legal aid lawyers who are motivated by personal interests in some communities. I say to you that lawyers—and the vast majority of lawyers do understand this—must be serving the interests of their clients first and foremost. The disruptive tactics that some lawyers—and I emphasize “some” lawyers—in some communities have used to make their points, I believe, are not acceptable. These tactics include shutting down our courts, refusing to take new clients, and pressuring low-income clients to pay on a cash retainer basis.

Mr Kormos: Not the case. Be fair.

Hon Mr Young: These are tactics that I abhor. I am sure many other people share my feelings. And for the member from Niagara Centre, when I resume my seat, I will provide him with a letter from the president of the Criminal Lawyers' Association which enumerates certain measures, and he can be the judge of that.

Legal aid lawyers who are participating in ongoing work stoppages are not serving the interests of justice. They are not protecting the rights of those in need. Let's be clear: the legal aid system does not exist simply for the benefit of lawyers. It exists to protect the rights of those in need. Let's remember that those in need are frequently the most vulnerable individuals in our community: men, women and children across this province who are often involved in painful family court cases.

The current dispute is in fact making vulnerable people even more vulnerable, because they can't get legal representation. They can't find counsel. In some communities, groups of criminal lawyers have refused to represent individuals accused of serious crimes or violent crimes. This has placed judges in an awkward position; indeed, an impossible position. Judges have been asked to choose between granting the rising wage demands of defence lawyers or allowing those accused of criminal offences to walk free. I say to you, this is simply unacceptable. It is indeed counter to the interests of justice and the interests of public safety. If prosecutions cannot go forward, public safety may be put at risk. Victims may be revictimized. People may have to navigate the justice system without the benefit of some legal advice.

I do not believe that most lawyers in this province support these tactics. I believe the tactics I have discussed this afternoon do nothing but damage the public confidence in the justice system.

As I said a moment ago, this dispute began over pay rates for legal aid lawyers across the province. This dispute, however, has no underpinning. Ontario legal aid lawyers are among the highest paid in the country. They were well paid for their services even before the recent increase in the legal aid tariff. If the members will recall, our government raised the rate for certificate lawyers by 5% on August 1 of this current year, and we raised the duty counsel rate at the very same time by 23%.

Despite the tariff increase, some legal aid lawyers have continued with work boycotts and other forms of disruptive activities. They support their argument by pointing to the disparity between the legal aid tariff and the market rates for their services. Well, the legal aid system was never intended to be a private lawyer's sole means of income. In fact, the legal aid system has always had a pro bono element to it. The legal aid system has always been, and will continue to be, a public service for those in need.

Our government is committed to strengthening our legal aid system. Indeed, we are committing to strengthening the legal aid system, period, and the legal system across this province. We have required more crown attorneys to that end. We have appointed more justices of the peace. More judges have been appointed. We have also—and I want to emphasize this because I think it's important for many of those who are watching—expanded the rights of victims and passed new laws to protect the public.

The Legal Aid Services Amendment Act is another step forward. It's another step toward achieving our goal of a stronger, more efficient justice system. If this bill is passed, Legal Aid Ontario would have increased flexibility to establish a balance in the way legal aid services are provided across this great province. Make no mistake about our intentions: we cannot, and we will not, allow economically motivated tactics to interfere with public safety and the prosecution of accused individuals. Everyone in Ontario must continue to have access to justice. It is time for legal aid lawyers to end their disruptive tactics. It's time for them to fulfill their professional duties. It's time for the justice system to get back to work.

Our government is committed to protecting the administration of justice. We are equally committed to protecting the right of people to have counsel when they need it.

I take this opportunity to urge all members of the Legislative Assembly of Ontario to support this very important bill.

Mr AL McDonald (Nipissing): The Legal Aid Services Amendment Act, 2002, is an important and necessary piece of legislation that will improve access to justice in this province. Access to justice is one of the foundations of a free and democratic society. Unfortunately, getting legal counsel has become more difficult, depending on where you live in Ontario. As many in the House are no doubt aware, legal aid lawyers in several communities have been engaged in a series of disruptive

tactics that seem to be motivated by economic interest and not by the interests of their clients.

The Ontario government has a responsibility, in fact a moral and legal obligation, to provide that high-quality legal advice is available to people in need. Ontario legal aid lawyers are among the highest paid in the country. Our government raised the legal aid tariff by 5% on August 1 of this year. Despite this, some legal aid lawyers have continued with work boycotts and other disruptive tactics. They're pointing to the disparity between the legal aid tariff and the market rates for their services as justification for their actions. There is no excuse for disrupting the justice system by attempting to shut down the courts.

But in any event, the rationale advanced is not cogent even in its own terms. The legal aid system was never intended to be a private lawyer's sole means of income. The legal aid system has always been, and will always continue to be, a public service for those in need. The current legal aid system in this province is set up in such a way that the private bar has a near monopoly. The disruptions compromise the integrity of the legal process and the due administration of justice.

To ensure that the interests of justice continue to be served, our government is proposing to amend the Legal Aid Services Act. The purpose of this amendment is to achieve a balance in a way that legal aid services are provided in this province. The legislation would, if passed, place various tools or options at the disposal of Legal Aid Ontario. These options would include hiring more staff lawyers, expanding the role of duty counsel and contracting out work to private lawyers and law firms. Legal Aid Ontario, the provincial agency responsible for administering legal aid services, established a pilot project two years ago in which family law offices were opened in Thunder Bay, Ottawa and Toronto. The evaluation of this pilot has determined that the mixed system was a success.

1530

In Canada, legal aid is provided through separate legal aid plans in each of the provinces. Though each provincial and territorial government has developed its own legal aid scheme, three general models have been adopted: (1) the staff system, (2) the judicare system, and (3) the mixed system. Several provinces either rely almost completely on staff lawyers or on a mixture of staff and private counsel.

I'd like to use this time to take a look at what other provinces are doing so that the members of the House can see where Ontario is going and how our direction compares to other legal aid plans in other parts of Canada.

The staff system: under the staff system, a legal aid plan directly employs lawyers to provide legal aid services. Newfoundland and Labrador, Prince Edward Island, Nova Scotia and Saskatchewan have adopted this approach. In staff systems, the private bar may still be used when circumstances warrant—for example, if there's a conflict of interest or if staff lawyers are unavailable.

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

The mixed system: a mixed system is a combination of the *judicare* and staff systems, and utilizes both private and staff lawyers in the provision of legal services. The legal aid plans in Quebec, Manitoba, the Northwest Territories, Nunavut and the Yukon operate mixed systems of legal aid. In most of these jurisdictions, the client has the right to choose counsel, either staff or private, from a panel of lawyers providing legal aid services.

The mixed models have proven track records of providing high-quality legal services to clients. This is the type of system that Legal Aid Ontario would deliver if Bill 181 is passed.

In Manitoba, the Legal Aid Society of Manitoba was established in 1972 and is responsible for the administration of legal aid services in that province. Similar to Ontario, it is an entity governed by an independent board of directors whose members are appointed by the provincial government.

In a mixed-service model such as Manitoba, the legal aid program provides formal representation in areas of criminal, family and poverty law. The program also represents groups in cases of public interest. When a client applies for legal aid in Manitoba, they can request a specific private bar lawyer. The plan will usually send the certificate to that lawyer, if the lawyer is available and willing to accept the certificate. If the applicant does not specify a lawyer, the plan will usually assign a staff lawyer.

Legal Aid Manitoba provides legal advice to individuals who appear in court but do not have a lawyer acting for them. This service is available in criminal, youth and some child welfare courts. Legal aid offers duty counsel services in approximately 50 communities in Manitoba. Staff lawyers provide 95% of these services.

Staff lawyers, private lawyers mandated by Legal Aid Manitoba or paralegals provide legal advice to individuals who are arrested outside of regular business hours. This service usually is provided over the phone and is available from 4:30 pm to 8 am.

In Quebec, the first legal aid services emerged in Quebec in the early 1950s as an initiative of the bar section of Quebec City. During the following years, the Quebec government and the bar of the province of Quebec signed agreements relating to the provision of legal aid services. In 1972 the Quebec Legislature passed the Legal Aid Act, which in turn established the legal services commission. The commission has the authority to establish legal aid centres and currently has 11 regional and two local centres overseeing the delivery of services in 128 legal aid offices. Each regional and local centre is governed by its own board of directors, whose members are nominated by the commission.

The commission operates a mixed *judicare*-staff model. Clients can be represented by the private lawyer

of their choice, if they are available; otherwise they are represented by staff lawyers.

Legal aid is provided for a range of civil and criminal cases, including criminal charges involving indictable offences, family cases, youth protection, young offenders and income security matters.

Staff lawyers provide duty counsel representation at all criminal, administrative and family court locations across the province. Only summary legal assistance is provided through duty counsel representation.

Mr Kormos: On a point of order, Speaker: Quorum call, please.

The Acting Speaker: Would you check to see if there's a quorum present?

Clerk Assistant: A quorum is not present, Speaker.

The Acting Speaker ordered the bells rung.

Clerk Assistant: A quorum is now present, Speaker.

The Acting Speaker: The Chair recognizes the member for Nipissing.

Mr McDonald: Thank you, Mr Speaker. I'll continue.

If the Legal Aid Services Amendment Act is passed, Legal Aid Ontario would be taking advantage of the strengths offered by both staff and fee-for-service lawyers to provide effective legal aid services.

As I said before, the current legal aid system grants private bar lawyers a monopoly on the provision of legal aid services in the areas of criminal and family law. The proposed legislation will help Legal Aid Ontario to ensure the stability and sustainability of the system. This is a very important point. We are committed to providing access to justice for all Ontarians. The legal aid system must protect the rights of those in need. It must also be able to prevent disruption of the system.

1540

The proposed legislation would allow us to meet our obligations and responsibilities to ensure that everyone's right to legal representation is protected. Legal Aid Ontario would be given the tools to achieve a balance in the way services are delivered, including hiring more staff lawyers, expanding the role of duty counsel, contracting out work, and reducing the total reliance on the private bar.

As I said earlier, the mixed model that uses staff lawyers is operating elsewhere in Canada and works well to ensure high-quality and cost-effective services. The private bar would continue to perform a significant part of service delivery in the areas of family and criminal matters.

Interjection.

Mr McDonald: I'm sure that the member from Niagara Centre is very interested in this, although the member will know that in the north we allow individuals to speak without trying to interrupt them.

Our proposed legislation will simply expand the methods of service delivery and broaden options available to clients. We believe that the mixed system is the best way to achieve a balanced legal aid system. It is the best way—and the member from Niagara Centre knows

this—to ensure everyone in Ontario has access to justice. I urge all members to support this bill.

The Acting Speaker: Further debate? Comments and questions?

Mr George Smitherman (Toronto Centre-Rosedale): I listened as carefully as I could on a Thursday afternoon to the two members who spoke. I don't mean to be too uncharitable, but I wish the members opposite would at least try to lift their remarks up off the page. If they have totally rejected the tradition in this Legislature of speaking without every word being written text, they could at least try to animate.

Interjection.

Mr Smitherman: I don't even think you're in your seat, to be heckling me.

