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(Hansard)**

**Tuesday 10 March 2009**

**Mardi 10 mars 2009**

Speaker  
Honourable Steve Peters

Président  
L'honorable Steve Peters

Clerk  
Deborah Deller

Greffière  
Deborah Deller

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ASSEMBLÉE LÉGISLATIVE  
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*The House met at 0900.*

**The Speaker (Hon. Steve Peters):** Good morning. Please remain standing for the Lord's Prayer, followed by the Baha'i prayer.

*Prayers.*

ORDERS OF THE DAY

EMPLOYMENT STANDARDS  
AMENDMENT ACT  
(ORGAN DONOR LEAVE), 2009  
LOI DE 2009 MODIFIANT LA LOI  
SUR LES NORMES D'EMPLOI  
(CONGÉ POUR DON D'ORGANE)

Resuming the debate adjourned on March 4, 2009, on the motion for second reading of Bill 154, An Act to amend the Employment Standards Act, 2000 in respect of organ donor leave / Projet de loi 154, Loi modifiant la Loi de 2000 sur les normes d'emploi en ce qui concerne le congé pour don d'organe.

**The Speaker (Hon. Steve Peters):** Further debate.

**Mr. Vic Dhillon:** It's with great pride that I introduce Mr. Frank Markel, CEO and president, and Ms. Sandra Fawcett, director of public affairs and communications for the Trillium Gift of Life. I want to commend them for their hard work.

You may know that the Trillium Gift of Life is an agency whose goal and responsibility is to increase tissue and organ donations in Ontario. We should all take pride in the fact that such passionate people are leading this very important organization.

**Mr. Bill Mauro:** It's my pleasure to be able to carry on with my comments from last week on Bill 154. It's a very important piece of legislation, as I think we all understand. I've been told I have four or five minutes here this morning with which to carry on before we hear the leadoff from the third party.

The backdrop for this particular piece of legislation that we've brought forward here today—I think there are a few numbers worth putting out there for the public to remember. I know most of the people interested in this issue will be familiar with these numbers, but perhaps many are not. That is that, unfortunately, on a year-to-year basis, there are approximately 1,700 people on an organ transplant waiting list in the province of Ontario. I think that's close to what the number was last year. In Ontario last year, we managed to conduct 863 trans-

plants, with 1,700 people on a waiting list. Out of that 863 transplants that we did, 260, or approximately 30% of those transplants, came from live donors. Unfortunately, out of that 1,700 on that waiting list, one in three people in the province of Ontario will die while they are waiting for an organ transplant. That's the backdrop for what we're doing here today.

So in response to this, in the late fall of 2006, our government, under the direction and leadership of Premier McGuinty, announced the citizens' panel. The focus and the goal of the citizens' panel was to go out and review public opinion, to engage stakeholders, including labour, employers and multiple stakeholders, in this debate. One of the key things that the citizens' panel came back with as a recommendation was that unpaid, job-protected leave be supplied in the province of Ontario. It's my understanding that, should this pass, Ontario will become the first jurisdiction in Canada to provide such unpaid, job-protected leave. So that's the background for this, and of course if it's passed, it will be those people affected by the Employment Standards Act, 2000, who will be affected by this legislation.

I had an opportunity last week to listen to some of the debate on this particular piece of legislation and have heard the opposition, as is their role, to some degree minimize what they see as the potential effect of this particular legislation. But I think it's important that we restate the numbers. When 1,700 people are on a list, when one in three are dying waiting for an organ transplant, if this legislation were only to affect two people or five people or 10 people to be able to receive an organ from a live organ donor, that would be two people or five people or 10 people whose lives will be saved. So while there is minimization going on around this particular bill, it's important to remember that this is a key recommendation that came back to us from a citizens' panel, and it will, in fact, enhance the likelihood of someone receiving an organ from a live donor, so I think it's key.

One of the other things that I don't think has been spoken to and resonates with me as a northern member representing the riding of Thunder Bay—Atikokan is that there is an expenses part associated with the unpaid, job-protected leave that we're bringing in in Bill 154. It's important to know that those people who engage in this and offer themselves up to be a live organ donor—contained in the legislation, there are a variety of things that are going to be covered as eligible expenses for them. Those expenses include travel, parking and transit, meals, accommodation, meal allowance and a subsidy for loss of income after surgery. I can tell you, as someone who

comes from a northern rural riding, it's important that I articulate to the people who are interested in this that that, in fact, is part of this particular piece of legislation.

By way of example, I'll mention briefly—my time is almost up—one example of how this has helped our group in northern Ontario in terms of including and accommodating expenses when it comes to health care services. In the run-up to the election in 2003, I made a commitment to enhance cardiac care services in my riding of Thunder Bay—Atikokan, and, in fact, for all of northwestern Ontario. We have seen very recently the beginning, in the last year or two, of the provision of angioplasty services out of Thunder Bay Regional Health Sciences Centre for the first time.

Up until this point, people from northwestern Ontario, including the city of Thunder Bay and all of the smaller townships in my riding—Conmee, O'Connor, Neebing, Gillies, Oliver Paipoonge, Atikokan, the city of Thunder Bay and all the communities in northwestern Ontario—would have to, up until that point, leave their home community and fly to southern Ontario—Ottawa, Hamilton, Toronto and other points—to receive angioplasty service. Associated with that service that was not provided in our community of northwestern Ontario was an expense for the people who travelled with their family members when and if they could. Many people were unable to travel along with their loved ones when they had to leave our community for that service. What we have done now by providing the service closer to home is remove that expense part that was previously associated with family members having to travel with a loved one who was in need of angioplasty service.

I have been asked this morning to keep my comments to five minutes or so, so I'm going to wrap up. But I do want to conclude by reminding people that while it is being articulated by some that it will be a small number of people who are impacted by this legislation, as I mentioned, when one person is dying every three days in the province of Ontario waiting for a transplant, I think that this piece of legislation will be well received by people interested in the issue. I thank you very much.

0910

**The Acting Speaker (Mr. Ted Arnott):** Questions and comments?

**Mr. Norm Miller:** I'm pleased to comment on the speech from the member from Thunder Bay—Atikokan on Bill 154, which is An Act to amend the Employment Standards Act, 2000 in respect of organ donor leave. It's a fairly thin bill, but what it does is provide for 13 weeks' unpaid leave for someone who makes the decision to donate an organ.

The member said it's an important bill. I would say that the bill is dealing with an important issue, certainly, but just one tiny, tiny part of an issue. We have these huge waiting lists of people waiting for the donation of an organ. This may make a small difference, but there's so much more that could be done that isn't being done by the government. So this government needs to take some real action to reduce the waiting lists for people who are desperately waiting for an organ transplant.

I would say that education is one place that could be improved dramatically. I know Frank Klees and Peter Kormos both had private members' bills to raise the awareness of organ donation and get more people involved. I believe that Mr. Klees's bill would require that everyone applying for a health card or for a driver's licence would have to make a decision about whether they wanted to donate an organ. They'd have to either say yes, no or undecided, so that at least everyone in the province would think about it and be involved. That's what we need to do. We need to get far more people involved and participating in organ donation in this province.

This bill—as I say, it's an important issue. Whether it's an important bill—well, it's one tiny slice of what's involved in terms of increasing organ donation and shortening those lists here in the province of Ontario.

**The Acting Speaker (Mr. Ted Arnott):** Questions and comments?

**Mr. Peter Kormos:** I will indeed be speaking to this bill on second reading later this morning. I know my colleague Cheri DiNovo from Parkdale—High Park has a strong interest in this issue, this matter and this legislation.

Look, this is the most modest proposal that we are going to vote for, and it won't be a protracted second reading debate. In fact, we're going to argue that it should go to committee for but perhaps one day so we can question some of the players involved and see if there's any way that we can fine-tune—or any need to fine-tune—this proposal.

But I seize the opportunity, and I appreciate this legislation being before us, because, of course, it gives me a chance to talk about radical transformation of organ donor culture in this province and in this country. People know that there have been a whole lot of people—New Democrats have joined in the debate—advocating for a process that is more similar to the European model, and that's the model of so-called presumed consent.

I say that this is a most modest proposal. I will be advocating as well that if we're going to do this—because there's a distinction to be made between living donors and dead donors; obviously this doesn't apply to dying or dead donors—really, the next stage has got to be for this government, in collaboration, if need be, with the federal government, to ensure that there's at least some modest income replacement during this 13-week period that's being discussed. The leave of absence alone, without the salary support, becomes meaningless for a whole lot of folks.

**The Acting Speaker (Mr. Ted Arnott):** Questions and comments?

**Hon. Michael Gravelle:** I certainly want to compliment the member from Thunder Bay—Atikokan on his remarks and obviously his support for this government initiative. It's one that has particular resonance all across the province, of course, but certainly up in northwestern Ontario, where the member and I both represent our constituents. The fact is that the increased education and awareness of people is so crucial.

I had the opportunity—and I think the member, in his early remarks, made reference to the work efforts going on by Nishnawbe Grand Chief Stan Beardy. Mr. Markel, the CEO of Trillium Gift of Life, and myself were at an event where Grand Chief Beardy launched a campaign to bring about increased awareness among the 49 First Nations that the Nishnawbe Aski represents, which is a huge number of communities, certainly taking up a large part of the land mass in the province. This was a difficult issue for him as well. Grand Chief Beardy, as I think people in this House know, very tragically lost his son several years ago. The decision was made by Grand Chief Beardy and his wife Nellie to donate their son's organs. As a result of that and other thoughtfulness from them, they decided to launch this campaign.

It was a really special event and one that was very, very touching. We were able to listen to a young man from one of the First Nations in NAN who was waiting for an organ transplant and has been waiting some time for it, and spoke to somebody else who had actually had a transplant and what a difference it made in her life. So this is an issue that continues to be one that really strikes home all the time. Of course, obviously, for representatives of people who often have to go to Toronto to wait for a long time to get that transplant, there were some really wonderful stories. Others don't end so happily.

I support this initiative and compliment the member for Thunder Bay–Atikokan for his remarks.

**The Acting Speaker (Mr. Ted Arnott):** Questions and comments?

**Mr. John O'Toole:** The member from Thunder Bay–Atikokan, Mr. Mauro, made comments that I could have no problem agreeing with at all, looking at this very small bill here. Really, as has been said in the preamble to the bill, it's just giving 13 weeks off for those who participate in organ donation. Of course, this is without pay. I don't think there'll be much of a barrier to people agreeing with this.

Now, I am interested in the member from Welland, who I gather will speak next, and the member from Newmarket–Aurora, Mr. Klees. Mr. Klees's position was one of choice when you complete your driver's licence, I believe, whereas Mr. Kormos' bill was one of implied consent, what we called a reverse onus. The onus is on the individual to make an exception for themselves and to not be included in willingly donating their organs.

There's a lot of discussion about it. I'm interested in the debate this morning because I would be supportive of this. Any move that we, as individuals, could do to save a life is a worthy moral comment on our belief in life, so I would be supportive.

Now, I guess the debate about the donor is key. I think what we're doing this morning is trying to educate the public in a broader sense, and ourselves specifically, about the generosity of those that donate, whether it's their own blood or, indeed, organs. So it is an important debate. This bill should pass without a lot of barriers. I will look forward to the comments by the member from Welland this morning.

**The Acting Speaker (Mr. Ted Arnott):** That concludes the time for questions and comments. I'll return to the member for Thunder Bay–Atikokan, who has two minutes to respond.

**Mr. Bill Mauro:** I want to thank the members from Parry Sound–Muskoka, Welland, Thunder Bay–Superior North and Durham for their comments this morning.

There have been references made in some of the comments here this morning that there is more that can be done on this particular issue in order to enhance organ donation. I don't think there's anybody here who's going to disagree with that; the question is what and how, and during the comments made by people this morning, I did not necessarily hear the what or the how. If I were to graft onto anything, I think the comments made by my colleague from Thunder Bay–Superior North in terms of education and awareness are perhaps, at the end of the day, going to be the best way that we in the province of Ontario are going to be able to enhance opportunities around this issue in this province.

When I think of organizations that have done a lot of great work in terms of changing a culture, I think that's exactly what this is. What we're doing here today, through this legislation and through our continued efforts and the efforts of many other stakeholders on this issue, is trying to change the culture that exists not only in our province, but, I think, right across the country and internationally, it's probably fair to say, in terms of engaging people more in terms of voluntarily becoming organ donors. That is what we're trying to do. This is one small piece of it that we all acknowledge will go a way to enhancing organ donation through the job-protected leave.

**0920**

But education and awareness is clearly the way to go. We've heard about Grand Chief Stan Beardy from Thunder Bay; I talked about that a bit last week in my remarks. That's the kind of effort that's going to go a long way to changing the culture.

I think of organizations like MADD, Mothers Against Drunk Drivers, which have gone a long way over the last 20 to 25 years to creating and changing the culture that was associated with drinking and driving. That's the kind of grassroots-based organization and effort that I think is needed in the province of Ontario to ultimately get us to the point that we need to be at, and that is getting more people to become voluntary organ donors.

**The Acting Speaker (Mr. Ted Arnott):** Further debate?

**Mr. Peter Kormos:** Thank you kindly, Speaker—

**The Acting Speaker (Mr. Ted Arnott):** I'm very pleased to recognize the member for Welland.

**Mr. Peter Kormos:** —most especially for your patience with me as I shuffled over to my desk, hoping that—

**Mr. Tim Hudak:** Are you out of breath?

**Mr. Peter Kormos:** I'm not that old—hoping, or anticipating, that perhaps there was going to be more debate in rotation.

I'm going to make it very clear at the onset: New Democrats support this legislation. We're going to vote for it and debate—

*Interruption.*

**Mr. Peter Kormos:** Oh, the member from Hamilton Mountain has her cellphone ringing, her BlackBerry. That's the very reason they should be banned in this chamber.

*Interjections.*

**Mr. Peter Kormos:** It's a CrackBerry, not a BlackBerry.

A very modest proposal is contained in this legislation, and we support it. The debate on second reading is not going to be lengthy. Ms. DiNovo, our member for Parkdale–High Park, wants to participate in the debate, and the government House leader has in fact accommodated her because she can't be here this morning.

I suspect that the bill will pass on a voice vote the next time it's called for second reading. I expect that the bill will go to committee, because I want to have some of the experts in committee—not the committee members, but attending that committee—giving us advice as to whether this bill needs any tweaking at all, whether it will serve its purpose, its very limited purpose, in the long term.

My concern, of course, is that this bill in and of itself will have little impact on increasing the number of organs available. It will eliminate some of the discomfort of living organ donors, but I suspect that it will not eliminate the quantity of organ donations from living donors.

The companion piece, the second half, the second shoe that surely would have to drop for this bill to have a more significant impact and for this bill to recognize that a living donor is truly making a gift—there's been a culture developed around organ donation that I believe has to be turned on its head, and that is the sense that an organ donation from a dead or deceased donor is a gift. That's not a gift. It doesn't cost you anything. It doesn't put you into any pain. It doesn't put you into any misery. Somebody is simply rescuing an organ from a corpse that would otherwise be burned or buried.

But a living donor truly is making a sacrifice. They're going through an uncomfortable surgical procedure that varies, depending upon what's being donated or what's being retrieved. They're talking about the prospect of hospitalization, the prospect of recovery time and the prospect of being away from work.

So if this provides a little bit of comfort and some assurance to working people—because, you see, the other argument is that there aren't that many people left working in the province of Ontario—but if this provides a little bit of comfort to a potential living donor, to be assured that their job will still be there when they finish this medical procedure of donating an organ or tissue, then so be it.

But I question why this government—because this government has talked a big game about organ donation. I know it's a sexy issue. They've talked a big game about organ donation. They know it captures people's attention and it makes them look warm and fuzzy and kind-hearted, but—

**Mr. John O'Toole:** The task force.

**Mr. Peter Kormos:** Mr. O'Toole reminds me, as if that was necessary, of the blue ribbon task force: Brent Hawkes; my dear old friend Alvin Curling, who had just been fired by the Prime Minister from his brief sinecure in that small Caribbean country as ambassador from Canada.

Where is the income replacement component? Again, it's not necessarily ensuring an increase, because, again, I've challenged the government to come up with a single person who has been fired as a result of taking medical time off as a living donor to go through a medical procedure. There may well be that person, and I suspect that if there were that person, he or she would have been trotted out before the media already, because that's just the nature of the beast. So that makes this bill, I suppose, in many respects purely prophylactic: “in case of” and “to provide assurance that.” But if this is the best that this government has got to give when it comes to organ donation, we're still in serious trouble here in the province of Ontario.

Look, huge amounts of money have been spent trying to increase public awareness around organ donation, advertising campaigns, television; Don Cherry, xenophobic old Don Cherry, who, regardless of his political stripe, where he is on the political spectrum or who he tends to spend time with, is a Canadian icon. Anybody who ever watches hockey, and that's the vast majority of Canadians, know who is Don Cherry is, and for good reasons or bad, consider him pretty authoritative. So if Don Cherry couldn't dramatically raise the number of people who sign organ donor cards, couldn't break through that glass ceiling, if the huge expenditures on advertising couldn't do that, it means that we are not putting the resources in the right place at the right time or that the culture, the structure, is wrong.

I've got to tell you: I first became actively interested—everybody's interested in organ donation, either because if you ever need one, you hope there's one there for you. There isn't a single Canadian who wouldn't want to save a life if given the opportunity. I was a kid when I remember Christiaan Barnard and that first heart transplant. That was considered miraculous, wasn't it? You're too young, Speaker; the Solicitor General remembers. But that was considered a miracle. It was leading-edge technology and very, very experimental. People who were receiving the organs were considered lucky to survive another week or so. There was all sorts of work done because bodies would reject the foreign tissue and the infections and these sorts of things.

But I'm told now—I go down here to the hospital strip and listen to announcements made by Trillium and listen to the doctors involved—that organ transplant is a pretty routine procedure, and the best possible technology exists right here in Ontario. And it's considered routine, not simplistic or simple, but routine. We've got the doctors and the nurses—sometimes—and we've got the technology. They know how to do it, and they do it well, and the survival rate with transplants is tremendous and growing.

I first became, as I say, actively involved in this whole issue, in the campaign for this revolution, this turning the organ donation culture 180 degrees, when George Marcello visited Notre Dame High School down in Welland. I'll bet you George has hectored every member of this assembly and their predecessors over the course of many years, and I commend him for it. He has been provocative and he has been persistent, and he has annoyed as many people as he could, and he has done it for good reason. But George Marcello was down in Welland at Notre Dame High School, and he was on one of his cross-country tours with a hopeful recipient, a young man who was hoping to receive an organ, just a young boy. I had a chance to speak at that event at Notre Dame. I met George for the first time. Joe Mollica, who's a local tradesperson, was there, too. Joe has been active in this movement, the organ donor movement. He's an old bricklayer, bricklayers' union. I've known Joe all my life. His family lived on Crowland Avenue just down from my family—that is, my grandparents and his parents. He grew up with my aunts and uncles. His father was a cement contractor. He poured many a sidewalk in Welland in the post-war era. Joe Mollica—and his brother, Patsy, has been a good friend of mine, too, for many years. I served on city council with Patsy. Joe Mollica was there, and Joe was as enthusiastic as I've ever seen him about this Marcello campaign, this cross-country tour. I think at that point it was George Marcello's second one.

**0930**

I was asked to speak at Notre Dame. I had reflected on the issue, on the matter. I'm well aware of the organ donor card, of course. I've signed many of them because, of course, they keep falling apart in my wallet or ending up in the washing machine. That's one of the problems with the organ donor card, and I hope to get a chance to talk about that.

Most Ontarians, we know, from the polling, from the data, from the surveys, want their organs to be used. Unfortunately, most Ontarians don't sign organ donor cards. So there's a disconnect there. Young people have an entirely different view about organ donation than their parents do, whether it's in elementary schools or high schools or even community colleges, where I've been with George Marcello or on my own, talking about the transformation of the organ donor culture. Young people are incredibly eager to see their organs used and willing to talk very candidly about it. I don't know why. Maybe it's because of some of the pop culture, maybe because they're desensitized to some of the perceived gruesome aspects of it by some of the television shows that we see, where we see slicing and dicing on the operating table on a daily basis from 9 at night through to 11.

The elderly are remarkably sensitive to the issue of organ donation—not as recipients. One of the remarkable things I learned is that age, in and of itself, isn't a factor in whether or not an organ can be useful. A 70-year-old or an 80-year-old is as capable of being an organ donor as an 18-year-old. But I talk to seniors about this—I go

into long-term-care facilities—and if it has been during a period of time when the counter-proposal has received a lot of publicity, they say, “Darn right, people should use my organs.” These are people who are very fatalistic, of course. They're not in denial. They know that they're reaching the end of their lives. And as you know, most seniors really aren't that fearful of it, are they? Most seniors are grateful for having had the opportunity to live full lives, the ones who have been, and to have made the contribution they've made. So they're incredibly candid and far more open about this discussion.

As I say, the organ donor card—and I've signed many of them; you lose them, you throw them away, they wear out and they crumble—reflects the mindset of, well, gosh, I suppose almost 50 years ago now, when an organ transplant was an exceptional thing, when it was miraculous, when it was the rarity, especially the successful one, rather than the norm. I resent the language that's used, because the people who want to market that style of organ donation call it “informed consent.” In other words, you had to indicate clearly that you wanted your organs to be used before a medical team could use them after death in an organ transplant or the utilization of tissue. That may well have represented or reflected the values of the time, especially when people were in awe of this exceptional and rare event. But, you see, I really believe that most Ontarians expect their organs to be used, because this informed consent regime is really a presumed denial, isn't it? You are presumed by the law to not want your organs to be used to save a life. That's the legal presumption. It's presumed denial, as if somehow they were the majority of people. That's the default position: denial. In other words, the default position in Ontario, as it is in Canada, is “No, you can't use my organs when I die.” I welcome the e-mails on this one. I don't know which selfish, miserable, self-centred, uncaring person would adopt that position.

There's no faith system that prevents, precludes or denies you access to God and heaven if you donate an organ after you're dead—none. The Jewish faith, which requires the body, as I understand it, to be buried intact—and that's why we see those tragic scenes when there's a terrorist act against Israelis: In the tragedy of a body bombed, a family has to try to gather all the pieces, because the body has to be buried as intact as possible. But the Jewish faith, and this comes from rabbinical sources, exempts people who have donated an organ after death, because that's a gift of life and the gift of life supersedes everything. There isn't a single faith system that prevents access to the Pearly Gates to people who have donated an organ. In fact, as George Marcello has often said, “God wants your soul, not your organs.”

That's why I say: What mean-spirited person would not want their organs to be used? People are going to e-mail me. People are going to say, “How dare you?” Well, I dare. Come on, e-mail me. I dare you to explain why you wouldn't want your organs to be used. “Well, I don't like the thought of it.” Too bad, so sad. The thought of it—there are no thoughts or feelings and no sensation.

You're going to be dead. The plug will have been pulled. "I don't want the state telling me what to do with my organs." Well, the state isn't. Right now, the state is telling you that your organs have to be burned or buried in the event of your death unless you sign a card. If this presumed consent style or system that I'm talking about doesn't prevent people from being mean-spirited and selfish, just stand up and say so. In other words, if you're that concerned about a life being saved with one of your organs or with some of your body tissue after your death, if you're that mean-spirited, be prepared to say so. Don't expect to hide behind the state.

If that one point in our history, the default position—based on, again, the recognition of organ transplant as a miraculous sort of event that was so rare—was presumed denial, I say surely the default position now is presumed consent. It's not informed consent; it's presumed denial. And again, presumed consent doesn't tell anybody that their organs can't be buried or burned with them, but if you want that to happen you've got to say so.

Why should the vast majority of Ontarians risk being denied their wishes because of the absence of an organ donor card at a particular point in time? George Marcello got me thinking about this because I knew I had to speak at this event at Notre Dame in the auditorium. I actually reflected for the first time on the system as it exists. George Marcello was touring Canada, and there he was in Welland. Now he's a two-time liver recipient. He had only had his first transplant when he was doing that tour. I actually had to reflect on the fact that hey, why is this presumed denial still the default position? Again, I and some of my colleagues in my caucus were alarmed because there was press coverage of it. There I went declaring myself for presumed consent. I said, "Why don't we have a system where we make it easier for medical teams to salvage organs by a system of presumed consent?"

#### 0940

I've got to tell you, it's not NDP policy. It has never been the subject matter of a resolution at convention or council, and we were certainly too busy this last weekend. We shouldn't have been, but we were. Of course we were. It wasn't on the resolutions to be debated. But I'll tell you this. I acknowledge that the first time I introduced that presumed consent bill here in the Legislature as a New Democrat and did the lineup of radio talk shows and all that stuff—you know what flows from that—I agree that I was in the company of a minority of Ontarians. There was only a minority of Ontarians—a large minority, but clearly a minority; no two ways about it. But the most recent polling suggests that now more than 50% of Ontarians support a presumed consent model. There has been, over the course of the last four or five years, some significant shift.

I believe it's all because radio talk show hosts and their ilk were prepared to use this as subject matter on their programs. I was fortunate because most of the radio talk show hosts—Roy Green was one of them. Roy Green has moved to outside of Montreal now—one of

Canada's great broadcasters; he still broadcasts a show out of Montreal that's syndicated. Roy Green supported my proposition. So we had people like this who are influential with their listeners. Oh, I got the phone calls—oh boy, some really angry ones: "By God, Kormos, you socialist, you want my body, too?" First I was trying to be—finally I said, "Look, you know what?" Here's provocative statement number two: "You bet your boots I want your organs. Of course I want your organs. There, I've said it. And furthermore, I expect you to give them." So that's to the people who say, "Oh, Kormos wants my organs." Yes, I do.

I'm blessed; I don't need one at the moment. Like I told you a week or two weeks ago, when I die, I've got a '94 Chev pickup that's got a lot of miles on it. It's probably been better maintained than my organs, but it's down there on Bald Street. I've got the '94 Chevy pickup and I've got my organs. You can come and get either or all of the organs plus the pickup truck, because I'll have no need for any of them, will I? I'll have no need for any of them—no need. These organs are but dead weight for the pallbearers once you're dead. All these organs do is create extra work for the mortician: He's got more to take out. You think those organs don't get tinkered with when you're on that mortician's table and they're wrapping you up ready for the wake?

Furthermore, we already have presumed consent here in the province of Ontario; that's been long-standing. The Solicitor General of this province has been salvaging organs for a good chunk of time. You didn't know that, did you? The Solicitor General knows all about it: section 29 of the Coroners Act. We've had presumed consent in this province for a long, long time. "Any person performing a post mortem examination of a body under the warrant of a coroner may extract the pituitary gland and cause it to be delivered to any person or agency designated by the Chief Coroner for use in the treatment of persons having a growth hormone deficiency." Of course, the qualifying subsection 29(2) says, "This section applies where the coroner or person performing the post mortem examination has no reason to believe that the deceased has expressed an objection to his or her body being so dealt with after death." That's the model right there, existing in Ontario law.

Those of you who are squeamish about presumed consent should understand that should you have been or should you be the subject matter of a post-mortem pursuant to a coroner's warrant, they're going to take your pituitary gland. You didn't even have an advertising campaign to tell you about your right to opt out, did you? Most Ontarians have never heard of that provision in the Coroners Act, and if I remember correctly it's not a provision that's being deleted by the amendments that are going to committee this Thursday. So I guess presumed consent isn't such a novel proposition after all.

George Marcello and I have since, like he has with many of you, spent a fair amount of time together. He's had occasion to come here to Queen's Park frequently, and he's had occasion to cross the country at least one



more time. Before his last crossing of the country—2008 was his last criss-cross, after his second liver transplant—he had toured Europe very enthusiastically. I was eager, because George had talked to me about, and I had begun to read about—and I've got to tell you: Lorraine Luski, who's a research officer in the research and information services in our legislative library, has, since back in 2003 and 2004, been collecting and preparing material for me on different organ donor regimes and systems and has been following the news clippings and shifts and trends, including the movement in Britain to implement presumed consent—Britain's finally trying to get itself in sync with the rest of Europe—and Israel, one of the first countries in the world to implement a presumed-consent system. Once again, I reflect on the fact that Israel is a Jewish state. Notwithstanding their faith and beliefs about the disposal of a body after death, they were one of the first countries in the world to implement a presumed-consent regime.

George Marcello went and saw the Pope and was in Europe when he was researching these various European countries that have presumed consent, collecting data, and sadly became aware of a need once again—his liver was failing again. He finally got himself a liver for the second time, and he's alive and well now. Sadly, George's campaigns, his passion about organ donor awareness and his support for presumed consent have made him literally mortgage his house to finance these tours. But he has travelled all around, east to west, up into the Northwest Territories, to some really, really remote places, and young people especially are incredibly responsive to him. They like him. He cajoles them; he charms them. He's very effective.

Because there has been a fair amount of attention paid by any number of members from all three parties, reflecting their interest in increasing the availability of organs, and again with the help of Lorraine Luski and her hard work, I want to, perhaps, canvass some of the different styles that have been proposed. Of course, there are those who want to maintain the status quo—called informed consent; I insist it should be called presumed denial—because that's the status quo. That means there has to be the explicit consent of the donor. That's either through a donor registration card—although we were making headway in that regard, in terms of hospitals networking, especially larger hospitals. The need for a Canadian donor registry that's up to date and easily accessible is imperative, and, of course, one would hope, the need to harmonize organ donor laws across the country from province to province. That's informed consent, the status quo, or presumed denial.

Presumed consent: You have every right to say no—every right—but you have to say “No.” We know that most Ontarians say yes. That's the default position. The default position should reflect the majority of the population, shouldn't it? It seems only reasonable.

We want to avoid a market approach—and this goes back to this legislation. If we don't have a system of subsidizing workers who leave their jobs for that period of

time to do the medical procedure of recovery for an organ donation, we then enter, in an oblique way, the world of commodification, and that is turning organs into a commodity, where there will be people on organ donor waiting lists who have the means offering to pay the salary of someone who is prepared to give a piece of liver or a kidney. That's something that I think all of us would want to avoid absolutely. Organs should never be for sale, either directly or, as I say, indirectly. We create a climate for that indirect marketing of organs when we don't provide income replacement for the person going through the organ donor process as a living donor. That's why I say that this bill needs the second shoe to drop, and that's some sort of income displacement.

#### 0950

In terms of elections, Mr. Klees had a bill before the House that was a very enlightened one, although I disagreed with it in terms of its effectiveness, and that was the required request, the mandatory election. Mind you, he softened it up a little bit, because in pure required-request systems, you either say yes or no. As has been pointed out by American research, required request has sometimes dramatically reduced the number of organs available, especially if it's tied into, let's say, a driver's licence application or renewal. They point out that the worst place to ask somebody to make that election, yes or no—and it's a mandatory election—is after they've waited an hour in a lineup during their lunch hour, being late getting back to work. By then they're grumpy and miserable. Most people, if they haven't thought about it before, if it's a novel proposition—and for younger people, that's not the case; they're well-educated, far better educated about organ donation than people my age are—their first response is, “Oh, at least I've got to think about it,” and then they say no. So the American phenomenon—because it's in the United States that they have some of these required request or mandatory elections; it's required because—I'll get into it in a second. Mandatory election has reduced the number of organs because their immediate response, if they're undecided, is to say no. Frank Klees lightened it up, softened it up by saying, “Maybe,” or “I'll think about it later; I'm not sure,” or “None of the above.” That's far too easy; that's all too easy a cop-out.

The required request has been incorporated even into our existing law, and that is to say that a person who explicitly says, “You take my organs, please,” can have their viewpoint, their wishes, countermanded by family members. That's the problem with asking family members one way or the other upon death. Family members are grieving. If the death was a result of some sort of trauma where there has been trauma to the body, they're faced with the sight of a body that has been mangled and banged up, and the prospect of somebody cutting that person open and doing yet more to the body is just repugnant to them. That's why I believe that the election—and in my proposal, the election would be by the person who doesn't want their organs used—can't be countermanded, and why I certainly wish that the existing legislation was,

at the very least, changed to ensure that the choice to give an organ can't be countermanded by a family member. If we have to live with that very restrictive presumed denial, surely a very specific, "I choose to have my organs utilized"—surely we should be respecting that wish. But in the status quo, even that wish can be countermanded.

Most of Europe, Israel, Britain, are now debating the matter of presumed consent. Does it increase the supply of organs? Well, instinctively I say yes, because it means that there are no legal barriers. I would propose that a presumed-consent system would allow people who are niggardly and mean-spirited about their organs to say so and for them to be on a registry, and that a medical team that wanted to salvage some organs of a person who is going to be dead in order to save another life would simply have to access that website with some reasonable level of identifying information to determine that that person wasn't on the list, and if that person wasn't on the list, then that's all that has to be done.

I've had little television and radio debates with medical ethicists about how, if you have presumed consent, maybe doctors will be quicker to pull the plug. Well, if the doctor knows that you have an organ donor card in your pocket, the same argument would apply, right? "Kormos has an organ card"—well, mind you, with some doctors it wouldn't even take an organ card. Assuming they didn't know who I was and held no ill will towards me in and of itself, "Hey, this guy's got an organ donor card and my buddy Dr. Bartolucci has a patient who's eagerly awaiting the kind of heart that I think—so don't look now; I'm going to pull the plug." What a stupid proposition. Because if that were true, doctors would be doing it now in the case of patients who they knew had an organ donor card. As a matter of fact, some of the presumed-consent regimes—Spain's, I believe, included—require that the medical team tending to the person at the time of their death not be the transplant team, so that there's a disconnect between the two. And of course you have anonymity around organ donation. Living donation is entirely different, but when you're accessing a pool of organ donation, you want anonymity.

The other interesting observation—oh, yes, how could I not have spoken about this sooner? Consider this observation: Organ donation isn't just about giving; it's about getting. How dare anyone expect to ever get an organ, should they need one, if they are not prepared to give one when it's of no use to them whatsoever? Indeed, I think it's Austria that highlights this by saying, "If you happen to have opted out, if you happen to have signed a card saying, 'I don't want my organs to be used to save a life,' don't expect to be at the front of the line when your kidneys fail. Don't expect to be at the front of the line when you need a heart replacement. Don't expect to be at the front of the line when you've got some corneas that have to be replaced, because you weren't prepared to be at the front of the line—you weren't even prepared to be in the line—when it came to saving somebody else's eyesight or somebody else's life."

I quite like that. I fancy that myself. Even in the Klees mandatory choice, I had fantasies of people lined up at

their driver's licence counter, and if they signed the "Yes, use my organs" box, fine, but if they signed the "No, do not use," there should be red lights flashing, there should be a spotlight, there should be a voice over a loudspeaker saying, "This person doesn't want to save a life when she or he dies and no longer has any use for their own organs." I really believe that. We should make those people have special licence plates on their cars so that everybody knows how selfish they are.