I would say that the most interesting part about it is that the minister had an hour to speak, chose to use only 18 minutes, but wants to interrupt my two minutes, which says a lot about him.

The constituents of Toronto Centre-Rosedale want to know, need to know that when there is a requirement for them to have some legal support because they can't afford to pay for it themselves, that is there. This government's solution to bring this bill forward to address a problem is no solution at all. First, they have made a very challenging situation much worse, and the decline in quality represents and reflects the decline in care and concern that they have for those folks who can't afford to pay their own legal bills and therefore cannot afford to properly access the justice system in our province.

For those folks who are needing help to enforce orders against spouses or to deal with important matters like whether they can maintain care over their children, they're better than the suggestion that this minister opposite, this government offers: that they can simply be thrown into some lowest-common-denominator edge of the justice system where the most lowly paid and arguably the most lowly skilled lawyers will be plying their trade. My constituents demand and deserve better than to be subjected to this two-tier, lowest-common-denominator system that will make sure that my constituents stand up in courts of law with representation that is inadequate to the test that justice demands.

It's a lousy bill. I'll be voting against it.

Mr Kormos: I endured both of those speeches, one from the Attorney General and his colleague the member from Nipissing—

Interjection.

Mr Kormos: I did. Young pages here suffered through them. Staff in the Hansard room winced. This is the shameful state of affairs here at Queen's Park because, you see, you've got the leadoffs, where the Attorney General has an hour to argue on behalf of his bill, and he used how many minutes?

Interjection: Eighteen.

Mr Kormos: Eighteen, bolstered by a scripted member from Nipissing, oh, so faithful, like that old RCA Victor ad. You know, the dog, "His Master's Voice."

I know the Liberal critic is going to utilize his full hour on his feet because he has some skills in that regard. He's going to show you how to stand up for an hour condemning this bill all by himself. He's not going to wimp out and call upon his colleagues, "Take half my time," or, "Take a quarter of my time." No, the Liberal critic is going to stand up here for an hour and keep people riveted to their television sets and explain to them why, I presume, the Liberals aren't supporting this bill.

Then I'm going to have my chance and I'm going to be speaking for an hour—I'd speak for an hour and a half if I could—because then we can start correcting the misinformation delivered by this Attorney General. I will read into the record the letter from the Criminal Lawyers' Association to its membership, which will demonstrate the Attorney General to be less than accurate in his interpretation of that letter. We'll talk about real people and we'll talk about the fact that what this bill cries out for is committee hearings.

Attorney General, stand up and tell us in the province that there will be three or four weeks of committee hearings, four or five days a week, here in Toronto and across the province. We could get this bill passed for second reading for that purpose today.

Hon Frank Klees (Minister of Tourism and Recreation): Members opposite have very bad taste, because if they didn't recognize good speeches when they heard the Attorney General and the member for Nipissing, it is getting late in the day.

The truth of the matter is that they have articulated a message the people of this province will hear, understand and support. Not surprisingly, the members of the opposition don't understand how important it is that people who can't afford to pay a high retainer to get a lawyer to act on their behalf can't find lawyers. It's not easy to understand at all, is it? I think members on this side of the House know what it's like to have constituents come, frustrated, whether it be to deal with a support case that is frustrating the entire family and disrupting their lives, and lawyers are playing games with their lives and livelihood.

What the Attorney General is trying to do here is come to the aid of common folk in this province who need his help to get this issue of legal aid dealt with once and for all, so I commend the Attorney General, and I thank the member for Nipissing for having articulated so effectively how important this is for his constituents. I would think that before all the debate is done members opposite will listen carefully. I know the member for St Catharines, being as common sense a person as he is, will support this. We're going to listen to what he has to say because we know he'll do the right thing. His constituents will expect him to do that.

Mr James J. Bradley (St Catharines): There's no question that there are going to be constituents of ours who are going to have to have the services of lawyers in this province to defend themselves against the outrageous increase in hydro bills that we've seen over the last while. The problem is that many of the people who are at

the lowest end of the income strata are individuals who are going to need the services of lawyers. They're going to need some people who are prepared to defend them, and I say to members of this House that when they come to me and want me to defend them, I'm happy to do so. In some cases, those who have had a 500% increase in their hydro bills may want to enlist the services of a lawyer and they don't want to have to pay the top premium price when they are people who are at the lower end of the income scale.

I'm going to find it interesting as well as I circulate the speeches today to members of the Lincoln County Law Association, many of whom have been strong supporters, not only with their votes but with cheques they have sent along to the Progressive Conservative Party. So they will indeed be interested in the attacks that are taking place now on members of the legal profession. I know that the members of the government will want to be careful in the wording of their speeches in this House because of that, because—

Interjection.

Mr Bradley: Try to characterize themselves for the people, I know.

As I say, I sometimes go down the list—fortunately it's listed—of those who make donations, and a lot of them have been members of the Lincoln County Law Society. So I will be happy to send them the speeches of the Attorney General and other members of the government who are now denouncing the members of the legal profession.

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The Acting Speaker: The Attorney General has two minutes to respond.

Hon Mr Young: Thank you very much, Mr Speaker, and I not only thank you, sir; I thank the member from Toronto Centre-Rosedale, the member from Niagara Centre, the member from Oak Ridges and, most recently, the member from St Catharines.

I think that somewhere along the line, the Liberals and the New Democrats have once again lost sight of what is important to the people of this province. They are not at home with a stopwatch, timing the speeches in this Legislative Assembly. They do not decide who they are going to vote for in due course based upon how long someone stands up and filibusters. They, sir, expect the people in this great assembly to respond when there is a problem in their community, to take action to prevent other problems from occurring; and that's what we're doing.

We're not here to defend one group. The member from St Catharines talks about groups of lawyers. We're not here, sir, to downgrade lawyers or to prop them up. What we're here to do is to make sure that men and women and children across this province have legal representation when and where they need it. We're here to make sure that the legal aid system isn't used as a bargaining chip for \$3 or \$4 or \$10 more an hour.

If the Liberals and New Democrats stand in this Legislative Assembly—as I expect them to do over the

next number of hours, because they promised us long speeches, so I'm sure they'll live up to that one promise; they rarely live up to others—if they're going to stand in the Legislative Assembly and they're going to talk about all the money that must be injected into this process, into the legal aid system, then I would ask them why they didn't do it when they were in office, and I would ask them where they're going to get the money from. I would ask them which MRI in their respective communities they intend to shut down to pay legal aid lawyers more money. And I look forward to hearing that answer forthwith.

Interjections.

The Acting Speaker: We will all listen except one. If you have a different thing in mind, talk to me privately, because we won't have this chatter and everybody yelling back and forth.

Further debate?

Mr Michael Bryant (St Paul's): I'm pleased to rise today to speak on behalf of the official opposition in opposition to this bill. I'd remind the Attorney General, before I continue with my remarks, that in fact the last time an Attorney General of Ontario did address the matter of legal aid tariffs it was the Honourable Ian Scott in 1987. So I think his information is wrong on that front.

Secondly, I thought it was very interesting what the Attorney General said at the conclusion of his remarks. He makes it sound as if—and I hope this is not the case—this is purely a matter of dollars and cents and balancing the budget. In the case of many, many items before this Legislature, that is the case; it is about making tough decisions and setting priorities. But there's a little more to this issue. There's a little more at stake. It is certainly incumbent on the Attorney General of Ontario to be aware of—and I'm sure he is; I know he is—the important rights that are at stake on this particular issue.

This is not just about meeting the budgetary demands of any old ministry. The Ministry of the Attorney General is in a very unique position, as it says on his own Web site. The office of the Attorney General is in a very unique position, as set forth in the Ministry of the Attorney General Act and on his Web site.

I know many members of this House and members of the cabinet are aware, and ought to be aware, that the Attorney General has a very special constitutional role to play: to at times stand aside from political concerns and issues of the day and say, "Here is the right thing to do in order that we comply with our existing statutes, our existing commitments, the Constitution Act, 1867, and the Constitution Act, 1982." It may not be a popular position that he takes, but it's a position he must take at times. I know, because I've spoken to members of cabinets past and present, that there are moments when the Attorney General has that very special role to play.

I say to everybody in this House that this bill must be looked at very much in that context. If you want to look at it from the populist perspective, obviously we ought to be trying to figure out the way in which to spend as little money on this as possible, because it is dealing, from a

populist perspective, with something that is on the margins, representing those who are on the margins, dealing with issues that are on the margins.

My concern is that this bill is the triumph of the legal populists in the Progressive Conservative caucus, the triumph of the movement of legal populism that has sunk into this Legislature, first, in an effort to try and merge together the independent branch of the judiciary and the legislative branch, as if we ought not to keep them separate; then, when Attorney General Flaherty gave a very courageous but fairly stunning speech to the courts that we ought to hold the courts accountable as if they were a business and there were no other considerations at hand.

If that's the case, if we just want to have popular judges, then why don't we just elect them? If we're electing the judges to make decisions that we feel ought to be independent, then why do we even need the judiciary? Why don't we just throw all those decisions into the legislative mix?

Obviously, we all know, there are matters that come into our constituency offices and before this Legislature that require a measure of independence, that require an independent judiciary to look at them. If we throw it out into the arena of populism, you know what's going to happen. You know it's going to be the tyranny of the majority that will rule the day. That's why we celebrate and signed on to a Charter of Rights and Freedoms in 1982: to ensure that in fact we have that check on our democracy. It makes our democracy more democratic.

As those tough issues that don't belong in the arena of populism head into our courts and efforts are made to bring them back into this Legislature, we have to be mindful that this is not just any other issue—"Oh well, we're just moving one department on to another." There are some fundamental issues at hand.

I think one of the reasons many people who do not have a direct stake in this, because they don't do any criminal law work or family law work, but have a real, keen, informed interest in the administration of justice and the independence of our judiciary—these people are upset in part because they perceive, rightly or wrongly, the Attorney General of Ontario as engaging in a very dangerous populist game.

We, Ontario Liberals, do not support this bill because we see it as a blank cheque to deliver a mortal wound to legal assistance, to those who need it but just cannot afford it. We're concerned, first, about the erosion of the quality of legal assistance that must be provided to those who need it the most. We're worried about what will happen to the quality of assistance they'll get.

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Secondly, we're worried about the economics of all this. Even if you want to take the populist take on this particular bill and issue, the truth is that the creation of a brand-spanking-new bureaucracy of public defenders, I would have thought, is the last thing the Harris-Eves government would want to be engaging in. Minister Wilson, this week, really heaped enormous contempt

upon the civil service and bureaucracy with his comments, and yet here we have the Harris-Eves government creating a new bureaucracy to replace a system whereby you could find counsel with perhaps 20 years' experience who could provide service in two hours that an inexperienced, overworked public defender in that bureaucracy would not be able to provide in 20 hours. That was the economy of scale. That was the efficiency of the legal aid system. That was the principle behind it. So we're concerned about the economics.

We're also concerned about independence. We're concerned about the independence of the ministry, the independence of a public defender's office and the independence of Legal Aid Ontario, and I'll speak to that in a moment.