I put it this way as well: I'm sure it's just like where you live, but down in my neighbourhood in Welland, if somebody buys a new washing machine, let's say, and the old washing machine is still working but you wanted a front-loader instead of a top-loader, people expect you to put that out on the boulevard, saying, "Still working; it's yours," rather than carting it down to the city dump—unless it's totally broken down and of no value, of course. And in our neighbourhood, if we ever saw somebody doing that, we'd be gossiping about him or her, saying, "What's the matter with that old coot? He could have taken it over to the Sally Ann or St. Vincent de Paul or to the Open Arms Mission." They've got a store on Crowland Avenue now, where they sell new and reused stuff at low cost. "What a miserable SOB. He took that perfectly good chair, that didn't quite match his or her decor anymore, and broke it up so it would be easier to throw in the trash bin." We would be gossiping about that person for months and years, and that person wouldn't be welcome for that beer on our patio, or the rye and cola or, who knows—the mojito. We're all big on mojitos, because we all like going to Cuba down in my neighbourhood. That person wouldn't be welcome at all, on our patio, for a mojito in the hot summer months. I say the same thing about organ transplants. You would stigmatize somebody who is so mean-spirited as to smash something up rather than let somebody else take it where they could use it, be it a kitchen table, a coffee table, an armchair or a washing machine. I know you would, and I know you would go out of your way to make sure it got delivered to the Sally Ann, or to a mission that works with immigrant families and very poor families and families that have lost their incomes. Why should our attitude toward organs be any different? They're only organs. We eat them every day: kidney and liver. In my culture we eat heart, we eat lungs, we eat tripe—they're muscle tissue—and organ tissue. Organ tissue is really different than the heart muscle tissue; but organs, liver—some kind of tissue. People who cook their family dinners handle them all the time. They're only organs, and they have no value whatsoever upon the deceased's death. The person has no need for them. In fact, giving them isn't a gift. As I say, a gift is when you give something that costs you money. It's not a gift at all. It's just the decent thing to have happen in a civilized society.

#### 1000

Let's take a look at some of the research and data about whether or not presumed consent has increased the availability of organs and shortened the waiting list: 1,700 people a year here in the province of Ontario alone,

and over 2,000, I'm told, across the country die while good organs are being burned and buried. People on the waiting list—I've met some of them—carry beepers and pagers because they have to make themselves available quickly as the whole process has to happen in a very short time frame. Every morning you wake up, praying to your God that today will be the day that that pager or beeper goes off, letting you know that an organ is available. You go to bed that night saying, "Well, maybe tomorrow," and you wake up the next morning saying, "Well, maybe today." Then you get sicker and sicker as your liver is failing you, and you're in the hospital, and your pallor is changing to yellow and the eyeballs are turning yellow, and you're getting weaker, and you still hope that maybe today—and then you die. On the very day that you die, good organs were burned or buried right here in the province of Ontario. And just maybe amongst them was one heart, one piece of liver or one kidney that could have been used to save your life. It's not just about giving; it's about getting.

I want to praise the Royal Canadian Legion, especially Branch 226, because Diane Doyle, the branch secretary, has made sure that the branch Royal Canadian Legion membership cards contain on their very back an organ donor card. I've got to confess I would be more likely to keep my Legion card with me. You never know where you're going to be in Ontario or Canada and you maybe want to drop in for a reasonably priced beer. I'm just so pleased that Ted Arnott, the member for Wellington-Halton Hills, who has been here for quite a while now—he's the Deputy Speaker, as a matter of fact—has got his union—sorry; slip of the tongue. But Ted would belong to a union too if he were in a unionized workplace. He'd probably be a radical unionist. He'd be running for shop chair. He'd be filing all the grievances. Ted Arnott is a member of Royal Canadian Legion Branch 226, and his membership card has the election filled out on the back. So I suspect that Ted Arnott has educated himself around organ donor issues. He's one of the vast majority of Ontarians who want their organs to be used.

I like Ted. I respect him. I admire him. I've been a fan of his from the get-go here, when he was much younger, and I don't wish him any ill will. But should he be the victim, God forbid, of a drunk driver, and there comes a point in time when he's going to expire, I don't want the medical team, because the wallet fell onto the roadside when the paramedics pulled him out of a car, to be frustrated by that and not ensure that Ted Arnott's wishes, like all fair-minded Ontarians or Canadians, are abided by. I don't want that to happen to you, Ted, for another—I don't want it ever to happen to you, and I hope you don't need this organ donor card for at least 50 more years. But we're all there. Come on, that's how it happens. That's the nature of life.

So Ted Arnott, the MPP from Wellington-Halton Hills, is part of that vast majority of Ontarians that expect their organs to be used to save a life upon their death. But he's got to have that card, you see, and that card's got to be available to the medical team. If, for any number of

reasons—wrong wallet, different wallet, the card gets tattered and torn—that card isn't available to the medical team, they've got some problems, and somebody dies as a result of that, maybe a 12- or 13-year-old kid.

There's nothing wrong, I suppose, with dying when you're 90 or even 88, because by then you've lived a full and, hopefully, gratifying life. But there's something very wrong about dying when you're 12 or 13, about a kid not ever having a chance to fulfill his or her potential, isn't there, Speaker? There's something very wrong about that, especially when we know that there are organs out there to be used as donations. But the system frustrates the exercise rather than assisting it.

Let's look at presumed consent jurisdictions. Again, I told you of Lorraine Luski, and her research has been most valuable in this regard. In 2004, there was a study called *The Impact of Presumed Consent Legislation on Cadaveric Organ Donation*—that's dead donors. Presumed consent has positively affected organ donation rates in countries that have adopted it. This study examined 22 countries over a 10-year period. The authors concluded that countries with presumed consent legislation have higher organ donation rates; in other words, more organs are available. And all the presumed consent jurisdictions allow people to say no.

Another study was done in Belgium in two districts, Antwerp and Leuven. In 1986, Leuven adopted a new presumed consent law, while Antwerp did not. Leuven's organ donation rate rose from 15 to 40 donors per year after a three-year period. It darn near tripled. In other words, presumed consent almost tripled the amount of organs available, and people still had the right to say no for whatever wacky, wild, bizarre, selfish reason.

Denmark enacted presumed consent legislation in 1967. It's reported that Denmark had one of the highest organ donation rates in Europe until 1986, when its presumed consent law was changed to a presumed denial system like we have here in the province of Ontario. Afterwards, the country's donation rate fell by half. In other words, abandoning presumed consent decreased by 50% the number of organs available. And when you decrease the number of organs available, you decrease by the same number the number of people whose lives are going to be saved, including kids.

Today, Denmark's donation rate for cadaveric organs is just about the same as Canada's. The general conclusion is that presumed consent systems, which retain the right of people to say no, significantly increase the number of organs available for transplant.

#### 1010

A *Journal of Medical Ethics* article of June 2003, authors V. English and A. Sommerville—and I'll quote from it, please, if I may: "These data, and a general tendency for countries with presumed consent to have higher donation rates, lead us to believe that provided it is accepted by the public and health professionals, presumed consent would lead to an increase in donations." Put an ellipsis between that last sentence and this one. I'm going to move along so I don't use up a whole

lot of time. “Debate about whether presumed consent or developing the infrastructure is the most effective method might be an interesting academic debate, but is futile when the option of developing the infrastructure within which a presumed consent system is operated seems to be the obvious way forward.”

The perception is incredibly important. “The perception that presumed consent will increase donation rates is not merely based on the mechanics of the system but also on the impact such a change will have on public opinion. Presumed consent represents a positive endorsement of organ donation as a good thing to do, and with this formal acceptance will come a time when donation will come to be seen as the norm rather than the exception.”

In my inarticulate way, that’s what I’ve been trying to say; that’s what I’ve been trying to tell you. We’ve got to make organ donation and saving organs from the bodies of dead people the norm rather than the exception. We’ve got to build a culture where we care enough about each other, where we don’t have to just rely upon our family members to share a piece of liver—and I’m not sure mine is the one to go for—where we don’t have to just rely upon family members, but where we share a piece of liver as readily as we share our blood.

People go to blood clinics. It’s painless. They give you apple juice and stuff and cookies afterwards. But they give their whatever it is, a pint; it’s not very much in the total scheme of things. That’s the norm. Nobody expects to be applauded. Nobody expects to get rewarded. Nobody expects to be on the front page of the newspaper. And we do it for strangers. We do it for people we’ll never meet. Heck when I give blood, I don’t know if it’s going to go to a Liberal or a Tory. Gosh, we don’t care, because it’s not the point. It could go to somebody whom I despise, but that’s not the point. I want to see the culture around organ donation become as broad and general.

We’ve already seen a major shift in public perception on the issue. Those countries in Europe that have adopted it, countries like Spain, Italy, Austria, and some very conservative cultures—people who, when I tell them about Ontario and Canada, they think how backwoods-y that is. They think it’s bizarre; they find it outright peculiar. Why would you make people jump through legal hoops to make sure that their organs are used after their death?

As I say, I think presumed consent would—as this article concludes, “donation will come to be seen as the norm rather than the exception.” Presumed consent will also increase the number of living donors. Because as we shift perception, if there is an ad in the paper saying, “We need a piece of liver for somebody who’s this blood type,” we’ll be more than willing to say, “Hey, I’m that blood type, and maybe I can help.” That is the Canadian way of doing things; that’s the Canadian perspective. We help people. We help our neighbours. We help our neighbours even if we don’t know them, even when they live on the other side of the globe. We help our neighbours regardless of their religious beliefs, political attitudes, regardless of whether they are cranky old guys or generous, hospitable people.

We help kids who are dying. We help children who endure months and years of waiting, who are confronted with their fatality and with the reality of death at an age far sooner than it should be. Come on: Kids shouldn’t have to worry about dying. Kids should have to worry about where the next baseball or hockey game is or where the next school dance is going to be. Kids shouldn’t have to worry about dying, yet our refusal, our stubbornness about updating and modernizing our organ donor laws, is forcing kids to live with that fear and forcing them into their deathbeds.

I hope that folks would give presumed consent a second thought. I look forward to passing this legislation, I suspect, as I say, on its next calling after Ms. DiNovo or perhaps some others speak to it. I look forward to being in committee with the legislation, look forward to the third reading, and I look forward to reintroducing the bill that the New Democrats and I have introduced from time to time now creating a presumed consent regime here in the province of Ontario.

*Second reading debate deemed adjourned.*

**The Acting Speaker (Mr. Ted Arnott):** This House stands in recess now until 10:30.

*The House recessed from 1017 to 1030.*

## INTRODUCTION OF VISITORS

**Mr. Jerry J. Ouellette:** I look forward to having the staff and students of Norman G. Powers Public School, who should be arriving very shortly, enjoy question period, and I would hope all would enjoy the pleasure as well.

**The Speaker (Hon. Steve Peters):** On behalf of the member from Bruce–Grey–Owen Sound and page Reed Bell, we’d like to welcome his mother, Paula Bell, who will be sitting in the west members’ gallery today.

On behalf of the member from Etobicoke North and page Nancy Kanwal, we’d like to welcome her mom, Kuldeep Kanwal; her father, Satwinder Kanwal; her brother, Gundeep Kanwal; her grandmother, Harbans Kanwal; and her grandfather, Parduman Kanwal, who will be here in the east members’ gallery. Welcome to Queen’s Park.

There being no further introductions, it is now time for oral questions.

## ORAL QUESTIONS

### PENSION FUNDS

**Mr. Tim Hudak:** A question to the Minister of Finance: Minister, Quebec’s largest pension fund, the Caisse de dépôt et placement du Québec, recently reported losses of nearly \$40 billion in 2008. This has certainly consumed debate in the National Assembly, where members are wondering how they could lose so much and why nobody knew.

Can the minister update the assembly on the status of public pensions here in the province of Ontario?

**Hon. Dwight Duncan:** Like all pension plans and defined benefit plans, all eight of the ones that we are either sponsors or members of have experienced loss as a result of world market conditions. FSCO has those results available to the members and others for the most up-to-date period.

I would remind the member as well that we tabled a report from Harry Arthurs with respect to defined benefit pension plans. There are 142 recommendations in that. Prior to Christmas, we eased a number of the requirements for repaying with respect to that as well, moving to a 10-year solvency rule instead of five.

None of our public pensions are anywhere near the condition that the Caisse de dépôt is in. Despite the enormous challenges, I'm satisfied that those pensions are—

**The Speaker (Hon. Steve Peters):** Thank you, Minister. Supplementary?

**Mr. Tim Hudak:** Retired civil servants and taxpayers are rightly concerned about the shortfall in the public pension funds given the state of the markets and what has happened in Quebec. The OMERS plan recently announced it lost \$8 billion on its investments last year. The teachers' pension plan of \$108 billion is one of the world's largest pension funds. To the Minister of Finance: In your upcoming budget, will you table the status of these major public plans and your plan in the McGuinty government to do something about it?

**Hon. Dwight Duncan:** I will remind the member that those fund members get annual reports and quarterly reports, as I understand it, from the pensions themselves. They are subject to regulation by FSCO. The member is right: Clearly, as a sponsor of those plans, there are fiscal implications to the government resulting from it that will be adequately displayed both in the budget and in public accounts.

I want to assure those members of the plan that those pensions, in spite of those losses—and they're large losses, but relative to their asset base, I say to the member, are not nearly the situation you find with the Caisse de dépôt. We have improved the reporting requirements of FSCO and will continue to work with the pensions that we sponsor, as well as with the members, as we did in December when we announced those relief measures, to help ensure the viability of those pensions going forward.

**The Speaker (Hon. Steve Peters):** Final supplementary?

**Mr. Tim Hudak:** I think the minister knows that the problem with Caisse in Quebec was that nobody found out until \$40 billion was gone, and that's why we are asking you to table in your budget an update on Ontario's public pension plans.

You referenced Professor Harry Arthurs, who warned last month that Ontario could be one major bankruptcy away from a shipwreck scenario that would cripple the pension benefits guarantee fund. Robert Brown, professor of actuarial science at the University of Waterloo,

estimates that a dozen corporate pension plans may soon have to tap into the guarantee fund to escape bankruptcy. Your own documents say that that guarantee fund is currently \$100 million in the red.

Minister, what is your plan to ensure that folks not only won't lose their jobs, but also their pensions?

**Hon. Dwight Duncan:** I'll just again remind the member of the steps we took: the extension of the solvency amortization period from five to 10 years with the consent of active members—your party did not support, when you were in government, the consent of active members—or their collective bargaining agency; consolidation of previous funding schedules; deferral of catch-up payments; enhanced notice to members; and temporary limitations going forward. We also, in my budget last year, put additional resources to FSCO to help improve its ability to oversee and report, and that member voted against that money, as did his party.

It's unfortunate that they're just now understanding what this means for working people, working men and women. You've spent the last 10 years criticizing our public servants. This government stood behind them in those days; this government stands behind them as the pension plans are affected, like other pension plans, but remain—

**The Speaker (Hon. Steve Peters):** Thank you, Minister.

New question? The member from Kitchener-Waterloo.

**Mrs. Elizabeth Witmer:** My question is for the Minister of Education, and we don't have notice that she's going to be away.

**The Speaker (Hon. Steve Peters):** Stop the clock. Government House Leader, will the Minister of Education—

*Interjection.*

**Hon. Monique M. Smith:** I understand that the Minister of Education should be here within five minutes, and I apologize for the delay.

**The Speaker (Hon. Steve Peters):** Would you like to stand down your question?

**Mrs. Elizabeth Witmer:** I will stand down my question.

**The Speaker (Hon. Steve Peters):** Okay. New question.

## MANUFACTURING JOBS

**Ms. Andrea Horwath:** My question is to the Acting Premier. It's a well-known fact that Ontario has now lost more than 300,000 manufacturing jobs under the McGuinty government's watch. Just today, 21 at Hiram Walker in Windsor; 130 at Essar Steel in Sault Ste. Marie; and 30 at Emerson Climate Technologies in Brantford. Real people had these jobs—a mother or father with kids to feed; a young person just starting out. These people don't have huge expectations from their government, but they do expect a government that will be

there for them in their moment of need. When will this government finally be there for them?

**Hon. George Smitherman:** To the Minister of Finance.

**Hon. Dwight Duncan:** The job loss situation that is buffeting Ontario today is buffeting all of North America and Europe. There are job losses in places like Michigan, Indiana, Ohio, Manitoba—your predecessor liked to cite Manitoba as an example. Manitoba has now lost, as a percentage, more manufacturing jobs than Ontario.

We have undertaken, through a number of initiatives in previous budgets, and we'll build on those initiatives, in the areas of infrastructure to get shovels in the ground and construction under way—more than 100,000 people today. Training and education: Our training initiatives are now serving tens of thousands of those workers who have been displaced. A number of our initiatives to municipalities have helped them cope with the situation we face today.

There is no doubt that huge numbers of people have lost their jobs. We will continue to build on what we've done already to help those—

**The Speaker (Hon. Steve Peters):** Supplementary?

**Ms. Andrea Horwath:** The finance minister should know that I'm talking about Ontario. That's this government's responsibility: Ontarians. With an answer like that, it's no wonder that nearly two thirds of Ontarians lack confidence in this government's ability to get us through these tough times. They're among the Ontarians who have seen their jobs vanish, and for so many, that vanishing job means that their dreams and their aspirations are vanishing as well.

In the face of what's happening in Ontario today, how can this minister stand there and still claim that his government has a plan?

1040

**Hon. Dwight Duncan:** I think the people of Ontario recognize that what we're experiencing is part of a global situation, and as much as the member opposite may try to portray this as having happened only here in Ontario, the people get it. They understand that. They understand the job loss, and they respect the fact that we invested \$7 billion in infrastructure, and that member voted against it. They respect the fact that we have invested in communities—

*Interjections.*

**The Speaker (Hon. Steve Peters):** Member for Hamilton East.

**Hon. Dwight Duncan:** —to the tune of billions of dollars, and that member and her party voted against it.

We will be bringing in a budget on March 26 that will build on the initiatives we've taken to protect individuals, families and communities.

**Mr. Paul Miller:** Total baloney.

**Hon. Dwight Duncan:** That member and her party know full well the—

**The Speaker (Hon. Steve Peters):** The honourable member from Hamilton East will withdraw the comment that he just made.

*Interjection.*

**The Speaker (Hon. Steve Peters):** Withdraw the comment.

**Mr. Paul Miller:** Okay, I withdraw "baloney."

**The Speaker (Hon. Steve Peters):** The member will withdraw the comment.

**Mr. Paul Miller:** I withdraw the comment.

**The Speaker (Hon. Steve Peters):** Final supplementary?

**Ms. Andrea Horwath:** It's this minister who clearly doesn't get it. Ontarians get it, though: three quarters of Ontarians say the government has no plan, and they're right. Some 80% of the women and men who call this province home think our economic prospects are poor because of this government's inaction; they are right. How many more families need to face economic hardship before this minister owns up to it?

**Hon. Dwight Duncan:** I appreciate the leader of the third party wanting to support Ontario workers and Ontario businesses, but, you know, it's important to practise what you preach. I can't help but wonder about your party's commitment to Buy Ontario when I look at your leadership convention and ballot. They boasted about spending \$100,000 on a new system with the latest technologies. There are two Ontario companies that perform this. They chose a company in Dartmouth, Nova Scotia. Their leadership ballots were counted in Dartmouth.

The people in Ontario see through you. They know we're in the midst of a global crisis. You shouldn't make light of that global crisis, and you should be consistent with what you say in here and what you do at your convention. This party, this government are the ones—

**The Speaker (Hon. Steve Peters):** Thank you, Minister. New question.

## MANUFACTURING JOBS

**Ms. Andrea Horwath:** Back again to the Acting Premier: When it comes to protecting the livelihood of Ontarians, the McGuinty government's invisible hand approach simply has not worked. For all his bluster, this minister knows it. The invisible-hand is there to shovel hundreds of millions of dollars out the door to multi-national corporations. But where was the invisible hand to ensure that there were job and product guarantees attached to the money that was shovelled out the door?

**Hon. George Smitherman:** When we come to the supplementary, I'll ask the Minister of Finance to continue on this path, but I would like to just remind the honourable member that she had a one-minute opportunity there to answer a question that was just posed by the Minister of Finance related to a decision point in her responsibility. The honourable member stands and wishes to talk about Buy Ontario and a focus on domestic content and the like, but when their party had the opportunity to exercise its discretion over expenditure, they decided instead to support a company out-of-province when there were known companies here in the province

of Ontario with that skill set. So we understand it's a time of hardship for people in the province, but we do think that it would be good for the honourable member and for her party to demonstrate more active leadership on this point.

**The Speaker (Hon. Steve Peters):** Supplementary?

**Ms. Andrea Horwath:** Again, I would ask the minister to focus on the questions I'm asking him. New Democrats have no problem with using taxpayers' money to assist companies and protect jobs in this province. We think that's an important thing to do. But it's not what this government has done. It has lined the pockets of fat-cat executives while hardworking women and men got the shaft. That's exactly what happened at Stelco, which received \$150 million in taxpayers' money—and what happened? Former CEO Rodney Mott walked away—walked away—with \$67 million in 2007. Last week, 2,100 women and men walked away with a pink slip.

Does this minister think that's the right thing to do?

**Hon. George Smitherman:** To the Minister of Finance.

**Hon. Dwight Duncan:** What I think was appropriate is that this government invested \$150 million to protect the pensions of Stelco workers. That member and her party set up the situation that led to Stelco getting into the position it did on its pension. To add insult to injury, the member for Hamilton East and the members of the NDP caucus voted against helping Stelco pensioners when we came up with the package two years ago.

These are difficult and challenging times. As the member herself said on March 3, Stelco workers are the "victims of a deepening global recession." She was right then. Where she was wrong was in voting against—

**The Speaker (Hon. Steve Peters):** Thank you. Final supplementary.

**Ms. Andrea Horwath:** Look, this minister can hide behind the guise of protecting pensions, but the fact remains that taxpayers' money is going out the door without any strings attached. It's hard-working Ontarians who are paying the price—the same hard-working Ontarians who are willing to make sacrifices to keep their jobs. High-flying executives, on the other hand, should be held to the same standard, we believe.

New Democrats support limits on executive pay and perks, especially when taxpayers' money is on the line. When will this government finally demand that?

**Hon. Dwight Duncan:** This government and this Premier moved to protect the pensioners at Stelco, and that member and her party voted against it. You shamelessly did not stand with the working people of Hamilton, with the Stelco pensioners. To stand here and criticize a government that invested to protect those pensions shows how much that party and its new leader don't understand the challenges in the world economy today.

The people of this province recognize that the issues are deep, and they require constant and improving response from all levels of government. Premier McGuinty and his government stepped in to protect the pensions of Stelco workers. Member Horwath and her party voted

against that initiative. Those are the facts, that's the reality, and history shows that that's reality.

## SCHOOL CALENDAR

**Mrs. Elizabeth Witmer:** My question is to the Minister of Education. Minister, school boards across this province, as you know, are grappling with the 2009-10 school calendar, which is going to see students go back to school before Labour Day to meet the in-school instruction days. As you know, this has been created by your creation of Family Day. Isn't it ironic that this is going to create chaos for families when it comes to vacations, summer camps, hockey camps and student summer employment?

You have the power under subsection 11(1) of the act to amend the calendar and eliminate the uncertainty for students, parents and businesses. Will you do so?

**Hon. Kathleen O. Wynne:** I do apologize for being late to question period. I was visiting a school where we were hearing the great results of the Pathways to Education program: The graduation rates are up. With the support of Minister Smitherman many years ago, the Pathways program began in Regent Park, and it's a great news story.

I know the member opposite doesn't want to hear a success story. The question about the school calendar is one that I have answered before. Boards across the province are making their decisions in consultation with their communities. I will say to the member opposite that I have drafted a letter that is going to the directors of all the boards in the province to encourage them to consider the option of having professional activity days in the first week of September so that school can, in fact, start after Labour Day. Boards need to make those decisions in consultation with their communities.

**The Speaker (Hon. Steve Peters):** Supplementary.

1050

**Mrs. Elizabeth Witmer:** If that was the case, why didn't you let them make a decision on Family Day? You uniformly as a government made that decision. I would say to you that parents are confused and it's hurting businesses. David Bednar, general manager of the CNE, which, as you know, is an iconic end-of-summer tradition, has written to say that this year it runs from August 21 to September 7, and he implores you not to bring students back to school before Labour Day because it would have a detrimental impact on the CNE and on the Ontario economy. He says that in these challenging economic times, students need the income they make from the fair and the province needs the economic stimulus that the CNE generates.

Will you use the power you have to create some uniformity and end the anxiety for families and businesses?

**Hon. Kathleen O. Wynne:** I understand the economic challenges that we are undergoing in this province. I understand also that the executive of the CNE has written to 39 boards. I've been in conversation with the Minister of Tourism. I'm very aware that people who are involved

in the tourism industry are in conversation with school boards about this issue.

The fact is, there has never been 100% uniformity across the province in terms of school starting dates. There are hunting seasons. There are local circumstances. There are boards that are next to Quebec, where the school starts earlier. There are individual community reasons for school starting dates to be staggered and to be different across the province. I am not, as the Minister of Education, going to take away the authority of school boards to make those local decisions. They need to be in conversation with their communities.

**The Speaker (Hon. Steve Peters):** Final supplementary.

**Mrs. Elizabeth Witmer:** The minister knows full well that those types of situations have not created postponement or early advancement of the school calendar.

You seem to forget, Minister, as do all of the people on your side of the House, that tourism is a \$22-billion industry in this province. It has already been battered, and you are prepared to put a further nail in its coffin. Last week, the member from Parry Sound–Muskoka shared letters with you from tourism operators in Ontario who are going to be adversely impacted. In fact, for something like Santa’s Village, which only operates during the summer, it’s going to mean one tenth of the revenue that they don’t get. It could mean, actually, that some of them will not survive.

So I ask you today, are you and your government further prepared to jeopardize jobs and the economy, or will you actually take some action to make sure that students have summer jobs—

**The Speaker (Hon. Steve Peters):** Thank you. Minister?

**Hon. Kathleen O. Wynne:** It’s extremely interesting that the member opposite didn’t change the legislation in 1998 when this exact situation pertained. The fact is, I spoke to the member for Parry Sound–Muskoka. I made the suggestion that the tourism operators needed to be in contact with the school board.

I am very aware, which is, as I say, why I have drafted a letter to directors to encourage them to consider all of the options that would allow them to begin the school year for kids after Labour Day. The reality is that school boards need to have that autonomy because every situation is different. So what I will not do is tie the hands of individual school boards, who are aware of their community situations. I would encourage the member opposite and all of the members in the House to talk to their tourism operators to make sure that they are in conversation with their school boards so the school boards will make the best decisions for their communities.

#### STUDENT SAFETY

**Mrs. Joyce Savoline:** To the Minister of Education: Minister, two weeks ago we brought families of students who have suffered from the pain and humiliation of student-on-student violence and have had abuse in the

schools; they were here to encourage dialogue with you. A young girl, herself a victim of bullying, is raising awareness and fighting the good fight virtually on her own.

These people have not had any response or direction from your ministry or your office despite repeated attempts to contact you for support. Minister, your safe schools action report is just that: It is a report. When will you finally do your job, take action, and implement mandatory reporting in your schools for the sake of those who continue to be abused?

**Hon. Kathleen O. Wynne:** First of all, I want to just express my sympathy to the family and to the student who has been involved in this incident. Obviously, it’s extremely serious when kids or adults are the victims of bullying.

It is patently untrue that there has been no contact. Ministry officials have been in touch with both the parent and the board and continue to monitor the situation. I’m not going to say any more about the specifics of that situation, but I just want to be clear that the ministry has been involved; ministry officials in the regional office have been involved. I think it’s extremely irresponsible for anyone in elected office to spread that kind of fear and misinformation. I really think it is—

*Interjections.*

**The Speaker (Hon. Steve Peters):** Stop the clock. I just remind the honourable member of a lecture that I delivered to all members last week, to try—

**Mr. Frank Klees:** The Speaker is standing—

**The Speaker (Hon. Steve Peters):** The member for Newmarket–Aurora is not helping either, with his comments.

I just remind all members that we do need to ensure that we treat one another with respect. Making comments that can cause the opposition to start to make some challenging comments back isn’t helpful for the whole Legislature.

**Hon. Kathleen O. Wynne:** Fair enough, Mr. Speaker. but the point I’m trying to make is that in a situation like this—

*Interjections.*

**The Speaker (Hon. Steve Peters):** I don’t need the help from the member for Brant.

Supplementary?

**Mrs. Joyce Savoline:** The truth of the matter is these parents have had absolutely no satisfaction from anything your ministry might or might not be doing. Your promises ring empty for these parents, Minister, and they’ve had to fight this fight on their own for several years to try to keep their kids safe in schools. You and your office have virtually abandoned them.

Our children deserve to feel safe in their schools and the police need to be alerted to serious incidents of violence and student-on-student abuse in the schools. This can no longer be kept like a dirty little secret in our schools. The police are trained to handle these situations and will ensure that students are protected and the abusers receive the help they need.



Minister, when will you take action to safeguard our students, who have been entrusted to your care, and mandate that the police and parents are contacted—

**The Speaker (Hon. Steve Peters):** Thank you, Minister?

**Hon. Kathleen O. Wynne:** As I've said many times in this House, we're going to be introducing legislation that will, in fact, close the gaps that we have uncovered as a result of the actions of the safe schools action team. That legislation will be introduced.

I have to make the point that when this government came into office, there were no anti-bullying programs in schools. The resources around diversity and equity had been removed from the schools. I started doing conflict resolution work in 1990. When this government opposite came into power, they took every resource out of the schools, and we are putting those resources back into the schools.

The member opposite has absolutely not a leg to stand on in terms of putting resources into the schools. Every school in this system has got an anti-bullying program in place. I will put our record on anti-bullying and safe schools up against the member opposite's record any day of the week.

*Interjection.*

**The Speaker (Hon. Steve Peters):** The member for Simcoe North will withdraw the comment.

**Mr. Garfield Dunlop:** I withdraw that.

**The Speaker (Hon. Steve Peters):** Thank you.

*Interjections.*

**The Speaker (Hon. Steve Peters):** The Minister of Municipal Affairs and the Minister of the Environment aren't helping the situation.

#### LONG-TERM CARE

**M<sup>me</sup> France Gélinas:** My question is to the Minister of Health and Long-Term Care. Right now, more than 100 seniors at the Elizabeth Centre long-term-care facility in Val Caron in my riding of Nickel Belt have been wheeled in to watch question period on TV. They want to hear the Minister of Health answer this question. The minister promised them 2,000 new nurses, 2,500 extra personal support workers and three extra minutes of care. The people want to know, when does the Minister of Health intend to keep his promise?

1100

**Hon. David Caplan:** In fact, we have already begun. I would quote to the people—and I say hello to the people who are watching from the long-term-care residence—Donna Rubin, the chief executive officer of the Ontario Association of Non-Profit Homes and Services for Seniors. She says, “I want to commend you and the McGuinty government for recently announcing the first round”—the first round, I would stress—“of funding allocation to support the addition of 873 personal support worker positions in Ontario's long-term-care homes.... This new funding will most certainly have a direct impact on daily care levels of residents.... We are pleased to see

that this new funding will be treated as an increase in the nursing and personal care envelope.”

In fact, we are already working to build on the progress that we have made. For example, the member mentions that we have added 2,500 more personal support workers and 2,000 more nurses, and have already raised the level of—

**The Speaker (Hon. Steve Peters):** Thank you, Minister. Supplementary.

**M<sup>me</sup> France Gélinas:** The good people at the Elizabeth Centre gave me 709 postcards, and the people of Parkdale–High Park have given my colleague 500 postcards, urging the government to make the numbers work and to follow through on the long-term-care promises made.

New Democrats support the campaign by the Ontario Long Term Care Association. We know that without adequate staffing, our seniors suffer. It is that simple. Will the Minister of Health ensure today that the government finally fulfills its promises in the upcoming budget: the promise of 9,000 nurses, 2,000 of them in long-term care; the promise of new PSWs; and the promise of increased minutes of care?

**Hon. David Caplan:** Our track record on this side of the House speaks for itself. I would contrast, for the people living at Elizabeth Centre who are watching today, the record of this member and her colleagues when they had the privilege to serve Ontarians. The NDP in fact cut 1,200 community service agencies for the elderly and disabled and replaced them with 150 multi-service agencies. It was an NDP government which hiked nursing home fees for 50,000 seniors by \$330 a month. It was the NDP who in fact in their last budget increased investment 0.1% in funding for long-term care. I would just contrast that with our last year's budget, which was 100 times that: a 10% increase in funding by this government and members on this side of the House who truly not only put their money where their mouth is but have their hearts in the right place when it comes to support for our seniors and support for the workers who are caring for them.

#### POST-SECONDARY EDUCATION

**Ms. Leeanna Pendergast:** My question is for the Minister of Training, Colleges and Universities. Simply put, when our young people have access to education, they will succeed, and we all benefit. As a former educator, I have seen first-hand the important role that education plays in developing a student's life. All too often, students get sidetracked and they lack the necessary support and encouragement to succeed. The Pathways to Education program is an excellent example of a focused effort to help more students stay in school and go on to college, university and apprenticeships. I see the success of the Pathways program in my riding of Kitchener–Conestoga in the Chandler–Mowat neighbourhood, led by Megan Conway, with over 87% enrolment. Through tutoring, mentoring and financial support,

Pathways to Education is supporting youth from economically disadvantaged neighbourhoods. How is the government supporting this invaluable program?

**Hon. John Milloy:** I'd like to thank the member for her question and for her commitment to education and to Pathways. As the Minister of Education mentioned this morning, she, myself, the member from Eglinton-Lawrence, and I know with the best wishes of the Deputy Premier, joined the Premier at Sir Sanford Fleming high school here in Toronto to attend the release of the Pathways to Education program results.

As members may know, the Pathways program was started in Regent Park in 2001 by the Regent Park Community Health Centre. The aim of the project was to reduce poverty and its effects in the neighbourhood by lowering the high school dropout rate and increasing access to post-secondary education. In 2007, in partnership with the United Way of Greater Toronto, our government invested \$19 million in the Pathways program which helped to expand the program to new neighbourhoods in Toronto, Kitchener and Ottawa. Here are the results: After only a few years, the Pathways program in these communities has succeeded in reducing the number of—

**The Speaker (Hon. Steve Peters):** Thank you. Supplementary?

**Ms. Leeanna Pendergast:** The family counselling centre in Kitchener is working hard to provide opportunities for many students in the Pathways program. Students from the south-central core of Kitchener now have access to a variety of after-school programs which are helping them to graduate and become contributing members of society. But the Pathways program is only able to reach out to so many students and there are more students out there that need assistance. If we can demonstrate to students the benefit of pursuing higher education and training, we all benefit.

Mr. Speaker, through you to the minister, what steps are being taken to ensure we are reaching out to students, not only in the Pathways program but to all students?

**Hon. John Milloy:** Just to finish the results on Pathways, through the Pathways program these communities have succeeded in reducing the number of academically at-risk youth by up to 52%. For example, eight years ago, more than half of Regent Park students dropped out of school. Today, 90% of students are staying in school. Pathways is part of the government strategy to encourage more people to pursue post-secondary education and training.

Our First Generation program is helping students become the first in their family to attend college or university or train to become an apprentice. It's through a \$27-million investment that we are supporting university, college and community-based initiatives to inform, advise and encourage more first-generation students to pursue further education. We also recently announced four new crown ward education championship teams in Toronto, London, Ottawa and Thunder Bay to help crown wards succeed and encourage—

**The Speaker (Hon. Steve Peters):** Thank you. New question.

#### HOSPITAL FUNDING

**Mr. Gerry Martiniuk:** My question is to the Minister of Health. Minister, many of my constituents in Cambridge and North Dumfries are gravely concerned and unsettled by the persistent reports that your ministry has plans to downsize Cambridge Memorial Hospital from a full-scale community hospital to an urgent care centre. Will you assure the 135,000 residents of Cambridge and North Dumfries that there is no plan in the works by your ministry to downsize this strong and vibrant community hospital?