We're obviously concerned about access to justice. This bill we see as perhaps institutionalizing the common sense reality of a two-tier justice system. We have a two-tier justice system; this bill won't create one. My concern is it will entrench one. It will institutionalize it, as has happened, at least with criminal law and family law matters, in the United States; as has not happened in other jurisdictions that we frequently borrow from, in particular the United Kingdom. I'm not suggesting for a moment that it is a universal justice system, but their take on the delivery of services is quite different than the one adopted by this government today.

We're concerned it will institutionalize it because in fact we will send off to cabinet the ability to create a public defender system and do away with the legal aid system and thereby render really the lowest-common-denominator assistance to those who need it most.

Last, the flexibility needed, currently far from perfect but nonetheless in existence under the Legal Aid Ontario system, will be gone. People won't go to counsel of their choice. They will just basically stand in line and get what they get. You know, you get what you pay for in that sense, which speaks to the economics as well. I'll come back to those in just a minute.

But let's not forget that what is actually being proposed here today was already rejected by the very office that is supposed to administer this program. Legal Aid Ontario has looked at this—everybody's looked at this—and these alternatives in the last few years. It has been the subject of enormous attention by the Law Society of Upper Canada. The law society, as you probably know, is not a lobby group. It is in fact there to regulate the profession, not unlike the College of Physicians and Surgeons of Ontario. The purpose of the law society in looking at Legal Aid Ontario is not to act as a lobbyist. There are other organizations to do that and to further the interests of that particular stakeholder. But the Law Society of Upper Canada, represented by benchers elected and accountable and fulfilling a number of requirements, in fact is there to try and ensure and bolster the integrity of the administration of justice. They have commissioned numerous reports and made numerous recommendations, and they are in the midst, I believe, of discussions with the Ministry of the Attorney General

and were up until the gauntlet was thrown down here. I'll be speaking to their recommendations.

When Legal Aid Ontario looked at the proposal for a public defenders' office, they said no. In October 2001, in the legal aid tariff reform business case, they considered and rejected replacing the certificate system and tariff with a public defender system. Why did they do that? First, there was a concern that the public defender system would require a reversal of the direction set forth for legal assistance by the province of Ontario in 1998. The Harris-Eves government passed a law in 1998 called the Legal Aid Services Act, and the direction therein was clear: let the private bar, the Law Society of Upper Canada—not the government of Ontario, but someone who is not in the position to be providing the funding—take the funds and administer the funds, in a manner that was in the best interests of the administration of justice; make the private bar the foundation of legal aid services in the criminal and family law areas.

Secondly, the public defender option was seen as fundamentally counter to the provincial direction, again articulated during debate in 1998 on private-public partnership in services delivery. This fundamentally transforms our system from a legal aid certificate system—again, under the blank cheque, determined by regulation and notwithstanding maybe even the intentions of the Attorney General today to provide something mixed. This bill permits the institutionalization of something poor. That's why we have legislation to ensure that that will not exist either now or in the future. The Attorney General of Ontario, of all people, knows that, and, of all people, must ensure that in this Legislature.

Thirdly, the public defender system was rejected by Legal Aid Ontario because it simply reduced the flexibility that existed—or exists now, however imperfect—to ensure that the appropriate assistance is provided to the appropriate case.

Lastly, Legal Aid Ontario was very concerned—as I've already stated before, is our concern—that that option could end up being more expensive than the certificate system once the costs of accommodation, overhead and benefits of the public defenders are factored in. Remember, the government isn't out there paying, in any direct fashion whatsoever, the overhead under the certificate system. It's obviously going to be done indirectly through the certificate system. Thus, comparing the dollar rate for a certificate on the one hand versus the salary of a crown counsel on the other hand, without adding the crown counsel's overhead in, is just simply mendacity; it's just misinformation. Anyone who did that would be totally misleading whoever was listening to that, because obviously you have to factor in overhead, benefits and accommodation into those numbers. I know the Attorney General knows that; I know he knows that. On this issue, it ain't one to play that rhetorical game—on this one, not on this one; on others, but not on this one.

Next, there are obviously constitutional considerations. The Attorney General, I know, knows that. I would

assume that—I would hope that—the ministry would have been saying loud and clear, “We have a Supreme Court of Canada decision out there from New Brunswick in 19”—I think it was 1999; yes it was in 1999—“where the court held that a mother had the right to public funding to defend herself against the state seizing her child.” Some have interpreted that as a constitutional right to legal aid. Some have interpreted that merely as a constitutional right to public assistance in some regard.

If you look to the American case law, where in fact the American jurisprudence has ended up driving, to some extent, the public defender system, you will see minimum requirements in terms of what the legal assistance is. You can't just have somebody in the office with a pulse. There has to be a certain level of assistance provided, not just someone showing up with a file folder in their hand who hasn't looked at the file. That's all over the map, but if you want to go to a public defender system, that's what you're getting yourself into. If there are any doubts that the legal assistance being provided right now by governments across Canada to Canadians under the legal aid system may be in a state of crisis, consider the fact that the Canadian Bar Association has launched a series of actions across the country to challenge that in the courts. Then the courts will be sending back, as part of the dialogue between the courts and the Legislature, the next missive.

Rather than playing it that way, in the way this particular dispute is playing out—in the media, through the bills, a flurry of press releases flying around on all sides, a refusal to do anything but entrench, sending everything off to the courts, in this case, in order to get the judicial remedy that legislators won't provide—the better view, surely, is for the law society, the private bar and the ministries, provincial and federal, to get together and work out a way in which we can fulfill those constitutional responsibilities to ensure that people get the right to a fair hearing that they deserve, which for many people who cannot afford counsel means getting appropriate legal assistance.

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Clearly, there are constitutional considerations here. And whether this dilution of our legal assistance system ends up running afoul of the Charter of Rights and Freedoms has got to be spoken to during committee hearings. Of course we have to have public hearings. We have to hear from the experts, but we have to hear from the people too, and we have to hear from those who will deliberate on the issue of meeting those constitutional obligations. The Attorney General is quite literally statute-bound to ensure that happens. I would argue that he is statute-bound to provide hearings in this case in order to fill his special legal constitutional responsibility to ensure that this bill is kosher with the Charter.

Rushing this bill through without any consideration or consultation before the gauntlet was thrown down, rushing the bill through—right now we don't know; we're concerned about the possibilities of time allocation motions, guillotine motions, killing debate on this with-

out public hearings, without full committee hearings and without permitting, among other things, Legislative Assembly counsel to provide to the justice and social policy committee, or whatever committee the Attorney General sees fit, the opportunity to look at the legal implications. I just can't imagine that the Attorney General would want to just get this thing passed, get it out and then have it struck down and we'd be back in the state of chaos we're in now.

There are federalist considerations; there are areas of legal aid funded by this province that require assistance and appropriate funding from the federal government. But that doesn't mean this ought to devolve into the "he said, she said" debate that marks our health care debate. Rather, the federal Minister of Justice must obviously work with provincial Attorneys General, as he has already committed to do, to ensure that the right areas of government are providing the appropriate areas of funding, recognizing that it's pretty clear, under the Constitution Act, 1867, that responsibility for the administration of justice is provincial, and there's no denying that. Getting us into this box, where we have to turn to Ottawa down the road to pay for a bureaucracy for legal aid certificates that turns out to be more expensive, is not the way to go.

I'm concerned that this bill is the result of a political firestorm focused, in part, in the Brockville area. As a sort of brutally and maniacally effective partisan trump card, this bill is thrown down to end this dispute. It might seem to the Attorney General that it will end it in terms of giving him legal tools that he believes he needs. But I would guess it will also end hope of getting any co-operation on an issue that just cries out for, and historically has always seen, the parties working together. Why? Because in a populist arena, all the parties understood, especially the government of Ontario and the Attorney General, that these kinds of debates, when played out on the talk-show circuit, don't end up addressing the fundamental rights that are at stake, that we all hold sacred, and that some of those talk-show participants might desperately want, and need, on the day they get pulled over and in their view feel they were wrongly treated by the justice system, find themselves in need of legal representation and don't have it.

That's the day they find themselves in a family dispute that puts them in the courts where the most fundamental, sacred principles of family have to be determined by a court of law: a judge has to decide where a child goes; how much a spouse pays in spousal support; how much the kid gets; how to get, in some cases, the deadbeat dad to pay what's owed and due. These are pretty fundamental issues, and you want to have them adjudicated before an impartial tribunal. You want to have the scales of justice balanced, where you've got not the one who's got the most money and the legal dream team who can try and purchase in the face of no representation the result that they are seeking, but some balance.

Of course we need a robustly funded prosecution system. Of course we do. But at the same time, we recog-

nize, or at least have recognized in this Legislature, always we've recognized, that the scales of justice needed to be balanced in a fashion that those who couldn't afford representation would get it. And they wouldn't get it through the worst possible model; they would get it through the best possible model.

This government in fact in 1998 was to say, "Let the private bar drive the direction of the certificate system and create an independent office, Legal Aid Ontario, which would administer it and make the final decisions." Why was this important? Well, look. How much confidence can people have in the independence of a judiciary if the government is funding the prosecution, as they must and should, but are also funding the public defender?

There's a pretty fundamental principle at stake when we say that we not only must have justice be done but seen to be done. And if it's seen that a public defender may not want to be biting off the hand that feeds it, which is absolutely the perception in a number of jurisdictions in the United States, if that in fact is what may go on in the province of Ontario, then we've just seen the decimation of a legal system in Canada's largest province.

The Legal Aid Services Act, 1998, reads as follows, under subsection 3(4):

"(4) The Corporation"—being Legal Aid Ontario—

The Acting Speaker: Order. The Chair recognizes the member for Niagara Centre on a point of order.

Mr Kormos: On a point of order, Mr Speaker: Sir, do we have a quorum?

The Acting Speaker: Will you check and see if there's a quorum present.

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

The Acting Speaker ordered the bells rung.

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Clerk at the Table: A quorum is now present, Speaker.

The Acting Speaker: The Chair recognizes the member for St Paul's.

Mr Bryant: I was referring to the Legal Aid Services Act, 1998. In that act the government of Ontario eventually, approved by the Legislative Assembly of Ontario, entrenched in statute the independence of Legal Aid Ontario, referred to as "the corporation" in the bill. Subsection 3(4) reads, "The corporation shall be independent from, but accountable to, the government of Ontario as set out in this act." So, independent from, the idea being that Legal Aid Ontario would act in a fashion that would fulfill the principle set forth in that bill, it would be independent from, not beholden to, the Ministry of the Attorney General.

Our concern is that a fundamental alteration of that principle and of that entrenched principle in the statute in fact will be violated under this new bill. Bill 181, the bill that we're debating here, reads under section 2, subsection (2.1), "The Lieutenant Governor in Council"—the cabinet—"may make regulations governing the

corporation's"—meaning Legal Aid Ontario—"methods of providing legal aid services, including, without limiting the generality of the foregoing," and then it lists all these ways in which it can tell Legal Aid Ontario what to do.

The point of Legal Aid Ontario was that we'd give the board independence to administer the funds in a fashion consistent not with a particular political agenda, not consistent with the governing party of the day, not necessarily consistent with principles that play well in the populist talk show circuit, but rather principles that further the administration of justice and fulfill the principles upon which our legal aid system was founded.