**Hon. David Caplan:** I certainly want to thank the member for the question. I know he's advocating on behalf of his community. There are in fact no plans by the Ministry of Health and Long-Term Care to take the actions that the member described.

I can tell you that I know that the Waterloo Wellington Local Health Integration Network has been working with the hospital and will continue to do so in an effort to continue to provide the quality of care that residents would want, and achieve a balanced budget position. Cambridge Memorial Hospital and the Waterloo Wellington LHIN share the same goal: planning for the future and having a sustainable health care system for the residents of Cambridge. I support those actions and that collaborative effort. I am encouraged, and I encourage both sides to continue the local dialogue, a meaningful results-based planning approach, on behalf of the broader Cambridge community.

We're going to continue to support the LHIN and we're going to continue to support Cambridge Memorial Hospital as it moves forward to provide outstanding—

*Interjection.*

**The Speaker (Hon. Steve Peters):** The member from Durham will withdraw his comment, please.

*Interjection.*

**The Speaker (Hon. Steve Peters):** Supplementary.

**Mr. Gerry Martiniuk:** Minister, like 80% of the hospitals in this province, Cambridge Memorial Hospital is in a deficit position. As Premier McGuinty has asked the Canadian government for fair treatment for Ontarians in need of health care, I too am demanding fairness of health care funding for Cambridge and the region of Waterloo, where hospitals continue to be shortchanged.

Will you play fair by implementing immediately a population needs-based funding formula for hospitals as promised? The province has received \$900 million in extra health care dollars from the Canadian government, so this is an opportune moment to adopt the Premier's sentiment that fairness in funding is a perfect solution to meeting the health care needs of Ontario.

**Hon. David Caplan:** I want to thank the member.

The facts that he presents in this House are not correct. The provincial government has not received \$900 million in federal funding, so that's simply incorrect. But I can

tell you that this member's advocacy would have been welcomed, because upon taking office back in 1995, this member and his colleagues cut funding for Cambridge Memorial Hospital some 5.5%. I want to contrast that to the support that members on this side of the House have for Cambridge Memorial Hospital. When Cambridge Memorial CEO Julia Dumanian says, "We put ourselves under the microscope all the time so we welcome the opportunity to work with this external team on creative ways to closing the gap between"—

**The Speaker (Hon. Steve Peters):** Thank you, Minister. New question.

1110

### SOCIAL ASSISTANCE

**Mr. Michael Prue:** My question is to the Minister of Community and Social Services. Ten thousand more people in Toronto alone have been forced onto social assistance in the past year. They have rent; they have mortgages; they have loans; they have children to feed. Local economies are suffering terribly. Families are going bankrupt, small businesses are going bankrupt, and cities are going to go bankrupt, too. Why won't this government assist families, communities and cities by making the necessary investments now during these bad economic times when they're needed the most?

**Hon. Madeleine Meilleur:** First of all, let me say this: I'm very sorry. These members on this side of the House are always sorry to see when people are losing their jobs and when people have to rely on social assistance or ODSP to keep themselves fed and housed on a daily basis. We're very sad.

This government takes its responsibility very seriously, and I think that we have shown this since we came into power by giving social assistance and ODSP a 9% increase—an increase almost every year but one. We will continue to do so, and we will continue to make sure that those who need our help get help in a timely manner, when they need it.

**The Speaker (Hon. Steve Peters):** Supplementary?

**Mr. Michael Prue:** The minister says she is sorry and she is sad, but I haven't heard anything that she plans or that the government plans to do. The reality is, people are losing their jobs because the McGuinty government has failed to develop a jobs plan for this province. Thousands of Ontarians are being forced out of their homes and into shelters and food banks because the McGuinty government has failed to act. The reality is that cities will have financial shortfalls because the McGuinty government refuses to fully upload provincial programs like welfare until 2018.

My question: Will the McGuinty government end the download sooner than 2018 to provide relief that cities need now, or do families, small businesses and the poor face more suffering?

**Hon. Madeleine Meilleur:** To the Minister of Municipal Affairs.

**Hon. Jim Watson:** Let me just set the record straight. This government has been uploading from the city of Toronto and municipalities since we got into office in 2003. The very fact of the matter is that we signed an historic agreement with the city of Toronto and the Association of Municipalities of Ontario on October 31, which, in fact, does upload ODSP—Ontario disability support program—Ontario Works, court security and prisoner transportation.

In the city of Toronto, for instance, since 2003, we have uploaded costs totalling \$368 million, and in one-time funding and capital costs, \$496 million, for a total of \$865 million to the people and the city of Toronto. We're proud of that record, and we look forward to working with them as the uploads continue.

### ABORIGINAL AFFAIRS

**Mr. Yasir Naqvi:** My question is for the Minister of Aboriginal Affairs. We hear often in this House about how the government is working hard to form a new relationship with the aboriginal people in Ontario by moving forward and doing all that we can to ensure that aboriginal children and youth, Ontario's fastest-growing population, have a brighter future. We know that the hard work you are doing will lead to improved relationships and will help with the successful implementation of our policies and programs.

I know that one of the ministry's roles is to ensure that Ontario's priorities are in line with the unique needs of aboriginal people. This requires consulting with aboriginal communities and making sure that Ontario ministries work together on aboriginal policy and programs.

My question is, how is this government working with aboriginal communities to ensure that Ontario's justice system reflects the distinct culture among the First Nations, Metis and Inuit people of Ontario?

**Hon. Brad Duguid:** I thank the member for the question. The member is absolutely right. The McGuinty government has worked very hard to build a new relationship with First Nation and Metis communities across this province. We've moved from a relationship that may have been at an historic low when we took office to a relationship that is approaching an historic high when it comes to developing the mutual trust and respect that's needed in growing this very important relationship.

The government recognizes the need to respect aboriginal culture and history in everything we do, including within Ontario's justice system. We recognize that aboriginal people account for only 2% of Ontario's population but experience much higher incarceration rates. Our government's aboriginal justice strategy is making some real gains in addressing this as well as other challenges that aboriginal people face in the justice system.

**The Speaker (Hon. Steve Peters):** Supplementary?

**Mr. Yasir Naqvi:** I understand the importance attached to aboriginal community justice programs. These programs operate in aboriginal communities and

are delivered by aboriginal organizations. As we have just heard, the government clearly recognizes the importance of partnership with aboriginal communities to find culturally appropriate responses to deal with the aboriginal offenders and victims in the criminal justice system.

I understand that this government has just recently almost doubled its funding for aboriginal community justice programs. This investment supports aboriginal organizations to provide services in 23 communities across the province. I know my constituents in Ottawa Centre will be particularly interested in funding for a new aboriginal community justice program that will be delivered through the Odawa friendship centre in Ottawa.

Would the minister tell this House how that investment will help reduce crime and victimization among the First Nations, Metis and Inuit people in Ottawa?

**Hon. Brad Duguid:** I'll refer this to the Attorney General.

**Hon. Christopher Bentley:** Aboriginal community justice programs are enormously important. They are a creative and better way of having offenders with relatively minor offences held accountable but in a way that will ensure they don't repeat their criminal activity and that they're plugged back into the community in a positive way. The federal and provincial governments have doubled our funding for these programs.

Just a few months ago, we were with the member for Ottawa Centre, who is a very strong advocate for these programs and for Odawa friendship centre. We announced a \$115,000 aboriginal community justice program for that centre, a program that will ensure pre- and post-charge diversion, a program that will improve outcomes for the offenders, for the communities and for aboriginal justice generally.

#### PROVINCIAL PURCHASING POLICY

**Mr. Ted Chudleigh:** I have a question for the Minister of Energy and Infrastructure. Minister, as part of its License to Win contest, the Ontario Lottery and Gaming Corp. is giving away 22 cars at Ontario casinos in April. As a provincial agency under your guidance, you would think the OLG would be sensitive to the problems that we face in the automotive sector, but the 22 prize cars are imported Mercedes-Benzes, high-priced European cars made by foreign workers.

Minister, do you think this sends an appropriate message? Why would the government not purchase Ontario-made cars for their lottery giveaway?

**Hon. George Smitherman:** I want to say that I agree entirely with the question the honourable member has posed. It was for this very reason that this morning I had a face-to-face meeting with the president of the Ontario Lottery and Gaming Corp., Ms. Kelly MacDougald. I told her in no uncertain terms that the purchase of those vehicles represents very bad judgment on the part of that organization. I want to say to the honourable member that I would be very pleased to see the legislative committee continue to hold the Ontario Lottery and Gaming

Corp. to appropriate levels of accountability. This organization has made a bad misjudgment, particularly in the face of the economic circumstances facing Ontarians and facing autoworkers in the province of Ontario.

**The Speaker (Hon. Steve Peters):** Supplementary?

**Mr. Ted Chudleigh:** Thank you for that answer, Minister. Words come late.

You know, I'm a Conservative, but I've got to say that the CAW has done more for the automotive industry than the McGuinty government. How do the good workers in Windsor, Oshawa, Chatham, Ingersoll, Oakville, Milton—all the automotive-industry towns in Ontario—feel about this government buying fancy new cars that are made in Europe? It's simply a highlight of the lack of sensitivity that this government has toward the Ontario economy and how they communicate that through their ministries and responsibilities. You refused to acknowledge the problem of the automotive sector for five full years, and now the industry is in serious jeopardy. Minister, is it too much to ask that your government continue to appear to be concerned? Everyone is doing their part to save the auto industry. When will the McGuinty government start—

**The Speaker (Hon. Steve Peters):** Thank you, Minister?

1120

**Hon. George Smitherman:** I say again to the honourable member that the decision taken by this agency of the government was a bad decision. They entered into a contract, as is the opportunity and obligation that they have. But for the honourable member to try to bridge that issue to this ridiculous assertion that there's been no support from our government's standpoint, when he has previously stood in his place and opposed the support that we offered as we sought to make sure that we were making investments in the automotive sector in the province of Ontario that could be efficient and competitive going forward? We will continue to stand with the CAW, with the men and women who proudly build vehicles in this province of Ontario, and seek to work with them to ensure that, going forward, we have a strong presence of the automotive sector in the economy of the province of Ontario.

#### CORONER'S INQUEST

**M<sup>me</sup> France Gélinas:** Ma question est pour le ministre de la Sécurité communautaire et des Services correctionnels.

A coroner's jury is visiting the northern community of Kashechewan, where James Goodwin and Ricardo Wesley died while in police custody, resulting in the inquest. Will the minister guarantee that the coroner's jury visits not only the police detachment but the water treatment plant, the levee, the band office, the school, the health centre and community homes?

**Hon. Rick Bartolucci:** Obviously, the member should know—I'm sure she does know, but she wouldn't want to admit—that we politicians from any party don't guide the coroner in his holding of a coroner's inquest. She

knows that full well, and for her to stand here and try to ensure that, through some publicity stunt, she's going to get me to commit to do something that would be totally improper is just never, ever going to happen. She may want to do it. I won't.

**The Speaker (Hon. Steve Peters):** Supplementary?

**M<sup>me</sup> France Gélinas:** It was the Deputy Grand Chief of Nishnawbe Aski Nation, Alvin Fiddler, who said that seeing the physical condition of the other community installations is necessary during the visit to give members of the jury a view of the bigger issues at play, a call that was echoed by Aboriginal Legal Services of Toronto. In fact, this inquest is starting again after delays stemming from concerns that the jury roll has low on-reserve aboriginal representation. These jurors require the context for conducting a just inquest. Will the minister ensure that the jury roll significantly increases aboriginal representation in the interest of justice and equity for those two people?

**Hon. Rick Bartolucci:** Again, the member from Nickel Belt knows full well that neither we on this side of the House nor they on that side of the House should interfere with the coroner during an inquest. That would be inappropriate. That would be doing a disservice to the people. That would not be what she should want and what we will do. We trust in the system. She may not. We trust in the system, and I trust that the coroner will ensure that a proper inquest is held.

#### TENDER FRUIT INDUSTRY

**Mr. Kim Craitor:** My question is to the Minister of Agriculture, Food and Rural Affairs. In January 2008, my community of Niagara-on-the-Lake was dealt some extremely disappointing news. CanGro, a food processing company that produced products under the names of Del Monte and Aylmer, closed, putting over 150 workers out of work and taking a market away from tender fruit growers in my riding surrounding the area. In my early days, I worked there. I knew this plant inside out. The closure of this facility was a particularly difficult situation.

However, on February 13, I was pleased to announce an \$884,000 grant under the rural economic development program for Niagara Natural Fruit Snacks Inc., a company that has set up operations in the former CanGro plant—

**The Speaker (Hon. Steve Peters):** Thank you, Minister?

**Hon. Leona Dombrowsky:** I want to thank the honourable member and other members from the Niagara region who worked very hard to have me understand why the CanGro situation was one that we needed to pay some attention to.

My ministry has worked very closely with the company. I've heard from many people, and as a result of that and also working very closely with the Ministry of Economic Development, we have been able to partner with the new company. We have provided resources. As a result, we have supported an industry that is going to take

product from the Niagara region and they are going to produce a new fruit product, one that consumers today are very eager to have in their homes.

I say to the honourable member and to the members of this House, the rural economic development program has worked. It certainly works when you have a company that is willing to partner with us for the good of this industry.

**The Speaker (Hon. Steve Peters):** Supplementary?

**Mr. Kim Craitor:** Our economy is facing some difficult challenges, and of course my riding is no exception. The closure of the CanGro facility occurred before we really hit the global recession. Not only will this investment, in my opinion, create new jobs, but it will also provide new market opportunities for local farmers who were suddenly left without a market at the time of the announcement that the CanGro facility would be closing.

Could the minister please provide information on what actions our government has taken and will be taking in future to ensure a stable footing for the tender fruit industry in the Niagara region?

**Hon. Leona Dombrowsky:** Our government has recognized the significance and the importance of the Niagara region and particularly the tender fruit industry. That is why we have invested \$25 million to help create the Vineland Research and Innovation Centre. We think that this is going to be a model of excellence in the country. Also, in March 2006, we provided \$150,000 to Brock University to advance innovation and research in the region's unique agricultural resources. Again, this is something that the industry has said is very important to them. We've been very happy to provide those dollars.

Also, as part of our Buy Ontario strategy, we launched the \$12-million, four-year Ontario market investment fund. This is a program that encourages partnerships with industry and business in all regions of the province to promote local food products. We believe that with the input we've received from—

**The Speaker (Hon. Steve Peters):** Thank you, Minister. New question.

#### ABORIGINAL LAND DISPUTE

**Mr. Toby Barrett:** My question is for the Minister of Municipal Affairs. Back in November, you told Haldimand county you would approve its official plan if it removed two properties from its urban boundary, properties that were included by the county in its 2006 plan. One of those properties is at Argyle Street and Sixth Line. It's adjacent to Douglas Creek Estates in Caledonia. Including this land in the official plan would have been the fiscally responsible thing to do. It would be much better for the people of Caledonia, it would help create jobs, and a development like this would boost the economy.

Minister, you've stuck your nose into Haldimand county's official plan. You've removed this parcel of land because it's adjacent to Douglas Creek Estates. Which way is it? Do native land disputes fall under provincial jurisdiction or federal jurisdiction?

**Hon. Jim Watson:** As the honourable member knows, the Minister and Ministry of Municipal Affairs and Housing do have the legal and legislative authority to approve official plans. There's nothing new about that; it happened while he was a member of the governing party, so there's nothing out of the norm. We want to ensure that all official plans conform to growth plans, the provincial policy statements, and we work in concert and cooperation with the upper-tier government, in this case Haldimand county.

If the member has a specific concern, I'd be happy if he would address that either through me or specifically ask the folks at the county to bring it to our official's attention in our regional office, because we do work very cooperatively and we want to ensure that these official plans are approved as quickly as possible.

**The Speaker (Hon. Steve Peters):** Supplementary?

**Mr. Toby Barrett:** Minister, the concern is that you've gotten involved in this native land dispute. This is cold comfort for the hard-working builders. They're losing their investment through no fault of their own.

Yesterday, I learned that this property is on the verge of power of sale because the lender won't renew the mortgage. It's a 61-acre parcel of prime land. I will add that these lands were purchased well before the native land dispute.

1130

Minister, your inability to manage the native land dispute is costing these local builders, plus a Toronto commercial developer, close to \$2.6 million. If you aren't prepared to put this property back into Haldimand's official plan, please explain to the House and please explain to these people what kind of compensation you will put in place. Will you provide compensation? Or will you purchase this land, as you did the Douglas Creek Estates subdivision?

**Hon. Jim Watson:** To the Minister of Aboriginal Affairs.

**Hon. Brad Duguid:** I thank the member for the question.

I welcome the member to join us in working to try to bring members of his community and members of the Haudenosaunee Six Nations together. We've been working very hard as a province to facilitate this coming together. The parties are at the table right now discussing how we can move forward to create greater stability by working together.

No more of the divisive approach: We need to bring parties together, and we need to recognize the root cause of these challenges, and that's a 200-year-old federal land claim. I invite the member to join us in asking and urging the federal government to redouble their efforts to resolve this federal land claim, because that's the root cause of the challenges that we face.

## FIREFIGHTERS

**Mr. Paul Miller:** My question is to the Minister of Labour. It has been almost two years since your govern-

ment promised that firefighters would receive compensation for diseases that they contracted as a result of their occupation. Volunteer firefighters still have not seen the results of your promise.

Gene Morand served as a volunteer firefighter for 40 years and passed away as a result of his workplace illness. His family is still waiting for the compensation that they deserve. Why is it that volunteer firefighters who bravely serve in this province and their families do not receive the compensation that they deserve?

**Hon. Peter Fonseca:** We understand the dangerous work that firefighters do. When people are running out of buildings and a fire is happening, firefighters are going in to protect our loved ones, to ensure that property is protected, and that's why our government recognizes the hazardous life and the threatening work that that brings on.

We have taken steps to ensure that firefighters and their families are treated with dignity and respect. We continue to consult, I say to the member, with the firefighters to ensure that we are taking care of them, that their health and safety is protected. That's why we brought the presumptive legislation with firefighters to address the eight cancers and other harming agents that are out there. We want to continue to work with firefighters—

**The Speaker (Hon. Steve Peters):** Thank you. Supplementary?

**Mr. Paul Miller:** Heifer dust. Volunteer and part-time firefighters serve this province bravely in the face of many workplace hazards. Those who contract diseases as a result of that service are deserving of their compensation.

In spite of the McGuinty government's promise to compensate all firefighters, it's shocking that the family of Gene Morand continues to fight for compensation that he clearly deserves.

When is this minister going to take real action and make sure that the compensation for work-related illnesses is provided to all firefighters—full-time, part-time and volunteers?

**Hon. Peter Fonseca:** I say to the member: This government took a leadership stand when it brought forward presumptive legislation to address our firefighters. We have consulted on volunteer firefighters. With those consultations—and I continue to listen to stakeholders. They have been in my office; they have brought forward their concerns. We're considering those results right now to determine how we're going to move forward. We want to ensure that the health and safety of those firefighters is addressed, for the work they do for our communities, and that we support their families.

**The Speaker (Hon. Steve Peters):** The time for question period has ended.

There being no deferred votes, this House stands recessed until 3 p.m. this afternoon.

*The House recessed from 1135 to 1500.*

## INTRODUCTION OF VISITORS

**Mr. Shafiq Qaadri:** It's my privilege and honour to welcome some residents from Etobicoke North, the parents of our current page Nancy Kanwal. They are in the members' gallery here: Satwinder Kanwal, Kuldeep Kanwal, Gundeep Kanwal, Parduman Kanwal and Harbans Kanwal. Welcome.

**The Acting Speaker (Mr. Ted Arnott):** Welcome to the Ontario Legislature.

## MEMBERS' STATEMENTS

### CHILDREN'S MENTAL HEALTH SERVICES

**Mrs. Julia Munro:** In December, the Review of the Roots of Youth Violence called on the government to spend \$200 million per year on children's mental health. They reported that about one in five children experience a behavioural or mental health disorder requiring intervention, yet 80% receive no treatment of any kind. The lack of treatment allows the mental health condition to worsen. In some cases, the children start to do things to hurt others; in many more, they do harm to themselves.

The budget suggested by the review is the only recommendation with a specific number attached. Unfortunately, this government has failed to act on this recommendation and increase the budget. Last year's auditor's report pointed out the McGuinty government's underfunding of children's mental health. The government gave a 5% increase last year, after minimal or non-existent increases in previous years. Five per cent doesn't even cover inflation. Thousands are on waiting lists. Thousands are not getting the help they need. It is time for this government to begin to help them before their problems become worse, before it is too late.

### STEPPIN' OUT FOR THE ARTS

**Mrs. Amrit Mangat:** On Saturday, February 28, I had the opportunity to attend the Steppin' Out for the Arts annual gala hosted by Brampton's mayor, Susan Fennell.

Now in its fifth year, this event raises money to support the performing arts in Brampton. Past proceeds from the gala have provided funding for initiatives such as the purchase of large instruments for use in performances at Brampton's Rose Theatre. This year's event had almost 800 attendees and entertainment was provided by various Canadian artists.

Another highlight of the event was the presentation of the mayor's lifetime achievement award. This year, the award was given to Ronald Webb, a successful lawyer from Brampton, who has provided years of community service to help better the community. I would like to commend Mayor Susan Fennell for hosting this event to promote performing arts in Brampton, and I would also like to congratulate Mr. Webb.

With the help of funding from events like this, my constituents will get the opportunity to see high-quality

performing arts closer to their homes. I look forward to attending this important event again in the near future.

### TIBET

**Ms. Cheri DiNovo:** Last Thursday, we stood as one in the House to honour the victims of Ukrainian genocide. Today, as hundreds of Tibetans march down Queen Street, we should stand as one to prevent the same horror from happening in Tibet. Letters are going out from my office announcing the second meeting of the Ontario Parliamentary Friends of Tibet, the sister group to the Ottawa Friends of Tibet. I hope all MPPs here will attend that luncheon.

Today marks 50 years of resistance by Tibetans against Chinese occupation; 50 years of cultural genocide, of the removal of foreign press from Tibet, of the beating and imprisonment of monks and nuns, the torture and death of Tibetan women and children. This is an historic opportunity for the world. Today anyone who cares about justice, freedom, democracy and independence stands with Tibetans. Today we stand in solidarity with the people of Tibet. Today we pray with them and His Holiness the Dalai Lama: Free Tibet; Tibet for Tibetans.

### URGENT CARE

**Mr. Khalil Ramal:** The London members of this House are proud that their city is always leading the pack in innovative health programs and technology that sets the standard for Ontario to follow. St. Joseph's Health Care officially opened its urgent-care centre on Saturday. Minister Bentley, Minister Matthews and I were there to participate in the grand opening of this vital project. It's designed to handle patients who urgently need care but are not in life-threatening situations.

This idea was launched in 2005, when a trial urgent-care centre was established and 44,000 patients used the facility in the first year alone. Since then, demand has grown and the St. Joseph's Health Care Foundation answered with building an appropriate centre to help patients in a speedy and careful manner. Our constituents demanded a centre that serves them efficiently and they received it. They wanted a system where the current emergency room is reserved for people who need immediate care and a different unit focuses on lesser emergencies.

The people of London would like to thank St. Joseph's Health Care Foundation, who helped transform the centre with their generous donation of \$400,000 to support this urgent-care centre, and especially the president of this foundation, Michelle Campbell. Good luck. I wish them luck and success in the future.

### TIBET

**Mr. Randy Hillier:** In the past, I have spoken for those who cannot be heard. I rise again as a voice for those who are silenced half a world away.

Today I proudly stood with those who strive for justice, democracy and freedom. Fifty years ago, Communist China used deadly force to crush Tibetan freedoms. The Dalai Lama has stated that the Communist Party of China has transformed Tibet into “a hell on earth.”

The Chinese authorities regard Tibetans as “criminals deserving to be put to death.” This brutal crackdown on the Tibetan people denies rights that we take for granted here: rights to self-determination, freedom of speech, freedom of assembly, movement, expression and travel. Since 1987, at least 41 Tibetans have died as a result of torture in Chinese prisons. Human rights groups have confirmed over 700 political prisoners inside Tibet, many of them detained without charge or without trial.

As free people, we must encourage the free world to act. I ask all of you to join with me and lend your voice to those who are oppressed a world away: join the Parliamentary Friends of Tibet and free Tibet.

#### ANIMAL PROTECTION

**Mr. David Zimmer:** I’m proud to rise today in recognition and support of the Provincial Animal Welfare Act, which took effect last week. This is a subject that has been particularly close to my heart for many years, and I’m very proud of our government’s achievements in this area.

The Provincial Animal Welfare Act has the strongest animal protection laws in Canada, and it marks the beginning of a new era in animal protection in Ontario. In addition to the basic standards of care outlined in the act, the legislation also contains standards that apply to captive wildlife animals, including special standards for captive primates—in other words, the roadside zoo issue. It also requires veterinarians to report suspected abuse and neglect and protects them from personal liability for doing so. Furthermore, it creates a specific offence for causing harm to a law enforcement animal such as a police horse or a police dog.

**1510**

I’d like to congratulate Minister Bartolucci and the entire staff of his ministry on the passage of this bill. It’s been a pleasure working with them. I would also like to recognize a number of organizations that played a large role in ensuring the protection of animals in Ontario and who have been a stalwart partner in this animal welfare legislation, particularly the Ontario Society for the Prevention of Cruelty to Animals, the College of Veterinarians of Ontario, the World Society for the Protection of Animals, and the Ontario Veterinary Medical Association.

Our penalties are the toughest in the country. I hope other provinces and jurisdictions follow Ontario’s lead.

#### SCHOOL CALENDAR

**Mr. Norm Miller:** I rise today to speak on behalf of families, working students and tourism operators who are

frustrated by proposed changes to the 2009-10 school calendar. I’m asking the Minister of Education to use her powers to make sure that school boards across the province go back to school after Labour Day. There are a number of ways she can do this: by not approving school calendars that start before Labour Day, by moving professional activity days to the first week of September so school can start after Labour Day, or by reducing the number of in-school instruction days to 190 for the 2009-10 year. All of these can be done with the stroke of a pen.

Isn’t it interesting that the creation of Family Day actually made the situation worse? I received an e-mail from a former board chair from my riding, and she writes: “Since Family Day was introduced and made mandatory, the school calendar has been affected since it is difficult to find the right number of days.... Isn’t it ironic that Family Day was to allow families extra time together but now it has made it difficult for families to complete their vacation?”

The minister continues to merely sit back and let the school boards and communities work it out. In Parry Sound–Muskoka, the Trillium Lakelands District School Board has heard from the community that the proposed changes will be damaging to businesses and families; however, they are still proposing that the school year start before Labour Day.

In these challenging times, it is now time for the minister to step in and act.

#### ABRAHAM D. SHADD AND BRYAN PRINCE

**Mr. Pat Hoy:** I rise today to pay tribute to Abraham D. Shadd and Bryan Prince, two extraordinary black Canadians.

Recently, I took part in the unveiling of the Abraham D. Shadd Canada Post stamp at the Buxton National Historic Site and Museum. The stamp celebrates the accomplishments of this hero and immortalizes Shadd’s legacy in history. He fought for equal rights for blacks both here in Canada and in the United States. Shadd was the first black man elected to political office in Canada when he became councillor for Raleigh township in 1859. This prestigious tribute is a testament to the unprecedented contributions he made to the Underground Railroad effort and his tireless work to abolish slavery. We thank him for the part he played for freedom, equality and justice.

Last month, Bryan Prince, a historian and award-winning author from Buxton, launched his latest book, *A Shadow on the Household*. This is an extraordinary story of one couple’s boundless determination to free themselves and their children from slavery and to make a new life in Canada. The first printing of this book is already sold out, and a second printing is on its way for distribution in the United States. The *Globe and Mail* called it “a superb piece of scholarship.” This historical work enriches our knowledge and understanding of the past and reminds us of the great value that lies in the preserving and telling of stories.



Please join me in recognizing Abraham D. Shadd and Bryan Prince for their outstanding contributions to building a tolerant, compassionate and diverse province for our children and generations to come.

#### MARC DIAB

**Mr. Charles Sousa:** I rise today in honour of our Canadian soldiers in Afghanistan and to reflect on the brave men and women who have lost their lives in pursuit of peace and stability. I would like to pay special tribute to the 112th soldier who died with valour only weeks before his return home to Mississauga.

Our community was greatly saddened to learn that 22-year-old trooper Marc Diab was killed on March 7 by a roadside improvised explosive device which also wounded four of his comrades. Marc served with the Royal Canadian Dragoons and was participating in security operations in Shah Wali Kot, northeast of Kandahar city.

His family and friends all remember him for being a cheerful and uplifting man who always made people around him happy. He was an active member of Our Lady of Lebanon Maronite Catholic Church, where he worked with young people.

Marc always dreamed of being a soldier, and his mother remembers that it was his great wish since childhood to serve our country. Marc's death is not in vain. He was doing his part to build and help rebuild a torn nation, a work that he loved immensely. Marc Diab will be dearly missed.

On behalf of this House and the people of Mississauga, I offer our sincere condolences to his loving family. Marc will be remembered as a true hero.

At this time, I ask the House to observe a moment of silence to honour Trooper Diab and our fallen soldiers. Thank you.

**The Acting Speaker (Mr. Ted Arnott):** I would ask all members to rise and observe a moment of silence in remembrance of our Canadian forces.

*The House observed a moment's silence.*

**The Acting Speaker (Mr. Ted Arnott):** Thank you very much.

### INTRODUCTION OF BILLS

#### HEALTHY DECISIONS FOR HEALTHY EATING ACT, 2009

#### LOI DE 2009 FAVORISANT DES CHOIX SAINS POUR UNE ALIMENTATION SAINTE

M<sup>me</sup> Gélinas moved first reading of the following bill:

Bill 156, An Act to amend various acts respecting nutritional information and trans fat content of foods and drinks provided by food service premises / Projet de loi

156, Loi modifiant diverses lois qui traitent de l'information nutritionnelle et de la teneur en gras trans des aliments et boissons fournis par les lieux de restauration.

**The Acting Speaker (Mr. Ted Arnott):** Is it the pleasure of the House that the motion carry? Carried.

*First reading agreed to.*

**The Acting Speaker (Mr. Ted Arnott):** The member for Nickel Belt has a moment to explain her bill.

M<sup>me</sup> France Gélinas: Basically, the bill amends the Health Protection and Promotion Act to require food service premises with total gross annual revenues of greater than \$5 million to disclose certain nutritional information for the foods and drinks served at the premises. The bill also limits the amount of trans fats that may be contained in such foods and drinks.

Les personnes qui ne respectent pas les exigences imposées peuvent se voir imposer des amendes, et leur permis commercial peut être suspendu ou révoqué.

### PETITIONS

#### PROPERTY TAXATION

**Ms. Cheri DiNovo:** "To the Legislative Assembly of Ontario:

"Whereas Ontarians are angry over the volatility of the MPAC tax assessment system, the near impossibility to predict one's assessment or to understand how it is arrived at, the patent unfairness of assessments and that the current system leaves many homeowners worried they may be forced to sell their homes; and

"Whereas changes are needed that will make Ontario's property tax system stable, understandable, fair, and sensitive to homeowners; and

"Whereas property assessments in Parkdale-High Park have risen between 28% and 45% between 2005 and 2008;

"Therefore we, the undersigned, petition the Legislative Assembly of Ontario as follows: Support the 'freeze till sale' plan to bring fairness to Ontario's property tax system so that new assessments happen only at the time of sale and when a building permit is obtained for renovations totalling more than \$40,000."

I absolutely agree with this and affix my signature and give it to Tariq to deliver.

1520

#### INTERPROVINCIAL BRIDGE

**Mr. Yasir Naqvi:** "To the Legislative Assembly of Ontario:

"Whereas:

"(1) ROCHE-NCE, a consulting firm hired to study potential sites for an interprovincial crossing between Ottawa and Gatineau, is recommending that an interprovincial bridge across the Ottawa River be built at

Kettle Island, connecting to the scenic Aviation Parkway in Ottawa, turning it into a four-lane commuter and truck route passing through downtown residential communities;

“(2) Along the proposed route are homes, seniors’ apartments, schools, parks, the Montfort Long Term Care Facility and the Montfort Hospital, all of which would be severely impacted by noise, vibration and disease-causing air pollution;

“(3) A truck and commuter route through neighbourhoods is a safety issue because of the increased risk to pedestrians and cyclists and the transport of hazardous materials; and

“(4) There are other, more suitable corridors further east, outside of the downtown core, which would have minimal impact on Ottawa residents;

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

“To reject the recommendation of a bridge at Kettle Island and to select a more suitable corridor to proceed to phase two of the interprovincial crossings environmental assessment study.”

I agree with this petition, sign it and send it to the table by page Nancy.

#### HOSPITAL FUNDING

**Mr. Norm Miller:** I have a petition from the constituents concerned about the future of Burk’s Falls and District Health Centre. It reads:

“To the Legislative Assembly of Ontario:

“Whereas the Burk’s Falls and District Health Centre provides vital health services for residents of Burk’s Falls and the Almaguin Highlands of all ages, as well as seasonal residents and tourists; and

“Whereas the health centre helps to reduce demand on the Huntsville hospital emergency room; and

“Whereas the operating budget for Muskoka Algonquin Healthcare is insufficient to meet the growing demand for service in the communities of Muskoka–East Parry Sound; and

“Whereas budget pressures could jeopardize continued operation of the Burk’s Falls health centre;

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

“That the McGuinty government and Minister of Health provide adequate increases in the operating budget of Muskoka Algonquin Healthcare to maintain current health services, including those provided by the Burk’s Falls health centre.”

I support this petition.

#### LUPUS

**Mr. Kim Craitor:** I’m pleased to introduce this petition to the House. I want to thank the Lupus Foundation of Ontario, located in Ridgeway, for providing me with the petition.

“To the Legislative Assembly of Ontario:

“Whereas systemic lupus erythematosus is under-recognized as a global health problem by the public, health professionals and governments, driving the need for greater awareness; and

“Whereas medical research on lupus and efforts to develop safer and more effective therapies for the disease are underfunded in comparison with diseases of comparable magnitude and severity; and

“Whereas no new safe and effective drugs for lupus have been introduced in more than 40 years. Current drugs for lupus are very toxic and can cause other life-threatening health problems that can be worse than the primary disease;

“We, the undersigned, hereby petition the Legislative Assembly of Ontario to assist financially with media campaigns to bring about knowledge of systemic lupus erythematosus and the signs and symptoms of this disease to all citizens of Ontario.

“We further petition the Legislative Assembly of Ontario to provide funding for research currently being undertaken in lupus clinics throughout Ontario.”

I’m pleased to sign this petition in support of it.