This new bill strikes at the heart of that independence and makes Legal Aid Ontario arguably a tool of the government, eroding the independence therein, and causing the entire independence of our legal assistance system in the province of Ontario to be questioned.

Does it sound arcane? Sure it is; of course it's arcane. But we're dealing with a very arcane principle here. We're dealing with a very fundamental, sacred principle here: the right to get a fair hearing, which means, for those who can't afford representation, the ability to have legal assistance. If the independence of those who decide where the money goes and whether or not a bureaucracy is set up in a particular community or whether or not in fact the funds are farmed out to a firm to administer or legal aid certificates are provided, if there is no independence there, then it really renders the whole purpose of the Legal Aid Act, passed by this government in the first place, and the independence of that office a joke. It's illusory if it is.

Next, we're concerned also, in regard to independence, with the perception of what happens when both defence and prosecution are funded by precisely the same source in the same fashion with no independent arbiter in between.

Mr Kormos: With budgetary restraints.

Mr Bryant: The budgetary restraints will end up inevitably compromising in a fashion that I think people looking on a case-by-case basis would find totally unacceptable but also compromise the rights and freedoms that are at stake here. It's not just that justice be done; it's that it appears to be done. Hence, the concern with the independence.

The economics: if a bureaucracy is created, as I've said before, it is hard to see how substituting a legal aid certificate system with an entirely new bureaucracy will end up doing anything but costing the province even more money. If we're concerned about the economics, then that ain't the way to go.

Wait a minute. The other alternative is that the work be farmed out, presumably to the lowest bidder, to a firm, let's say, to do 200 cases. "OK, firm that bid the lowest," that might have underbid it, by the way, "you get the 200 cases." The first case that goes off to that firm, they may get some pretty good treatment, they may get great treatment; the firm's happy, good. They got the contract.

What happens if after case 150 the firm figures out, after looking at their overhead and looking at how many

hours they're spending on this, that they actually underbid it, that they didn't get it right? You're not going to have anybody independent here making decisions or ensuring any quality control. I've not seen a thing about quality control in this bill.

Suddenly you're going to have, after case 150, really no service provided to the person who is supposed to be getting it. So case 1 of the 200 is getting great service; case 200 is getting little to none, because at that point the firm is losing money.

This is the danger of farming it out without any quality control whatsoever, this is the danger of removing the independence of Legal Aid Ontario, and this is the great danger of providing this justice on the cheap, particularly in circumstances where we've not heard from the people of Ontario and we've not heard from the stakeholders in a committee hearing and we've not heard from other government members in the committee forum, which we'll all admit is supposed to be less partisan than this particular forum.

Mr Kormos: What does McCamus say about block funding?

Mr Bryant: John McCamus—is that who you mean?—of the McCamus report, a great scholar, a great counsel, a great former dean of Osgoode Hall, a great Canadian, in his blueprint on page 22 rejects block funding.

Mr Kormos: For family legal aid.

Mr Bryant: He just rejects it outright for family legal aid. It's not the way to go.

The government of Ontario listened, I think it's fair to say, to Professor McCamus when that was released, and I wish that they would listen to him now. Block funding on family law matters should be just off the table.

Mr Kormos: He didn't even consider it for criminal matters.

Mr Bryant: It goes without saying that Professor McCamus didn't even consider it for criminal matters. It was beneath injury to the justice system as a result.

Another concern clearly is with respect to the flexibility needed, and here I'm going to paraphrase from the McCamus report, the Report of the Ontario Legal Aid Review: A Blueprint for Publicly Funded Legal Services, 1998. Professor McCamus's concern was, first, with respect to there being a conflict of interest. The concern was the public defender system would have less legal independence than private counsel because the lines of control and payment by the government would be more direct. Defence counsel's legal independence and loyalty to the client would be compromised. Why? Because the obligation would not be to the person you're trying to defend or the person you're trying to assist in the family law matter, but rather the public defender's obligation inevitably has got to be to the person who is providing them with a paycheque, has got to be to the ultimate employer, and in this case it would be the government of Ontario. Hence, the concern of biting the hand that feeds you.

There is also the concern—I don't want to attribute this purely to John McCamus, but to many others—that there would be lower-quality services. Overworked staff and the volume of criminal cases that a public defender would have to handle are inevitably going to lead to indifferent and superficial work. That has been the experience in the United States and it will be the experience in Ontario, particularly in the absence of any kind of quality control provisions, and we're not going to get any of that and fix any of that and do any of that if we don't have public hearings, if we don't have committee hearings.

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Another concern coming from the McCamus report was the erosion of access to justice. The public defender system highlights the gap, it was said, between the rich and the poor because the services provided to the individual without means are clearly different from those available to those who can afford to retain their own counsel.

Lastly, there was a great concern in terms of the lack of flexibility and enormous inefficiencies that might run from this radical reform that's being proposed here today. The public defender model can lack a flexibility in responding to changing demands, particularly in rural and remote areas of Ontario.

There has been an outcry among not just those directly offended and involved in this particular issue, but many people who have a keen interest in it. There were real fighting words coming out as soon as this bill came down, and I think in part it was because there was a perception among a number of stakeholders that they were in the midst of what they perceived to be good faith negotiations, and then this happened.

I'm here in the Legislature—I try to be here every day and I think I've been here every day this session—and I can tell you I didn't hear a thing here or in the hallways, in any press release or otherwise about a—we have not had a public debate, if you like, about a public defender system until, boom, the gauntlet got thrown down. Of course, we knew it existed. I understand that. We also knew that it was always out there, but there was an assumption that that partisan and, I dare say, tyrannical trump card would not be dropped until there had been full consultation and negotiation.

Yes, in any other context—if we're talking about, I guess, negotiating the salary between Ron McLean and the CBC, we can't blame Ron McLean for throwing down his own populist trump card. But the rights at stake here are too important. The office of one of the negotiators, that being the Attorney General, and the need for its independence are too important for us to find ourselves in the midst of this really unbelievably protracted conflict, particularly concentrated in the Leeds-Grenville area.

The Ontario Bar Association said this on September 30 in response, this from the co-chair of the OBA's task force on legal aid reform, Paul Robertson: "The OBA is disappointed to learn that after more than 18 months of

'good faith' consultations on behalf of the profession, the current government is returning to the Mike Harris days of the politics of confrontation. This time the government's targets are the underprivileged and the legal aid system.

"We have provided the government with substantial documentation in support of legal aid tariff reform over this period and have received no response. We were, in fact, scheduled to meet with the ministry ... this week"—this was back on September 30—"to continue discussions, and have not been advised of any change to that schedule."

Well, there was a change to the schedule, all right. There was a bill brought down which really brought the negotiations, in effect, to an end. I wish they were not and I hope they continue, though.

I would add this: it is not just that the politics of confrontation, what the Ontario Bar Association refers to as "Mike Harris tactics," are not part of what we're supposed to be having today, based on a throne speech promise of last spring, a sequel to the Common Sense Revolution.

Not only is it just confirmation for all us who believe in the political arena that the Harris-Eves government is the Harris-Eves government, but it is also a violation of the independence of the office of the Attorney General. I would say that under no circumstances, whether we're in the Mike Harris days or out of the Mike Harris days, is it appropriate to engage in these kinds of tactics.

Thus says the Ontario Bar Association; thus say hundreds of people who have, I know, written to the Attorney General. I want to say this again: it is not just the people who have a direct interest in this. In fact, for many members of the bar, many members of the law society who don't practise any criminal law, who don't practise any family law, their dues would go down if the legal aid certificate system was gutted. Part of their dues go toward that system. It would be economically in their interests, I suppose, to have the public defender system replacing the legal aid certificate system. But they still say the principles are too important.

Let me read from one of those letters:

"Most legal aid certificates are issued for criminal and family matters"—it's true—"neither of which are my areas of practice," writes this particular lawyer. "Consequently, any changes in legal aid have no direct effect on my income. In fact, I suppose that I would save money with a public defender system because part of my law society dues now go toward the legal aid system, from which I derive no benefit.

"In spite of that," he writes, "I am not in favour of this change, particularly by this method." This is a letter to the Attorney General. "Any major change in social policy or legislation should not be arbitrarily done by the government of the day on a matter as important as this. Such a system leads to uncertainty as subsequent governments feel obligated to undo the misdeeds of the previous one.

"The better approach is some sort of consensus building which results in possible legislative changes which at

least some of the parties are prepared to accept. Rather, we have an all-or-none proposition right now.” It’s all or none. It’s the government throwing down the gauntlet on an issue that is just too important to do so.

The Chief Justice of Canada said recently, “Providing legal aid to low-income Canadians is an essential public service.... The well-being of our justice system ... and the public’s confidence in it ... depend on it. If legal aid fails, justice fails.”

What is she talking about there? She is talking about the ability to fulfill some of the most fundamental rights that all of us in this room take for granted. She is saying that if we do not provide that kind of assistance to people who so desperately need it, it is truly a pox on the whole system of justice.

Why should this concern us in this Legislature? We are able, in representing our constituents, to more often than not devote our time and energy in trying to ensure safe communities, in trying to ensure livable communities. We are able to do so and to push for that, to push for the protection of people from crime, from deadbeat dads. We’re able to fight for that, fully confident that we have a system of justice that will take care and ensure that fundamental rights, which we know if we throw them in the populist arena will be abrogated, will be fulfilled.

If we cannot proceed on that basis, if we cannot in this chamber fight for victims of crime without being concerned that we’ve got an administration of justice that does not provide fair hearings, does not fulfill fundamental principals of innocence until proven guilty, it ends up hampering our ability to represent our constituents. We’re going to have to be concerned at every stage of the game, as we fight for those incredibly important causes for which we were elected, that maybe somehow we are engaging in or are complicit in the violation of somebody’s civil liberties out there somewhere.

I don’t think any member of this chamber was concerned about that in the glowing heydays following the adoption of the Charter of Rights and Freedoms. There was a confidence and there was a sense in every legislative chamber that, “Phew, we’ve got someone independent checking that and watching that and ensuring that.” If we don’t have a system of justice that is independent, if we don’t have a system of justice that balances the scales, whereby not just the prosecution is robustly funded, but we have those who can’t afford a defence getting the appropriate representation, then that means we’re going to have to adjudicate on that.

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The elected should not be adjudicating on that issue, because what will happen, we know, is that the legal populists of the day will triumph. We know that the tyranny of the majority will engage. The existence of injustices in our province, the existence of inequalities in our province, some because of immutable characteristics resulting in discrimination—the way you look, where you come from—the existence of inequality in economic well-being—the growing gap between the rich and the

poor—the existence of these injustices and more make our democracy so very necessary so that we can do collectively that which we can’t do individually.

But the existence of democracy also requires a check so that we do not have the majority always trumping the interests and wishes of minorities. Believe me, the people who qualify for legal aid are a minority, I imagine something less than 1% of our population. To qualify for legal aid the amount of money you need to be making a year, among meeting a number of other requirements, means clearly that you’re either unemployed or we’re talking about the working poor. That’s what we’re talking about. We’re talking about people who just cannot afford a lawyer for an hour. They can barely pay their rent.