#### HEALTH CARE

**Mr. Robert Bailey:** This petition is to the Legislative Assembly of Ontario.

“Whereas the Ministry of Health and Long-Term Care should recognize the importance of rural health care in Ontario; and

“Whereas the Erie St. Clair Local Health Integration Network commissioned a report by the Hay Group that recommends downgrading the emergency room at the Charlotte Eleanor Englehart (CEE) Hospital in Petrolia to an urgent-care ward; and

“Whereas, if accepted, that recommendation would increase the demand on emergency room services in Sarnia; and

“Whereas, as of today, many patients are already redirected from Sarnia to the Petrolia emergency room for medical care; and

“Whereas the Petrolia medical community has stated that the loss of this emergency room will result in the loss of many of our local doctors; and

“Whereas the Petrolia medical community has stated that the loss of this emergency room will result in the loss of many of our local doctors; and

“Whereas Petrolia’s retirement and nursing home communities are dependent on easy access to the CEE hospital;

“Therefore we, the undersigned, petition the Legislative Assembly of Ontario to urge the Erie St. Clair Local Health Integration Network to completely reject the report of the Hay Group and leave the emergency room designation at Charlotte Eleanor Englehart Hospital” as is.

I agree with this petition and I will affix my signature and send it with Patrick.

## HIGHWAY 17/174

**Mr. Jean-Marc Lalonde:** I have a petition to the Legislative Assembly of Ontario.

“Whereas Highway 17/174 needs to be expanded to four lanes from Trim Road to Prescott-Russell Regional Road 8 in order to enhance road safety; and...”

“Whereas this highway represents the main artery for the working population of Clarence-Rockland, Alfred and Plantagenet and Hawkesbury to access the national capital; and...”

“Whereas the city of Ottawa passed a council resolution asking that either the province or the united counties of Prescott and Russell take the lead in the environmental assessments; and

“Whereas both the federal and provincial governments have each committed \$40 million towards the widening of Highway 17/174;

“We, the undersigned, petition the Legislative Assembly of Ontario to provide the necessary funding to the united counties of Prescott and Russell to undertake the environmental assessments required for the widening of Highway 17/174 from two to four lanes between Trim Road and Prescott-Russell Regional Road 8.”

I gladly add my signature to it.

## PUBLIC TRANSIT

**Mr. Mike Colle:** I'd like to present a petition on behalf of the 9,000 men and women who work on our transit system here in Toronto and of Bob Kinnear, their president.

“Whereas too many innocent people are being victimized by acts of violence while using public transit; and

“Whereas too many public transit employees are being victimized by acts of violence while working to serve the public; and

“Whereas we need to send a strong message of zero tolerance for violence on public transit;

“Whereas anyone harming or carrying a weapon on public transit should be dealt with by the full force of the law; and

“Whereas public transit riders and workers have the right to ride and work on public transit free of violence, intimidation and harm;

“We, the undersigned, petition the Legislative Assembly of Ontario to put an end to violence on public transit” and support “Bill 151 to crack down on violence on public transit.”

I support this petition and affix my name to it.

## SALES TAX

**Mr. Pat Hoy:** I have a petition to the Legislative Assembly of Ontario.

“Whereas the auto industry in Ontario and throughout North America is experiencing a major restructuring; and

“Whereas the current economic crisis is affecting the auto manufacturers and the front-line dealerships throughout Ontario; and

“Whereas many potential automobile purchasers are having difficulty accessing credit even at current prices; and

“Whereas a three-month tax holiday of the GST and the PST on the purchase of new and used cars and trucks would stimulate auto sales;

“Therefore we, the undersigned, petition the provincial and federal governments to implement a three-month tax holiday, and that the Ontario Minister of Finance include the PST holiday in the next provincial budget.”

This is signed by a number of persons from Tilbury and Leamington, and I too will sign it.

## CHILD CUSTODY

**Mr. Jim Brownell:** I have a petition signed by a number of constituents from Stormont-Dundas-South Glengarry, and it reads as follows:

“To the Legislative Assembly of Ontario:

“We, the people of” the province of “Ontario, deserve and have the right to request an amendment to the Children’s Law Reform Act to emphasize the importance of children’s relationships with their parents and their grandparents; and

“Whereas subsection 20(2.1) requires parents and others with custody of children to refrain from unreasonably placing obstacles to personal relations between the children and their grandparents; and

“Whereas subsection 24(2) contains a list of matters that a court must consider when determining the best interests of a child. The bill amends that subsection to include a specific reference to the importance of maintaining emotional ties between children and grandparents; and

“Whereas subsection 24(2.1) requires a court that is considering custody of or access to a child to give effect to the principle that a child should have as much contact with each parent and grandparent as is consistent with the best interests of the child; and

**1530**

“Whereas subsection 24(2.2) requires a court that is considering custody of a child to take into consideration each applicant’s willingness to facilitate as much contact between the child and each parent and grandparent as is consistent with the best interests of the child;

“We, the undersigned, hereby petition the Legislative Assembly of Ontario to amend the Children’s Law Reform Act as above to emphasize the importance of children’s relationships with their parents and grandparents.”

As I agree with this petition, I shall sign it and send it to the clerks’ table.

BATHURST HEIGHTS  
ADULT LEARNING CENTRE

**Mr. Mike Colle:** I have a petition signed by thousands of students who attend the Toronto District School Board ESL program at Bathurst Heights.

“Whereas there are over 2,000 adult ESL students being served by the Bathurst Heights Adult Learning Centre, operated by the Toronto District School Board...; and

“Whereas this is the only English-as-a-second-language (ESL) learning centre” in the area and is located right on the subway; and

“Whereas newcomers in Toronto, and in the Lawrence Heights area, need the Bathurst Heights Adult Learning Centre so they can succeed in their career opportunities; and

“Whereas the proposed revitalization of Lawrence Heights threatens the existence of the centre;

“Therefore we, the undersigned,” request “that any revitalization of Lawrence Heights include a newcomer centre and ensure that the Bathurst Heights centre continues to exist in the present location.”

I support the students at Bathurst Heights and affix my name to this petition.

#### COMMITTEE SITTINGS

**Hon. Monique M. Smith:** I believe we have unanimous consent to put forward a motion without notice regarding the meeting times of the Standing Committee on the Legislative Assembly.

**The Acting Speaker (Mr. Ted Arnott):** The government House leader is seeking the unanimous consent of the House to revert to motions to allow for a motion relating to the Standing Committee on the Legislative Assembly. Agreed? Agreed.

**Hon. Monique M. Smith:** I move that, notwithstanding the order of the House of May 1, 2008, respecting meeting times for committees, the Standing Committee on the Legislative Assembly be authorized to meet in the afternoon on Wednesday, March 25, 2009, from 4 p.m. to 6 p.m., in addition to its regularly scheduled meeting time.

**The Acting Speaker (Mr. Ted Arnott):** Is it the pleasure of the House that the motion carry? Carried.

*Motion agreed to.*

#### ORDERS OF THE DAY

##### APOLOGY ACT, 2009

##### LOI DE 2009 SUR LA PRÉSENTATION D'EXCUSES

Mr. Bentley moved third reading of the following bill:  
Bill 108, An Act respecting apologies / Projet de loi 108, Loi concernant la présentation d'excuses.

**The Acting Speaker (Mr. Ted Arnott):** I return to the Attorney General to lead off the debate.

**Hon. Christopher Bentley:** At the beginning, I should indicate I'll be sharing my time with my parliamentary assistant, the MPP for Willowdale, and with the MPP for Sault Ste. Marie.

We are now in third reading, and I'm going to urge every member of the House to support this piece of legislation. This act recognizes in legislation what it is our natural human response to do, and that is, simply, that if an individual has done wrong or even thinks they have done wrong that has caused harm to others, the natural human response is to apologize. It is important for the one who might have committed the wrong. It is important as well for the one who might have been harmed. It facilitates and improves the healing process. Unfortunately, the law, for all its strengths, has got in the way of us expressing that natural human emotion.

I want to give credit where credit is due here. Some time ago, my colleague the MPP for Sault Ste. Marie, David Oraziotti, introduced a private member's bill about this very issue. That private member's legislation is the foundation for the act that we now have before the House today.

I want to also give credit to my colleague because, when he introduced the piece of legislation, he spoke with various legal organizations and with others—medical organizations—to make sure that what he was introducing would not take away from the legal rights of victims and would not harm prosecutions, whether criminal or provincial offence.

We were greatly assisted by and greatly guided by the work that the MPP for Sault Ste. Marie did in introducing his legislation. This is a piece of legislation that recognizes and supports the natural human emotion. It does not, as I say, and it will not, harm criminal prosecutions, Provincial Offences Act prosecutions. It will not harm ongoing rights to recovery on the part of victims.

We're not the first jurisdiction to do this. In fact, a number of jurisdictions in Canada have done it, and for decades, many in the United States have taken the lead on this issue and have introduced similar legislation. It is simply a recognition, as I say, that we support people doing the right thing to do.

Will it facilitate healing? Absolutely. Will it facilitate a shorter litigation process? I suspect so. Will it facilitate earlier and better settlements in some cases? I suspect so. How can anybody argue against that? It protects rights; supports the natural human emotion.

I know that a number of members of the House have already had the opportunity to speak in a positive way about this. I look forward to a continuation of the debate, and I look forward, as I say, to the support of all members of the House, with thanks to my colleague, my parliamentary assistant, for his hard work on this piece of legislation.

Thanks again to the MPP for Sault Ste. Marie for taking this issue, researching it and introducing legislation which is the foundation of what we have here before the House.

**The Acting Speaker (Mr. Ted Arnott):** The member for Sault Ste. Marie.

**Mr. David Oraziotti:** It's a pleasure to speak to third reading of the Apology Act this afternoon. I certainly want to thank Attorney General Bentley for introducing

this bill and for leading the way on this legislation through the committee process. As well, I want to thank the member from Willowdale, David Zimmer, for all of his support, as well as members in this House who have spoken very positively on this particular piece of legislation. I think, regardless of what side of the House you are on, any time you introduce a bill that passes as a private member's bill or is adopted by the government and passes, that's the spirit of democracy in this place working well. Ontarians can know and take heart that this is an effective Legislature in that regard. So I want to, first of all, thank members of the House for their very positive comments on what is an important piece of legislation.

The origin of this legislation—and I will recall this briefly. Several years ago, I had a conversation with a senior executive at our local hospital. We expressed similar concerns about the challenges in the health care sector around issues that arise where there may be a medical error or something goes wrong in the health care sector. I certainly have had the experience of having individuals come to my constituency office who have indicated to me that they would like more information about their particular health care issue and weren't able to get it for various reasons, and I think we all in the House know what some of those reasons are.

In discussing this particular issue, I thought it would be appropriate, and after doing some research, found that it was appropriate, to introduce a bill that would hopefully resolve this issue. What I found out was that in British Columbia in 2006, in Saskatchewan in 2007 and Manitoba in 2007, bills that were very similar to the bill that we're hoping to pass in this Legislature and that is going through third reading right now around apology legislation were adopted by these provinces.

The Attorney General is quite right. In the United States, nine US states have comprehensive apology legislation that deals with a sector broader than health care. There are also 26 other US states that have some form of apology legislation specifically in the health care sector.

After having discussions with a number of individuals in the field, and I will just briefly talk about those, it was very, very apparent that these individuals supported this type of legislation and wanted to see it passed, as it has passed in other jurisdictions in Canada and the United States.

**1540**

One of the most important reasons we are doing this is because patients and Ontarians in the health care sector are saying that they want more information and they deserve the right to know their current status, their medical condition, and what may have gone wrong with the treatment they may have received. On the other side of that, the medical community—physicians, nurses and other health care professionals—have very strongly advocated for this legislation as well. They also support this. They don't want to be hiding this information or not being forthright with the people they are trying to take care of. But we all know that the overarching restriction

here in place in Ontario presently is the insurance mechanisms around doing what is right. So if a doctor or a nurse were to acknowledge an error while they were taking care of an individual, their insurance company would not provide coverage for them. This could very well mean the loss of their job and a loss of their livelihood. That's something that obviously many people are not prepared to put ahead of doing what probably should be done and what they acknowledge should be done. So there is a legal barrier right now that exists in the province of Ontario that we want to lift to ensure that both patients and residents in Ontario, as well as those who are health care providers in the province, are able to acknowledge.

Phil Hassen, a former Ontario Deputy Minister of Health and Long-Term Care, is now the president and CEO of the Canadian Patient Safety Institute. Phil Hassen works in Edmonton—that's where this organization is based—and he came here to Toronto to support this particular piece of legislation and made some very poignant comments around the importance of this legislation. On behalf of patients and residents across Canada, he is saying that this is the right thing to do and this is the right step to take.

Dr. Janice Willett, the former president of the Ontario Medical Association, who works in the riding that I represent, in Sault Ste. Marie, was here as well to say on behalf of the Ontario Medical Association that their organization supports it. Subsequently, Ken Arnold, who is the current president of the OMA, has indicated his support for this. Doris Grinspun of the Registered Nurses' Association, Tom Closson of the hospital association—the list is fairly lengthy. As well, I should point out that the Ontario Bar Association and the legal community are very interested in seeing an appropriate resolution to situations where apologies need to be given or there is a desire to give an apology that won't have an impact on a civil proceeding. So the list of those people who are supporting this type of legislation in the province is lengthy, and they made some very reflective comments based on the organizations that they represent. I'm certainly very appreciative of those comments.

I think it's also important to point out what the legislation is not going to do. It is not in any way going to compromise an individual's right to seek a remedy in the court system that they would otherwise be entitled to. I think that's very important. If somebody feels that they have been wronged by a certain organization or an individual, they certainly have the right to pursue that remedy in the court system today, and would, if this legislation is passed, also have the right to pursue that particular remedy. So it is not taking away anyone's rights.

The research, I think, is very clear on the benefits of this type of legislation, and this is really the secondary reason in terms of why we're doing this. The primary reason in my mind is because this is the right thing to do for the people of Ontario, because they are advocating for it—both the health care professionals, the residents, and

those people who would be in contact with our health care system. But there's also another side to this which demonstrates that this is a huge savings financially to the people of Ontario.

There has been much more experience with this type of legislation in the United States simply because it has been in place longer, and I would suspect that over a number of years in this country, as well we will have a similar experience in terms of those particular savings in this country as well.

I'll give you a couple of examples, and I won't belabour the point. The Missouri Medical Law Report in 2005 indicated that malpractice lawsuits and notices of intent to sue had fallen from 262 in 2001 to about 130 a year, and their legal fees had dropped from \$3 million to about \$1 million. It's also indicating that people are getting an acknowledgement for something that they want.

People in the legal community will tell you that their client might bring an application for a proceeding that, if they had an apology, they might not otherwise bring. In other words, they're taking the legal action based on principle, or to make a point, because they know that they're right. But the reality is that in many cases, they would prefer an acknowledgement and somebody recognizing what has been done to them. They also want that information, because in many cases it's important that they have that information so they can take the next appropriate step in their health care or treatment.

The American Bar Association indicated that, on this point, about 30% of plaintiffs would not have taken legal action had there been an apology. The internal medicine digest, 1996, indicated that 17% of patients would sue if a physician informed the patient of an error, and 29% indicated that if they weren't informed, they would take legal action later if they found out about the error. So the research, I think, is also very clear.

Again, the point is that this is the right step to take, because Ontarians will benefit from this. The health care community—although this is a comprehensive piece of legislation, not simply a focused apology bill on the health care sector; it is comprehensive in that regard. It will have implications for other areas, but the largest area of impact obviously is in the health care sector and, by extension, our court system. It will reduce costs to all Ontarians. Patient groups want this, health care advocates want this and the legal community supports this.

Again, I want to encourage all members to support Bill 108. I want to thank the committee for the recommendations they have brought back for third reading and thank the Attorney General again for introducing the legislation.

I know that the parliamentary assistant here, the member from Willowdale, has some remarks that he'd like to make, so I'm going to turn the time over to Mr. Zimmer.

**The Acting Speaker (Mr. Ted Arnott):** The member for Willowdale.

**Mr. David Zimmer:** I am pleased to rise in support of Bill 108, the Apology Act, 2009.

The legislation, if passed, is going to finally allow people in Ontario to apologize for a mistake or wrongdoing without fear that the apology could be used in lawsuits against them.

There are a number of lawyers here in this chamber, and I know first-hand from my conversations with them that they often find themselves having to advise clients not to apologize when they find themselves in a situation of error or wrongdoing.

Offering an apology may be the first instinctual reaction that a person has when they think they might have wronged someone, but unfortunately, under our current legal system, that natural act, that natural instinct to say you're sorry, to apologize, has been curtailed because of very technical legal repercussions. For instance, professional organizations and associations—that is, insurance companies and insurance adjusters—in addition to lawyers, often require their clients not to apologize and not to acknowledge errors that may have been made. If they don't do that, often there's a denial of coverage. That's a severe consequence.

This legislation is not meant to underline liability in civil legal proceedings under the provincial law; far from it. What it is meant to do is to allow the expression of common decency, the common decency of offering an apology.

An apology can go a long way in resolving the hard feelings between a person who has committed an error—an error in judgment, a mistake—and the person who has suffered because of that mistake or error in judgment.

As I said earlier in the House, when I spoke to this legislation at second reading, this proposed bill would change the law to allow people to freely, instinctually, emotionally apologize, to recognize the pain and the suffering that their mistake or error has caused. But it will not stand in the way of a victim's ability to seek compensation for any harm that's been done. What it does is simply allow individuals and organizations such as hospitals to apologize for an accident, for a wrongdoing, without that apology being used as evidence of liability in a civil proceeding under our current provincial laws.

#### 1550

It's the right thing to do. It's the right thing to set a context where people can offer a sincere, instinctual apology or an expression of regret without the fear of the consequences of making that expression. This will help victims by acknowledging that harm has been done to them. It will help them in the healing process. It will help the person who's committed the error, the error in judgment or the mistake in coming to grips with the harm that they've caused.