If we go down this path, if we erode the independence of the office of Legal Aid Ontario, if we erode the independence of our judicial system so that the scales of justice are not balanced, we’re going to end up with things on our agenda that I’m telling you we don’t want on our agenda. We want them to be before an independent arbiter. We want them addressed by crown counsel, who have duties to prosecute but also have special duties that defence counsel don’t have, that don’t make them simply nothing but opponents with defence counsels and advocates on one particular side. They have very special obligations. We have great crown counsel in this province.

We need to give advocates for those accused and those who find themselves in the midst of custody battles, support battles, and who find themselves before refugee tribunals. We need to have all those people getting the representation they deserve so that they can make their case, so that they have the opportunity to get a hearing in an arena where politics is not ruling the day, in an arena in which economics—how much money you have—is not ruling the day, in an arena where it doesn’t matter if you’ve got the legal dream team on your side or not, but rather you’ve got an independent arbiter, an independent judge, who will look at that case, decide it on the facts, and politics and economics be damned.

If we go down this path of legal populism and tear down that independence of Legal Aid Ontario and tear down a certificate system which clearly was broken—obviously it’s broken. It’s at a point where it’s not functioning in parts of the province. But to throw the baby out with the bathwater is hardly the way to go.

I want to say to the Attorney General that we’re obviously going to have to agree to disagree on the merits of this bill. I listened to him in his speech as he made his case for the bill. I listened to him in his press conference as he made the case for this bill and I don’t know if he listened to me as I made the case against the bill, but in any event I know he’ll agree that we’ll agree to disagree. Be that as it may, I cannot believe that an issue as important as this, a bill as important as this, a matter as important as this, faced by an office with such special obligations, would not go off for weeks of hearings—weeks.

Keep in mind the context: there were negotiations taking place by all the parties to figure out how to fix the

legal aid system and now, out of right field, comes a bill—not a proposal, not a speech, not a discussion paper, a bill—saying, “We are going to legislate a blank cheque to provide a mortal wound to legal assistance in the province of Ontario, so there.” The political challenge is thrown out. Again, a great negotiation trump card, and sadly consistent with the Harris-Eves style, but this is not the issue on which to do it.

I am saying that even if you disagree with me, not unlike other bills that have come before this Legislature that, I thought, rightly went off to committee hearings—very few, I should say, under this administration, but many or more under previous ones. The privacy legislation: off it went to hearings, and mercifully it did go off to the hearings, because the privacy legislation was addressed in a fashion that led the government, I guess mercifully from the government’s perspective, to withdraw it. We’re told we’re going to get it back again, and I presume that legislation will go to committee hearings. Why? Because of the privacy interests at stake, because the privacy interests are so important, because privacy rights are so important. Hence privacy legislation goes off to hearings.

It is astounding to me that this bill, where the rights and interests at stake are even more sacred, I say—because we are also talking about a minority in the minorities. We’re not just talking about people facing a fundamental change to their liberty, and I mean that not only in the criminal context but the family law context. Not only are they facing a fundamental change in their liberty, their freedom and their family life, but we are talking about people who can least afford, and in many cases are in no position, to defend themselves.

When rights are that important, clearly the old adage holds that the person who represents himself has a fool for a client. When such fundamental rights are at stake, our country has said, certainly in the post-war era, that these rights are just too important to let someone go off and defend themselves.

So in those circumstances and with those rights at stake and given that we are talking about the most vulnerable in our society, they deserve, because it’s a reflection on our society, and therefore we deserve and this Legislature deserves and our system—replete with its separation of powers between justice, executive and Legislature—deserves a full public hearing. It’s just too important not to get a full public hearing—not a couple of days of hearings, by the way; not a couple of days but a full public hearing.

It used to be the case, and certainly hasn’t been since my friend from Toronto Centre-Rosedale and I were elected—we’ve never seen any public hearings that have lasted more than a few days, or a few hours in some cases. But I’m told that this place used to have weeks of public hearings, and on a matter as fundamental as this, it would be unthinkable not to do so.

I’ll say again, because I can’t say it enough, that for a bill to come from this minister, the Attorney General, on such a fundamental matter makes it even more incumbent

on the government to have full public hearings, because of what’s at stake here. There is a sense that maybe we can just play this out on the talk-show circuit and through releases such as this one from the government. This is the Attorney General of Ontario speaking in a press release: “We will not allow legal aid lawyers to continue using tactics that deny representation to people as part of a campaign for a pay increase.”

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Great negotiation point. If this was counsel Young representing Ron McLean in a battle with the CBC, I’d say, “Go get ’em,” in that negotiation context. But this is not that. This is not, let’s face it, supposed to be a minister, because of the office that he fulfills, that engages in that kind of a joust. No, it’s not supposed to be that way. So says the Ministry of the Attorney General Act and our constitutional conventions that require the Attorney General to be as apolitical as possible. Even if that, in this day and age, becomes more difficult, and I recognize that it does, that we live in a political arena and operate in a Legislative Assembly that is nothing like the Legislative Assembly that Ian Scott operated in in 1987 but rather is one where the gunslinging and mudslinging is a sad but unfortunate reality of the exchange that continues—we won’t start by suggesting where it started—and will continue for a time. It’s the age that we’re in. But that notwithstanding, this issue from this minister deserves a better treatment than this.

Obviously my prescription for this particular dilemma is not this bill. We do not support this bill. My prescription, first and foremost, is to end this tactic of the partisan gauntlet being thrown down. Again, the Attorney General’s not going to agree with me there, but at the very least, what we dearly need, all of us in this Legislature, the province, the people who can afford it and those who can’t afford our justice system, is to ensure the integrity and the independence of the administration of justice in this province.

We are not a banana republic. We are the largest province in the finest country in the world. This great province deserves the best justice system. It deserves an impartial justice system. It deserves a system where the scales are balanced as best we can. If fundamental changes are going to be made to that, if radical departures are going to be made from that, if constitutional liberties are going to be imperilled by that, if we find ourselves engaging in a populist, bottom-line assessment of fundamental rights and freedoms, at the very least we owe it to all of our constituents, we owe it to the office that we occupy and the seats from which we stand to ensure that this bill gets a full and open public hearing.

It’s late on Thursday afternoon so you probably couldn’t hear the roar of approval that was coming. The microphones weren’t quite on.

In closing, the official opposition, Dalton McGuinty and the Ontario Liberals, do not support this bill. The politics of this may be something else. The politics of this on the talk show circuit may be totally different. It may be that we ought to just jump on in and jump on that train

of the tyranny of the majority in the face of often misunderstood issues. But we're not going to do that on this side of the House. We're not going to do it because we don't want to erode the quality and economics of legal assistance to Ontarians. We don't want to erode the independence of our justice system. We want to do the best we can to balance those scales. We don't want to entrench and institutionalize a two-tier justice system and inhibit access to justice. We want to ensure, at the end of the day, that we get it right. We need full public hearings, if nothing more.

The Acting Speaker: Comments and questions?

Ms Marilyn Churley (Toronto-Danforth): I listened with interest to the hour-long speech by Mr Bryant. It was a very good speech that went very quickly. He expressed a lot of concerns that the New Democratic Party shares as well.

The bottom line here is, we need extensive public hearings. My understanding is—and I'm not sure about this; maybe he'll clarify it—the minister is not prepared to do that. If I'm wrong, I want to hear that. We need extensive hearings on this across the province, because there are a lot of issues that have been expressed already, and I'll tell you again what some of those are.

I have great concern that both the crown and the defence will be represented by people who are employed by the crown, even if indirectly through Legal Aid Ontario. There's a concern about the control the government will have over the course of cases. I have concerns that the government has indicated the funds for contracting out and legal aid staff lawyers will come from Legal Aid Ontario's existing budget, which we know is not adequate. Already the 5% tariff increase was paid for out of the LAO surplus. I have concerns that the government wants the criminal justice system to move more quickly and cost less. There are many concerns about this bill.

I understand there are issues and problems that need to be resolved here. As the Liberal critic just expressed, we all want to try to find a way to work together to resolve this problem for the good of our low-income constituents who badly need this service to work for them. It is our opinion that this is not going to work.

Hon Mr Young: Indeed it was interesting to hear the member from St Paul's speak. I listened attentively throughout, from start to finish, trying to understand what position the Liberals were taking in relation to this serious matter. I listened and listened, and I heard him say they don't support this bill. They don't support choice; they don't support having an alternative, particularly where there are no lawyers available prepared to do this work.

What do they support? The Liberals are so used to being on the fence that they've become impaled on it. Even on an issue this important, this crucial, they won't take a stand. Let's think about what that means in this instance. The Liberals refuse to take a stand. They're not prepared to support men, women and children who badly need lawyers when there are no lawyers available. They're not prepared to do anything.

Oh, they did say one thing. They want to delay the bill. They said they want to extend the process within this Legislative Assembly. They want to delay the bill; we understand that. But the result of that, the result of not having any real, credible, concrete, constructive alternative, is that we will have a criminal justice system that will not continue to function in certain parts of the province. There are places in this province where lawyers have said in no uncertain terms that they can't afford to take or won't take legal aid certificates. I take them at their word. I don't think we should be imposing on them any further.

Mr Bryant and the Liberal Party probably think we should give them a big raise. I didn't hear that one way or another, but presumably and by necessary implication they must believe we should give them a big raise. The Liberals want to give them a raise. I guess they want to raise taxes or close an MRI to do it. We have proposed a very reasonable alternative.

Mr Mike Colle (Eglinton-Lawrence): My colleague from St Paul's is very wise in saying this is too important to be reckless with. The Harris-Eves government also ignored the public when they recklessly tore apart our school system with their unworkable funding formula. They didn't listen to people. They didn't want hearings.

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Look at the mess they've created with hydro because they always want to rush. They never want public input, they never want good debate, because they think they know best for the people of Ontario. They continue to assert that they know it all, whether it's this very critical issue dealing with the public's right to good justice and good legal representation—they don't want to hear from experts or the public. The minister in charge says he doesn't want hearings. He calls public input into this process a "delay." That is the essence of the Harris-Eves agenda. They want to always jam things through. Then they mess things up. Then they blame other people.

This is a big bluff. The member from St Paul's, I'll tell you, this minister is bluffing. He's trying to intimidate the legal profession. He's trying to intimidate people into saying, "My way or the highway." I think when the people of Ontario find out that this government is being reckless again—and you know what happens when they proceed on this reckless road. I tell them, "Don't let them do to the justice system what they did to hydro, which is the biggest mess ever created in this province, and what they've done to schools and what they've done to our hospitals."

Mr Kormos: One of the critical questions is why the government won't permit this bill to be put to the committee. The suggestion had been made quite early on from my counterpart in the Liberal caucus that this is something that could be dealt with after first reading in committee. I concur. Efforts have been made to get a commitment from the Attorney General. All we want is for the Attorney General to stand up today and say that this bill will be put to committee for the three or four weeks of committee that it deserves.

Interjection.

Mr Kormos: Well, lawyering is taking place across this province. I put to you that when you are undertaking, Attorney General, as you are, such a fundamental and radical departure from the historical delivery of legal aid in this province, and when lawyers across this province have all made it very clear to you that they want to be a part, that they're prepared to assist in addressing the issues that you raise around legal aid, it is negligent to not put this to committee, to not have thorough hearings, not just here in Toronto but quite frankly across this province. Because I tell you there are folks up in Timmins, where my colleague Gilles Bisson is from, who recognize that lawyering is a far different animal in Timmins than it is in downtown Toronto, as it is in Niagara region, as it is in eastern Ontario and the west.

I happen to have a memo which reports on a meeting between the Attorney General and some lawyers. I will be disclosing the contents of that memo in relatively short order, because there are some interesting things that occurred at that meeting which are not consistent with what the Attorney General was putting to us today. Far be it for me to draw the conclusion that the memo is inaccurate.

I'm going to be addressing this notorious letter, among other things—

The Acting Speaker: The member's time has expired. The member for St Paul's has two minutes to respond.

Mr Bryant: I listened closely to the comments of the members for Niagara Centre, Toronto-Danforth, Eglinton-Lawrence, and of the Attorney General.

I should say that the member for Niagara Centre is quite right. The day that the bill was introduced, in the midst of another time allocation motion, I called for and stood shoulder to shoulder with the member for Niagara Centre in fighting for full public hearings after first reading.

The Attorney General asked a question about the Liberal position. I think that, for an hour, I said what our position was. But let me talk very slowly so he understands it. Our position is that we do not support this bill. Is that clear? Our position is that we have got to provide just legal assistance through an independent body, Legal Aid Ontario—in a fashion that fulfills both the inevitable economic requirements that come with administering the taxpayers' money, balanced off—"balance" being a word the Attorney General doesn't understand—with the important civil liberties, the important freedoms that are at stake.

I can't believe the Attorney General of Ontario would equate debate and hearings with delay. It's called democracy, sir.

The Acting Speaker: Further debate?

Mr Kormos: With regret—this is our leadoff speech—I've got but an hour to address this issue. But I tell you what, I've got some things to tell you about this bill and the motivation behind it that have been rotting my socks for a week and a half now and may well have the same impact on you.

I was down there at that press conference the Attorney General gave a week and a half ago when he introduced the bill, and I want to tell you that it was remarkable for several things. One was, and this is the Attorney General who went into that press conference and throughout the course of it wanted to—look, can I tell you lawyer jokes? Of course I can. We all know them. We all know the interest the government would have in vilifying lawyers, but the Attorney General was at that press conference doing the "let's dump on lawyers" throughout the whole exercise. It was a regrettable approach to a very serious matter, because as has been said earlier, and Mr Bryant made reference—I'll tell you again. You can hold lawyers in disdain if you want. You can have a very Shakespearean view of lawyers. But when the cops are knocking on your door at 3 in the morning, ready to haul you off in the paddy wagon, you want the best lawyer you can possibly find, and you want him or her then and there, right now.

If your marriage is collapsing and you're thrown into that incredibly and increasingly complex world of matrimonial litigation, you can make all the lawyer jokes you want, but if you're thrown into that scenario, you want the best possible, best-trained, most competent, best-researched lawyer there is around.

The reality is that the Attorney General has spent precious little time discussing the plight of lawyers who have been struggling to provide family law services in this province. He had the audacity to speak of the greed of lawyers, of them being driven by economic issues. Pal, there isn't a lawyer in town who's made a living off legal aid in a long, long time.

The Attorney General should know better, and I think he does. I've got to tell you that one of the things I've noticed around here—I've been here some 14 years now—is that I've been here long enough to remember when an Attorney General was a little different from any other cabinet minister, because the position of Attorney General was not to be politicized in a way that we've witnessed, an aggressive politicization of that special role in a cabinet within a government.

I was here at a time when Attorneys General, going back to Ian Scott and successors of his, as individuals were as partisan as they come, but when it came to performing their role as Attorney General, they were a little separate and apart from the rest of cabinet. They had a history of Attorneys General in this province who had a commitment to the well-being of the justice system in Ontario, a history of Attorneys General who weren't cheap shot politicians but who performed their roles with a sense of commitment to all of the Legislature and to all of the people of this province.

I found the Attorney General's press conference extremely disappointing in that regard: his cheap shots at lawyers, his references to the difficulties around the legal aid tariff as being issues of lawyers' greed. He's suggesting that lawyers are pocketing \$70-plus an hour.

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He didn't have any intention of telling that press gallery gathered around him that most lawyers, and certainly

competent lawyers, have huge overheads in terms of ongoing training; in terms of the resources they purchase on an ongoing basis, be it subscriptions to any number of legal reporting services, among others; in terms of the support staff who are critical to an effective lawyer's office. It's rare lawyers indeed who have performed legal aid work who have found themselves even covering their overhead, never mind netting any income for themselves.

The Attorney General spent a great deal of time and a lot of focus with hardly a mention of the crisis that he's created around family litigation; rather, he was focused on criminal defence lawyers.

The Attorney General just doesn't get it, and he should. I'm going to tell him right here and now that even with an increase in the tariff to family law work, with his maintenance of the artificial caps in terms of the maximum hours of billing, there is the rare lawyer who is going to take on matrimonial litigation with a legal aid certificate, because matrimonial litigation involves far more time than the modest number of capped hours allowed under the current plan.

The Attorney General, by virtue of maintaining those caps as well as refusing to respond productively to the lawyers' reasonable request for an appropriate new tariff, is denying thousands of women and their kids access to matrimonial courts. This government would take every opportunity to tout its oh-so-failed Victims' Bill of Rights. I just can't believe, for the life of me, why this government or any of its members—the Attorney General has been in public forums where he has actually talked about the government's Victims' Bill of Rights. After what Judge Day said about it in the Linda Even-Karen Vanscoy litigation? Please.

We know that for women to be safe, for women to feel safe, it's imperative in situations of matrimonial breakdown and matrimonial violence that they get into the courts as quickly as possible. It's critical that they get into the courts as quickly as possible and that the matters are resolved as quickly as possible. This Attorney General, by denying those same women and their kids legal counsel, is not just making life painfully miserable for those women; he's putting them in danger. I put that to you without hesitation. I see it on a daily basis in terms of the people who come into my constituency office, and my colleagues similarly, whether they be here in Toronto, in Timmins, in Sudbury or in Hamilton.

Clearly, this little bit of legislative manoeuvring is all about this Attorney General not being able to bring himself to sit down with the criminal and family bars to negotiate a resolution to the tariff dispute. I find that remarkable.

The other interesting thing about the press conference is that you've got to understand that when the Attorney General was pressed, all he could do was repeat, "Brockville, Brockville, Brockville." And he didn't have much of an understanding about how this bill was going to be implemented if it should ever pass. The Attorney General was oh-so-incredibly vague. It's clear the Attorney General has no plans. It's clear that this proposition hasn't been costed.

This Attorney General suggested that somehow this bill—Ted, don't go—is critically needed as a response to more and more lawyers simply saying, "No, I won't take cases on legal aid certificates because the legal aid tariff is breaking me, killing me." The Attorney General's response is to fire this shot across the bow, as at least one commentator has described it.

What's interesting is the memo I've received regarding a meeting between lawyers and the Attorney General on October 8, a meeting concerning legal aid. The memo indicates that the AG informed that he, the Attorney General, "was committed to continuing to work with the coalition"—the coalition of lawyers seeking a legal aid tariff increase—"and its constituent members in finding a solution to the current legal aid issues."

Attorney General, if that's what you said, and I have no reason to disbelieve the memo, why isn't that in fact what you're doing?

Interestingly, the Attorney General, according to this memo reporting on this meeting, was adamant—oh, Mr Young, tough guy, adamant—that the so-called service withdrawal, as he put it, "currently ongoing throughout the province was an insurmountable obstacle to making any progress."

Look, the fact is that if criminal lawyers and family lawyers in this province hadn't been making it clear that they can't afford to do legal aid work on legal aid certificates with the existing tariff any more, if they hadn't made that clear, they would have been ignored for another 10 years. There was no other way to get the Attorney General's attention and, quite frankly, there's no other way to keep it because notwithstanding the eagerness of those same lawyers to see the Attorney General back at the table—and they are—negotiating a resolution to the tariff issue, I put to you that the minute those lawyers relinquish the only tool they have to get and keep the Attorney General's attention, those lawyers are done like dinner.

But it comes down to something more fundamental than that. We can't expect good lawyers to work for tariffs that are so low that those lawyers in effect are paying out of pocket to represent an accused or to represent a litigant in matrimonial litigation, and this Attorney General expects them to do that as some sort of gesture of good faith. I put to the Attorney General that it's incumbent upon him at this point to demonstrate some good faith, that the Attorney General ought to be indicating that he's more than eager to sit down and resolve this issue around legal aid tariffs, resolve it effectively, resolve it meaningfully. But the Attorney General hasn't done that, has he? No.

The Attorney General is hell-bent on ramming this legislation through, hell-bent on ensuring there are no committee hearings. This Attorney General is hell-bent that this bill be wrapped up with the least amount of public exposure. The Attorney General is hell-bent that this bill become law without even thorough consideration by members of this Legislature and hell-bent that this bill receive third reading and assent without the Attorney General even having a plan as to how to implement it.

I find it incredible that we have the 1997 McCamus report available to each and every one of you—read it if you're inclined—and yet the McCamus report, being with us now for nigh unto five years, seems to be all but ignored by this government and this Attorney General in the pursuit of this US-style answer to a serious Ontario problem.

You heard earlier, on page 22 of the brief summary of the report, in reference to family litigation, family work, “Block contracting should not be used as a means to deliver family law legal aid services,” yet block contracting is exactly what the Attorney General is proposing in this legislation. The block contracting surely is the most offensive of all the provisions that are being offered up, although one doesn't want to start ranking them one against the other.

We've already seen crown attorneys and crown attorneys' offices across this province having quotas imposed on them—they do; quotas that generate plea bargaining because crown attorneys and crown attorneys' offices are under pressure to clear X percentage of their new cases during any given period of time. How many times do I have to stand up in this Legislature, as I have in the past, to call upon one Attorney General after the other since 1995 to justify the never-ending succession of notorious and disgraceful plea bargains that have taken place?

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The litigation around the Victims' Bill of Rights—Ms Even and Ms Vanscoy—was all about plea bargaining, in which the victim, in the case of those two women, was never even consulted, never mind asked for her approval, around the manner in which a crown attorney wanted to accelerate, speed up a case, a serious case—both of them very serious cases—the most serious Criminal Code offences being prosecuted. Oh, the magnificent largesse being displayed in the course of plea bargaining, with an overcrowded crown attorney's office, in terms of the caseload they have, an understaffed crown attorney's office, crowded courts and the old Askov ruling looming over this government's head as darkly as it ever has over the head of any government.

I just got a note, and the Attorney General may be comforted by it. Apparently a viewer calls to indicate that they aren't sure this is a good time to be beating up on the Attorney General. I'm not beating up on the Attorney General; I'm being—and again to the viewer who said this may not be a good time to be beating up on the Attorney General, is there a better time? Should we do it tomorrow rather than today? Should we have done it yesterday rather than wait until today? Give me a break. The Attorney General has beaten up on a hard-working, committed bar out there, that has been seeking effective negotiations with this Attorney General to no avail, for a darned good chunk of time now.

I was telling you about the memo, reporting on the meeting that the Attorney General had with the members of the coalition, or at least it appears to be with the coalition; I'm sure it is. Apparently the Attorney General told this group that the Premier, Ernie Eves, and he, the

Attorney General, had discussed the need for resolution and that it was his expectation there would be a further increase to the tariff within the next fiscal cycle. But once again—and this is what's so consistent; this is what's consistent with the Attorney General's conduct and behaviour at the press conference the other morning—when he announced he was going to be introducing this bill—and his conduct, behaviour and messaging, his language, ever since, and that is that the Attorney General emphasized that he would not be successful in persuading anyone in government to support an increase in the event the service withdrawal continued.

Well, I put this to the Attorney General: what about putting the matter to arbitration? I'm not sure that the members of the bar would enjoy me putting this to you, but it's one way, if you've got an impasse; good, fine, no problem, put the matter to arbitration. Let arbitration resolve the issue. Let an arbitrator resolve the issue around the adequacy of the tariff. Let the Attorney General make his case. Let the criminal and family bar make their case. Let an arbitrator, an independent decision-maker, weigh the arguments, a detached third party in a neutral manner. Let the arbitrator produce an adequate number for the proposed tariff. Seems to me to be a solution, Attorney General. But no, you're in here yammering. You don't want solutions; you want confrontation. You talk about consistency. That has been one of the themes of this government from the get-go, hasn't it: confrontation?

You'll tick off one group and move on to the next and then the third and the fourth and the fifth and just be as confrontational as any government ever could be. Oh, but not that they aren't strategic about the groups that they pick on; they like picking on poor women, single moms on social assistance, and in the course of picking on them exploiting some of the most evil mythology about them. They clearly figure lawyers are fair game, because they want to exploit—if there is any mythology about lawyers being fat-cat big money earners.

Let me tell you about lawyers. Let me tell you about the kind of lawyers who practise legal aid, good criminal lawyers, lawyers like Mark Evans down in Welland, whom I know well, lawyers like Charlie Ryall in Niagara Falls, both of whom have no need to take on legal aid cases. Charlie Ryall, with a great number of years of experience, has an hourly billing rate that is significant, as it should be. But here is a very experienced criminal lawyer, very capable, who will take on losing, monetary-wise, legal aid files out of his commitment to the administration of justice. Yet, you see, not all lawyers have that kind of practice that enables them to subsidize legal aid certificate clients with the cash-paying clientele.

We've got some 30,000-plus lawyers in this province. I was told that the other day by one of the benchers of the Law Society of Upper Canada. I was surprised at the number. I knew it was high; I didn't know it was that many. Obviously, a whole bunch of those people who are lawyers registered with the law society don't even practise law. Most do. The vast majority of lawyers in

this province are hard-working women and men, very well-trained, who provide extremely high qualities of service, who are committed to and active participants in the effective administration of justice, and who dearly want the justice system to work. Those who are involved in delivering legal aid services by way of certificates very much want the legal aid system to work.

One of the other interesting things in the McCamus report that has received oh-such-short shrift from this Attorney General—I know, I shouldn't be beating up on the Attorney General. Oh, for Pete's sake, give me a break; it's just so easy when he comes forward with legislation and policy like this.

One of the observations made in McCamus—and I didn't make it. The McCamus review committee—let me give you the membership. It was a pretty impressive membership: John McCamus, of course—you've heard him lauded by Mr Bryant; Susan Brenner; Madam Justice Joan L. Lax; Sherry Phillips; David R. Richardson; Honourable Judge Joseph Wilson; and Geoffrey Zimmerman. A pretty impressive panel. They came up with this recommendation in 1997: "Private *judicare* lawyers should continue to be a primary provider of services." This is a consideration of all aspects, all facets of legal aid.

You see, one of the interesting things where lawyers can't be effectively compared, as in comparing apples and oranges to other professions—and it's been spoken of already today—is that, one, if a criminal justice system is going to have integrity, if even the matrimonial justice system, the family court system, is going to have integrity, it's that a litigant must have access to a lawyer of his or her choice. You're dealing with some incredible sensitivities and very emotional issues around matrimonial issues.

I'll be damned if I'm going to support a proposal where a woman who may have been the victim of violence, who may have been subjected to significant abuse, will have imposed on her as a result of some public defender-style system a lawyer who may be the antithesis in terms of personality and the capacity to provide her with the emotional support and all the other things that she's going to need to survive matrimonial litigation. No, I believe that woman is entitled—I really do—as she should be, to have a lawyer of her own choice, a lawyer with whom she feels comfortable.

You've already heard about the inherent conflict that flows from having a crown attorney and a defence lawyer effectively with the same employer. I told you about the quota system that's been imposed upon crown attorneys. Well, think about it. If you're a public defender in a public defender office with a fixed budget and you have no control over the volume of intake, and you've got a supervisor who tells you that you've got to clear X number of files over X period of time because there aren't more funds to hire more lawyers to handle the extra caseload, what's going to happen? You're going to see dump-trucking, just as with the block fees. It's no mystery why McCamus would urge—not urge but ada-

manly oppose consideration of block fee contracting. "Block contracting should not be used as a means to deliver family law legal aid services," because then you're just going to have an embarrassing cascade of dump-trucking going on where the individual client is very ill-served and where the justice system is equally poorly served.

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The Attorney General could end this second reading debate right now. If the Attorney General sent me a note and said that this bill will be sent out to meaningful committee hearings rather than continuing on till the 6 o'clock time limit that's going to be imposed on me, I'd simply put to the Chair that maybe the Chair ought to call the question. That's what I would do, and get this thing out to committee where it belongs. I thought we were making progress. I thought there was some movement, some enthusiasm being generated at least among some of the government members about this bill going to committee. They know there's more than enough people out there ready to appear before committees. Let's start getting into that for just a minute, if you will.

The Ontario Bar Association alone, right off the bat, indicates it has made a substantial contribution to the discussion process with the government over legal aid, indeed over the last 18 months, and has been engaged in good-faith consultations with this government, but with the introduction of this bill, this US-style system's access to justice approach, has found itself shunned by this Attorney General.

I've gotten, as I'm sure other members have—because a whole lot of the correspondence I've got is carbon copies, CCs, of letters being sent to other members. I've got an interesting letter from a lawyer, again so typical of the vast majority of lawyers. A woman practising in Lindsay, Ontario, writes to her MPP, the Honourable Chris Hodgson. She indicates she's writing in reference to "Legal Aid in Ontario.

"I am writing to you directly and on my own behalf, not as a representative of my law association or any other association, regarding legal aid in this province."

These aren't form letters that are being sent. You've got to understand that. This isn't a campaign of having people just fill in the "Dear So-and-So," signed "Sincerely yours, So-and-So." These are people who have been reflecting on the issue, many of whom have been directly involved in the issue, who very much want to be part of the solution.

This lawyer writes, "I am profoundly concerned about the poor level of legal representation to the most vulnerable in our society and the appalling response to same by the Ontario government."

She writes further, "I am sure you are aware of the chronic underfunding legal aid has experienced since its inception. What you have to understand is how drastically this has undermined the legal representation afforded the poor in this province. Not only have fewer and fewer lawyers been engaged in legal aid work in recent years

but the quality of the legal counsel willing to take on legal aid clients has also diminished.”

It’s a frightening observation. I can’t confirm or deny it.

“It is mind-boggling that this government sees a public defenders’ system as the answer to our request for an increase in hourly rates—the first since 1987. Surely you cannot believe that such a system will be cheaper and more efficient? It will not. It will be more expensive and less efficient and the poor of this province will suffer the most.

“My own legal aid practice has diminished over the years as my overhead cut into any excess of income over expenses. I employ three full-time staff and two part-time staff. If I had continued to accept legal aid certificates at the current rate, my expenses would exceed my income. The answer is to reduce my overhead expenses. In other words, let staff go. Is that what the city of Kawartha Lakes needs? More unemployed?”

“I am upset and frustrated and frankly shocked by this government’s response. You know that the lawyers in your riding are not driving limousines paid for by legal aid! I would be happy to convene a meeting with you and the lawyers from this area if you would find that helpful.

“The Ontario government needs to take a step back and reconsider its course of action. What is the main objective? Surely, it must be to aid the poor in this province [to] achieve fair and equal treatment in our courts by utilizing competent legal counsel of their choice.

“I implore you to voice my concerns to your colleagues and our Premier.”

I say to the author of that letter, you don’t need Mr Hodgson to do it; I’ve just read it to them.

That is an illustration, an example, and so typical of the hundreds and hundreds of letters that have been received by myself and, I know, by the Attorney General, because they have indicated on their correspondence to me that they have sent copies to the AG or to their own respective MPP.

I’m putting to you that this lawyer from Lindsay has some important things to say about the delivery of legal aid, the adequacy of its delivery and the competence of the service being provided. I think that’s indisputable. Surely this woman warrants standing at public hearings on this bill. This is the very sort of incredible expertise that’s available out there for this or, quite frankly, any other government when that government is pursuing as radical a reform as it is with Bill 181 today on second reading. So again, if the Attorney General would but slip me a note saying this will go to public hearings, so that people like the author of the letter I just read to you can be heard, can be consulted, can be part of a meaningful process, I can terminate the debate right here and now and put this to a vote for second reading—if the Attorney General were to send me that note.

But I don’t see the Attorney General briskly writing. I don’t see any young page—and they’d be so eager to do it, if the Attorney General would only call on them, wouldn’t you? Any one of you would eagerly rush a

message from the Attorney General over here to me saying, “Kormos, that’s it. We’re going to have public committee hearings. Let’s move on to other business in this legislative chamber.”

Nope. The Attorney General’s digging in his heels again—more confrontational style. We’re coming back tonight. You can’t call this bill again. That’s OK. My concern about this bill is what is being demonstrated by the government now, their total unwillingness to have this go to committee—the messages I’m getting, that are being, let’s say, telegraphed to me, are that we’re going to be having three days of second reading debate and then it will be the same old, same old all over again. The government will type up a time allocation notice of motion, serve it on the opposition House leaders and bingo: time allocation.

Mr John Gerretsen (Kingston and the Islands): Closure.

Mr Kormos: Closure. The guillotine. Stifle any debate. Forbid any scrutiny. Ensure that this legislation gets passed without any public input. We’ve seen it happen so many times. It has become the pattern; it has become the norm. I find that so sad too. I have witnessed time allocation motions from day one since I’ve been here, but they used to be the exception. They’ve become the rule. They used to be the exception; they’ve become the rule. How many bills have we seen—I’ll bet you could count them on one hand—that haven’t been time-allocated in a good seven years here, where the government has permitted but the minimum amount of statutorily required debate?

The other frustrating thing is, that means a whole lot of members of this assembly don’t get to tell their colleagues, and more importantly the folks back home whom they represent, why they are taking a particular position on a particular bill. And more dramatically, it means we, as members of the opposition, don’t have an opportunity to raise concerns and ensure that those concerns get articulated in the press and disseminated by the news media so that folks across the province understand what’s happening here at Queen’s Park.

I’ve got to tell you that around this issue of the so-called legal aid bill, Bill 181, the Attorney General hasn’t been particularly effective at communicating anything other than his dislike for lawyers, his disdain for trained and competent counsel in criminal and family law matters, and his eagerness to generate what will be another huge expensive bureaucracy. The Attorney General hasn’t indicated that it’s going to be cheaper to develop public defender offices. I don’t recall him indicating that at all. He’s going to have an opportunity after I’ve finished speaking because he’s got two minutes in questions and comments when he can contradict me on this. But the Attorney General hasn’t suggested even once that it’s going to be cheaper since Bill 181—let’s get precise—read for first reading on September 30, 2002.

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He hasn’t suggested once that it’s going to provide more competent representation. Not once has the

Attorney General dared say that the representation is going to be better in a US-style, American-style public defender system. He hasn't once suggested that a US, highly bureaucratized public defender system is going to result in assisting the courts to operate with more efficiency, one of the hallmarks, one of the buzzwords of this government, or with more integrity, which has not been a buzzword with this government. You understand that. Efficiency has been one of the buzzwords of this government; integrity has not been spoken of particularly often, nor revealed during the course of even cursory examinations.

Maybe during the Attorney General's two-minute response—he's entitled to one—or maybe his parliamentary assistant—who is the Attorney General's parliamentary assistant? My goodness, I'm sure he represents part of the community of London. He hasn't been here for the course of this debate. That's OK. I don't want to make note of his absence because that's not parliamentary; it's not proper. He could be doing any number of good things. I read about the parliamentary assistant, perhaps as he was then, to the Minister of Northern Affairs, in a newspaper this morning, a busy little parliamentary assistant. You know what the busiest thing was about that little parliamentary assistant? It was the gold card. Man, I suppose if you're up in the cold north, as the parliamentary assistant to the Minister of Northern Development, you've got to generate some heat, and if you can do that on the credit card machine, so be it. That was an aside. The parliamentary assistant for northern development clearly was a busy little beaver, because Lord knows, he had the receipts to prove it. I'm not being critical of you, understand that. I'm complimenting you. You were a busy little beaver, a very Canadian sort of thing to be.

Why hasn't the Attorney General gotten up and come clean? Spit it out. Don't hold it back. Let us know now whether this is all futile, whether you intend to persist in your position that there should be no public hearings or that they should be so marginal as to be non-existent.

What are we going to do with this bill? Are we going to have one or two afternoons of public hearings here in the city of Toronto? One afternoon of public hearings, if the House is sitting, means no sooner than 3:30 in the afternoon until 6 o'clock, for two and a half hours on a good day. It's usually more like two hours, and by the time the Chair shows up late, because they inevitably do—they dawdle. Have you noticed, though, that they dawdle more in the hearings where the issues are contentious? The government members who are chairs of committees are so slow getting to that committee that they're like the honey bear in that TV commercial, just plodding. They don't want to have that committee start too soon, because God forbid that people should start debating government legislation, especially if it's government legislation the government isn't particularly proud of.

I'm pointing to you, Attorney General. You're not particularly proud of this legislation, are you? I'm putting

that to you right here and now. Because if you were proud of this legislation, if you had confidence in this legislation, you'd want it to go to committee, and you'd want that committee to be travelling the whole province. If the Attorney General really thought this legislation was as good as he stands up here and tells us it is, he would want to be using that as part of the Conservative re-election campaign in the north, the south, the east, the west, in big-city Ontario and small-town Ontario, in urban Ontario and in rural Ontario. If this Attorney General really thought this legislation was going to do the trick, he'd be proclaiming it across this province. No, not a word about even some modest public hearings here at Queen's Park. The Attorney General is ashamed of this.

Interjections.

The Acting Speaker: Order.

Mr Kormos: The Attorney General knows that he and his government are incredibly vulnerable around this issue. He knows that even with a time allocation, a guillotine motion, a closure on debate—and he's voted for every one of them that he's seen during his time in the House. There hasn't been a time allocation motion that this Attorney General hasn't embraced quickly—I haven't seen him oppose one time allocation motion, not even one. I haven't seen the Attorney General even speak out against a time allocation motion. He has embraced them all. He clearly is part of that group of people here at Queen's Park who believe that debate is not one of the reasons why we're here. He clearly believes that this government should process this legislation, just grease it up and slide it on through, before anybody realizes what's being done to them. No, that's not our job. That's not my job. My job is to expose the inadequacy of this legislation.

Did I tell you that I am going to speak to it today, other New Democrats are going to speak to it on subsequent days of debate and we are going to continue to call upon people out there, the general public as well as lawyers and people with relationships with legal aid clinics, to call upon you, the Attorney General, to have public hearings around Bill 181?

I've got another letter. It's remarkable; the first letter was from Lindsay, Ontario, a lawyer there. The second letter is from a lawyer in Guelph, Ontario. I've got a whole pile of them. I don't have enough time to read them all, but I'm trying to point out to you that unlike, as appears to be Mr Young's understanding—I know he knows where Brockville is. Somebody has impressed him in Brockville, because he said the B-word a whole lot during his press conference when was asked why we need this legislation. He kept saying, "Brockville."

But here's a lawyer from Guelph. It's a letter to the Attorney General himself. I know he's read this letter. It says, "I urge you to refer the recent Legal Aid Services Amendment Act to committee for study. Respectfully, at the present time, in the present climate, the proposed new legislation appears to be nothing more than a knee-jerk reaction by a government with a fiscal agenda. This government has a responsibility to thoughtfully consider

the long-term effects of the proposed implementation of a public defender system in Ontario. Thank you.” It’s then signed by the author.

Once again, this is just so illustrative. I’ve got a lot more, if I have more time, of the letters that are being sent to the Attorney General and to other members of this Legislature. Here’s a lawyer—I know nothing about her practice; I know that she’s in a smaller town, the city of Guelph; it’s bigger than Welland but not quite as big as Hamilton or Toronto—who’s eager to help, who’s out there in the trenches doing legal work on, I’m sure, a daily basis and is working darn hard doing it. I have no hesitation in telling you that. She wants to know why this bill isn’t being put to committee for study. Well, I want to know too, but the sad thing is I may know the answer: maybe it is just a knee-jerk reaction by a government with a fiscal agenda.

One of the problems is, once again, the Attorney General has had all sorts of opportunities, he had his press conference—he can just snap his fingers and he’s got his little media and spin people setting up backdrops, klieg lights, movie lights and movie cameras. He gets the makeup on out there and has his media people scouring the halls of Queen’s Park, grabbing every media person who’s not in their most cautious of moments and dragging them down to the media press gallery. Where is the Attorney General’s press conference wherein he explains how the American, US-style public defender system is cheaper than the legal aid system that has historically been provided by the private bar? Haven’t had that press conference yet, have we, Mr Attorney General?

1750

I’ve got to tell you: one of the areas of concern is by people who are currently working in the clinic system. The reason for their concern is, just as the 5%, the grossly inadequate 5% proposed increase—well, not proposed; de facto increase in the tariff—didn’t involve any new funding by the government, which raided Legal Aid Ontario’s own resources, the one thing the Attorney General was willing to share with us, oh, back on September 30, when he introduced this legislation, was that the costing—which he hasn’t got yet. The Attorney General has no idea what it’s going to cost to build public defender offices, has no idea what the cost is going to be to the government and inevitably the taxpayers of Ontario, but does know that the costs are going to come out of the existing budget of Legal Aid Ontario.

Look, Attorney General, you and I will agree on one thing, and that is that the feds have got to cough up. I have no hesitation in acknowledging that the feds, in terms of legal aid, and especially because provincial Attorneys General—I think I got that right: Attorneys General. I was pretty sure I had it right. I was just sort of playing with myself, albeit in terms of the language—have been persistent in acknowledging that a whole lot of federally originated stuff like refugee and immigration law, amongst other things, has its basis in federal legislation and in federal bureaucracies, yet the province is increasingly stiffed with the tab.

So I have no qualms in joining with the Attorney General—as a matter of fact, as I understand it, you’ve got a meeting coming up in short order, don’t you? You’ve got a meeting coming up with other Attorneys General and with the federal guys. I want the Attorney General, before he goes there, to report to us and tell us that he is going to be adamant that the federal government fulfill its responsibility and restore its level of funding for legal aid in Ontario. Then this Attorney General can stand up in this House and tell practitioners across this province that there’s going to be a meaningful reform to the tariff in Ontario, because to not reform the tariff, to not raise the tariff to a level where lawyers can afford to do legal aid work, is generating the chaos.

The nerve of this Attorney General to oh, so snottily dismiss the lawyers down Brockville way. You as much as called them “another bunch of union goons.” I was there at the press conference. I saw the attitude, the disdain being displayed for those lawyers because they wouldn’t play ball with you because they were giving you a little bit of a hard time. Well, maybe it’s about time you got a hard time by a few more lawyers as well, because Lord knows you’ve abused and distorted the content of the Criminal Lawyers’ Association letter to its lawyers. Why, the Attorney General told that press gallery that lawyers were being instructed to pressure poor people into paying cash.

Interjection.

Mr Kormos: Not the case. Read the letter. Yes, you’re reluctant to read it here and now, aren’t you? Reluctant to read it.

Interjection.

Mr Kormos: Sure he is. The letter was consistent with what these lawyers have been saying, that they can’t afford to do cases on the legal aid tariff.

It’s just like the letter I read you. I read you the letter from the lawyer up in Lindsay, Ontario. Have no qualms about that.

Another interesting letter is from a Bay Street law firm. Now, I’ve got to tell you I’m not familiar with this law firm. I don’t get up on to the 25th floor, or whatever it is, very often. Suite 1102. It is on the 11th floor. This is a pretty slick law firm. This has got the thick carpet, I’m sure, and the wood walls and the nice wood panelling and it’s got staff people who come and deliver you a coffee while you’re waiting or a tea and might even have some big, fat lawyers with big, fat cigars. At the very least, if they don’t have the cigars, they’ve got the Mont Blanc pants, right? You know, the big, black Mont Blancs. They’ve got them tucked—this is Bay Street.

I read you a couple of letters from lawyers from small-town Ontario. But here’s a letter from a lawyer—and once again, a Bay Street lawyer—demonstrating sensitivities to the effectiveness of the tax dollar commitment that would eventually be required to fulfill this Attorney General’s fantasy, his US-style fantasy about a US-style public defender system, where you’ve got offices just loaded to the rafters with file after file after file and little lowly paid public defenders who don’t have the resources and the opportunity to upgrade themselves and who end

up having to just plead in case after case. What happens when you get the real tragedies flowing from that kind of system that the Attorney General envisions as oh, so desirable?

So this law firm from Bay Street, and it's addressed to the Attorney General, says that his "announcement to move Ontario towards a public defender justice system is a decision that has been made without public consultation.

"As a taxpayer ... I am very concerned that neither of us will be able to have input into the proposed legislation.

The move away from the current certificate-based system for legal aid will increase costs to the justice system while reducing the quality of service to the public." It will increase costs while reducing quality.

The Acting Speaker: I think that may be a good starting and stopping point, or is it stopping and starting? This House stands adjourned until 6:45 this evening.

The House adjourned at 1756.

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