Ours is not the first jurisdiction to introduce apology legislation. If passed, this bill will make Ontario the fifth jurisdiction in Canada to pass this type of legislation. The experience in those jurisdictions that have implemented this type of legislation has been positive from everybody's point of view, from the person who's committed the mistake or the error of judgment, to the person who suffered the harm, to the institutions that have to deal

with the fallout and the consequences of that harm. There is plenty of evidence to support moving forward with this apology legislation.

I want to recognize, as the Attorney General did, the member from Sault Ste. Marie, David Oraziotti, who introduced this private member's bill into the Legislature. I want to take a moment to commend, to recognize, Mr. Oraziotti for the tremendous work and drive he put behind pushing this legislation through. His private member's bill has formed the basis of the legislation that we're dealing with today that was introduced in Bill 108.

Secondly, when our government introduced the Apology Act, we listened to members of the Legislature, we listened to members of the public, we listened to institutions, to insurance companies, to law societies, and we listened throughout the committee hearings that we held with respect to this bill. Bill 108 would allow people to make an apology without taking away any other rights that they may have. I say to my colleagues in this Legislature that when you read the copy of this very short bill, you can very quickly and easily note the definition of "apology" and you can easily figure out the intent of the legislation.

The definition of "apology," as set out in the legislation, is stated as: "'apology' means an expression of sympathy or regret, a statement that a person is sorry or any other words or actions indicating contrition or commiseration, whether or not the words or actions admit fault or liability or imply an admission of fault or liability in connection with the matter to which the words or actions relate." That's the definition. The legislation then goes on to say, "An apology made by or on behalf of a person in connection with any matter ... shall not be taken into account in any determination of fault or liability in connection with that matter."

The Apology Act simply removes the legal barrier to apologies for harm done and harm suffered. I urge all members to support this legislation.

**The Acting Speaker (Mr. Ted Arnott):** Questions and comments?

**Mr. Randy Hillier:** I want to thank the minister and the members from Willowdale and Sault Ste. Marie.

I now have a better understanding of this Apology Act from the Liberal government. We now know that we can apologize without having liability. I guess what's interesting, I find here, is that I expect to hear many apologies from the other side as soon as this bill is passed and proclaimed into law. They'll be able to apologize for our have-not status. They'll be able to apologize for our loss of manufacturing jobs. They'll be able to apologize for their appalling behaviour as a government. We really look forward, on this side of the House, to seeing this bill proclaimed into law and the long queue or lineup of Liberals at the apology desk.

We must congratulate the Liberal government for bringing out this Apology Act, and we all look forward to the long list of apologies that we'll be hearing.

**The Acting Speaker (Mr. Ted Arnott):** Questions and comments?

**Mr. Paul Miller:** I guess our interpretation of this is a little different than everyone else's. This prevents the apologies of individuals or companies from being used as admission of fault or liability in a civil or administrative proceeding or arbitration. It protects insurance or indemnity coverage from being void or impaired on account of the apology. Unlike other apology bills passed in the United States, this bill provides protection for apologies that express both regret and liability. Yes, in spite of the psychological and emotional benefits to the victims, some argue there is greater harm done to the victims by reducing the chances they will receive compensation when it is rightfully due.

Dugald Christie, a BC poor advocate and pro bono lawyer who set up over 60 legal clinics, argued strongly against an almost identical bill that has since been passed in BC. He argued that this type of bill would stand in the way of much-needed financial compensation to those who need it most. To give you an example of this, if someone, for instance, left an instrument in a person in an operation by mistake and that individual passed away, that individual's spouse—

*Interjection.*

**Mr. Paul Miller:** —may have a \$50,000 mortgage that no longer will be paid by that person, who was the breadwinner.

There is no such thing as malpractice in Canada, because you sign a waiver when you have an operation. That member might want to look into that.

The bottom line is, we agree with the fact that it's good to apologize and it's good for the person to maybe have some closure, but you haven't looked at this from a legal perspective. You've just pushed it through, without talking to lawyers and people who could be affected by this. We in the NDP will not be supporting this bill.

**The Acting Speaker (Mr. Ted Arnott):** Questions and comments?

**Mr. Jeff Leal:** Indeed, I thought the member from Lanark-Frontenac-Lennox and Addington might be apologizing for that early leadership speech, but one never knows what happens in this House.

But let me get to the bill here: Bill 108, the Apology Act. Certainly over the last number of months, this issue was brought to this House in a private member's bill from my colleague the member from Sault Ste. Marie. After the Attorney General reviewed the private member's bill, he thought it would be appropriate to incorporate it into a government bill.

We do know that over 30 United States states and most Australian states have enacted apology legislation to various degrees. We have the very progressive Premier from Manitoba, the Honourable Gary Doer, who had the Manitoba Legislature pass legislation in 2007. The Legislature in Saskatchewan in 2007 passed apology legislation. Back in 2006, British Columbia passed such legislation.

For many of us, apologizing for a mistake or wrongdoing is simply just the right thing to do, and under current laws, people may be reluctant to apologize out of

fear that their words will be used against them in future civil proceedings.

I had the opportunity to be the Chair of the Standing Committee on Justice Policy when this bill was amended, about a week or so ago, and to hear thoughts on this bill from both the member from Welland and the member from Oshawa. They provided some very interesting commentary on this bill from their experience here in the House, but, by and large, I think the amended bill is a progressive piece of legislation that we want to move forward.

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**The Acting Speaker (Mr. Ted Arnott):** Questions and comments?

One of the government members has two minutes to reply.

**Mr. David Oraziotti:** I'm pleased to provide additional comments on Bill 108. I think it's very clear here—and I'm looking forward to seeing the vote on this particular piece of legislation. It will certainly tell members of the public where people stand on this particular issue. This is an issue that is supported by the patient safety organizations in this country, by individuals who are fighting for patient rights for individuals who have been adversely affected by something in the health care field and want the acknowledgement of an apology and want the disclosure of information that can help them further their treatment or indicate what their next steps need to be.

In addition, nurses, doctors—health care professionals in this province—want this legislation. They have indicated clearly that they support it because they know it's the right thing to do. As health care professionals who take the oath of helping individuals in their most challenging and trying times, they want the opportunity to fully disclose all of the information to the patients and the people that they are trying to help.

The problem as it stands in Ontario today is that insurance companies will revoke insurance or indicate to the individual that they are no longer covered if this goes to court and they indicate any responsibility. Now, we know that that is not the right thing to do, but that's the legalistic insurance legislation and the steps that they have taken. So this bill allows us to lift that legal barrier and allow for some empathy, some understanding and some consideration for doing what's right, for an individual in the health care field to be able to express what they need to express.

The member from the NDP who spoke a few minutes ago is dead wrong on this issue. I am interested in seeing where people stand on this bill when it's voted on and called finally for third reading.

**The Acting Speaker (Mr. Ted Arnott):** Further debate?

**Mrs. Christine Elliott:** I am pleased to speak today with respect to Bill 108, An Act respecting apologies, on behalf of the Progressive Conservative Party.

I really find that I'm beginning the third reading debate on this bill in much the same vein as I started

second reading debate, which is that I do support this bill, but I do so somewhat reluctantly, notwithstanding the fact that we did not receive any major opposition to this bill in committee; in fact, quite the contrary. But I think it is important to note once again for the record some of my concerns with respect to this legislation and just have them be noted for the future.

This act, of course, deals with civil litigation matters and provides that an apology cannot be considered to be an admission of liability with respect to a civil action. Some of the major types of lawsuits that this legislation would contemplate would include, as the member from Sault Ste. Marie has indicated, medical malpractice litigation; it would also cover things like motor vehicle accidents where someone is seriously injured—those types of situations.

So I think it's important to note that one of the major concerns with respect to this kind of legislation is that apologies would become trivialized, that they would become some sort of a boilerplate apology, with the result that it would have no meaning; it would just be a simple matter of saying you're sorry and it gets you off the hook. This has certainly been addressed by a number of lawyers. I did refer to one particular paper in second reading debate, and I would like to refer to it again now because I think it bears repeating. That was a paper written by two lawyers, Benjamin Bathgate and Joseph C. D'Angelo, called *Better Safe Than Sorry?* These lawyers raise the possibility that this type of legislation could trivialize apologies, and said, "Another concern is that apologies can become trivialized and meaningless if the defendant knows that they will not be admissible and the mere act of apologizing could either prevent a lawsuit from being commenced or reduce the amount of potential damages for which the defendant is liable." So I would submit that this does remain a very real concern.

A second consideration, especially in the context of medical malpractice actions, is that people could be intimidated by an apology and prevented from either commencing an action or seeking the level of damages to which they are actually entitled. This has been expressed as a positive by the government in the sense that there could be a reduction in the number of lawsuits that could be commenced. As much as 30% of all litigation, it has been estimated, could be prevented if apology legislation were enacted.

It can work the other way, however. It could mean a sense that people have not been able to or have not felt that there's a climate such that they could bring a lawsuit forward and have it be seriously considered by the courts, particularly in some small communities where perhaps there might only be one physician, one specialist of a certain sort. I think that we have to be really careful how this kind of legislation is going to be used.

Having said all of that, we didn't actually hear very much in committee in a negative sense, and in fact there weren't even that many individuals or groups presenting submissions to the committee. We did not actually have hearings for the committee; we just received written



submissions. We heard from a few individuals, and then we heard from mostly lawyers and/or medical groups, including the Advocate's Society, the Ontario Bar Association, the College of Physicians and Surgeons of Ontario, the Registered Nurses' Association of Ontario, the Ontario Hospital Association, the Canadian Medical Protective Association, and the ADR Institute of Ontario, Inc., which is of course an alternative dispute or mediation organization. We didn't receive a huge amount of opposition to it.

We are prepared to support it. I would just like to just refer to a couple of the comments that were made by some of the organizations, quoting first from the submission made by the Ontario Bar Association, who indicated that they wanted to have a few small changes made but not really to the crux of the legislation. They made several what I consider to be very helpful comments. They said, by way of introduction: "Not surprisingly, a remedial statute which proposes to take hold of a basic element of human interaction has also captured our members' interest. Our members recognize that the bill will be launched into uncharted waters of judicial interpretation. Ultimately, they are comforted to some extent by the fact the legislation will render apologies inadmissible in many contexts, but the parties will be free to litigate the facts to which they refer. Nor can the Legislature regulate the sincerity of apologies. A genuine apology is a social virtue. An insincere one can aggravate conflict. It is up to the apologizer to get it right and to make it right." Certainly I would reiterate the view that the sincerity of the apology is going to be extremely important if there is to be any benefit obtained from it.

Similarly, with respect to the submission that was made by the Registered Nurses' Association of Ontario, they had some very interesting viewpoints from people in the front line of health care. Again I'd like to quote from their submission: "Registered nurses, like all health care professionals, are familiar with the silence mode into which health professionals fall when there is an error. They have been advised not to apologize because it can come back to haunt them, even when open communication with a patient is what is most needed to build the relationship between patient and provider and improve the patient's health. By protecting health care professionals who express a sincere apology, Bill 108 will be of great benefit to patients and health care providers. It is a good in itself for the individuals involved, and it is collectively beneficial for fostering a culture of candour in the health care system which will facilitate systemic improvement. It is for this reason that the RNO strongly endorses Bill 108, the Apology Act 2008, as written."

All that being said, that is why we in the Progressive Conservative Party are prepared to support this bill, in the hope that a sincere apology will bring about a healing and a reconciliation between parties in a dispute to the extent that a monetary award in itself could never do.

In this respect, I would just like to indicate that, as the member from Sault Ste. Marie indicated, there have been

similar types of legislation enacted in many other jurisdictions, including 35 states in the United States and three other provinces in Canada, including British Columbia, Saskatchewan and Manitoba, although I should note that it was declined in Yukon some months ago. So there has been a little bit of controversy with respect to this type of litigation, but generally speaking, where it has been raised, it has been passed.

#### 1610

In conclusion, I would submit that I think in our society generally there has been a movement towards more conciliation, towards more mediation and other types of dispute resolution, and we've seen several recent examples of that, particularly with the apologies that the federal government has made to Chinese Canadians and to our First Nations peoples.

We also have a movement towards collaboration in family law, for example. There are a whole group of lawyers who are engaging in collaborative family law, which is aiming at getting away from some of the really nasty kinds of disputes that we can see in family law with respect to the separation of property and with respect to custody of and access to children. So that is a very positive process, in my view, where you get the parties together in a room, you get their lawyers there, and both parties work towards a win-win solution that's not only in the best interests of each other but in the best interests of the children, which is obviously what the whole goal is: to achieve their protection and their best interests and their happiness in the long term.

So I would submit that we should consider adopting the same approach with respect to disputes in the civil litigation context, and for this reason, we are pleased to support this bill.

**The Acting Speaker (Mr. Ted Arnott):** Questions and comments?

**Mr. David Oraziatti:** It is a pleasure to respond to the comments of the member from Whitby-Oshawa, and I want to thank her for her constructive comments on this issue. Being a lawyer and having a legal background, she certainly brings insight to this issue. She has obviously done her homework and made an effort to decide, on balance, that this is the best way to go in terms of improving our court system and doing what's right for people in this province.

I think the evidence is overwhelming—and I know I only have about a minute and a half here—but again, the people of Ontario want this legislation passed. The doctors, the nurses, the people in the health care field support this particular legislation.

Frankly, I don't buy the pseudo-apology argument that we'll have all kinds of apologies that are insincere. The reality is this: This does not preclude anybody from taking legal action in a court to seek a remedy that they would otherwise be able to seek, regardless of whether or not this is passed, so that doesn't change at all in any way. They can still continue to seek that remedy. The individual will know whether the apology was given sincerely, and they can decide whether they accept that

apology. That's up to them. That's not for us to decide. We can't legislate sincerity here at Queen's Park, and people know that.

But the reality is that the patients, the doctors, the nurses, the legal community, the hospital community and the public want this piece of legislation passed because they know it has tremendous benefit, both to the citizens in this province and to the health care professionals.

The legal system will work, and we're not amending that. This has no bearing on criminal proceedings, and it still allows the ability for an individual to seek that remedy in a court.

**The Acting Speaker (Mr. Ted Arnott):** Questions and comments?

**Mr. Bill Mauro:** Let me first begin by offering my congratulations to the member from Sault Ste. Marie for bringing this legislation forward and using his private member's time in a very productive way, as it turns out, which has led here to the Attorney General introducing this legislation with the support of his parliamentary assistant, the member from Willowdale, so congratulations to them on that.

I've listened to this with some interest, and I congratulate the member from the official opposition for her comments.

I sat here with some interest as well today listening to the commentary by the third party and their commitment to opposing this legislation. I was listening as carefully as I could to try and gain some understanding as to why it was that they were going to be voting in opposition to this bill at third reading, as they have articulated here today.

The reason that's coming forward that they're apparently concerned with is that they feel that somehow, when this legislation passes, an aggrieved victim or party in any type of an incident—a medical suit, a medical incident or a traffic accident—might somehow be put at greater risk of not being in a position of gaining some sort of compensation for whatever it is that may have happened to them. But as has just been articulated, that is not at all the case.

Whether an apology is sincere or insincere has absolutely nothing to do with the ability of an aggrieved party to move forward with a lawsuit if that is their intention do that. That has been clearly articulated here, and all the patients' rights groups in the province are supporting the legislation, Bill 108, that's before us today, as well as the doctors' groups.

I guess we're looking forward to the vote at third reading to see if, perhaps, the members of the third party will come around on this particular legislation. I know that I, along with members on this side of the House, are very interested in their position on this legislation.

**The Acting Speaker (Mr. Ted Arnott):** Questions and comments?

**Mrs. Maria Van Bommel:** I, too, want to add my voice in support of this. In a past life, I was chair of a hospital board. Certainly I know, when the member talks

about the submission of the nurses, how nurses build relationships with the patients and with their families.

When things go wrong, a lot of times a lot of families don't always necessarily feel that a lawsuit is going to remedy anything or is going to bring back their loved one, but what they want is someone to recognize that something did go wrong, and they need to know that someone recognizes that something went wrong. That's part of that building of relationships that goes on between nurses and goes on with doctors and all health care professionals. It's important for them to be able to do that.

Like I said, in my own role there, we often had families who came to the board to try to see if there was a way that they could find out from someone what had happened, but everybody—as the nurses say, there's this silence that suddenly happens, and everybody feels that they're afraid to say anything because there's a potential for a lawsuit. Not everybody really wants to sue anyone, but some people still would like to have some recognition. I think an apology is a way for these families to feel that someone recognizes that something did go wrong.

Without this mechanism, the culture of silence is going to continue, because there will be that concern that there's a potential of a lawsuit and there's an admission of guilt. So in order to allow these families the right to feel that at least something has been recognized on their behalf, we need to have this kind of thing go forward. It's about time. Personally, I think it's long overdue.

**The Acting Speaker (Mr. Ted Arnott):** We have time for one last question or comment.

I'll return to the member for Whitby—Oshawa, who has two minutes to respond.

**Mrs. Christine Elliott:** I would like to thank the members from Sault Ste. Marie, Thunder Bay—Atikokan and Lambton—Kent—Middlesex for their comments.

In my past life as a lawyer, I was also involved with civil litigation, so I certainly am well aware of the concerns that people have expressed when they used to come into the office to say that they wanted to have justice done. It wasn't necessarily about getting a monetary award, but they wanted to have someone recognize that some harm had been done to them and to say that they were sorry, to express regret. So I think that is a very sincere motivation, and I think that is the basis upon which we are certainly prepared to support this legislation, because if it can foster that kind of reconciliation, that is a good thing for society.

But on the other hand—and this is where my concern still comes in—I think we need to make sure that there's still a possibility for these kinds of meritorious lawsuits to come forward, that they are not dampened by this legislation, that people do feel that there is a culture in which they can bring them forward, notwithstanding an apology having been granted, because an apology isn't going to suffice in certain situations. We have to really follow this, monitor how this legislation proceeds, what the actual effect is in our courts, and whether, on balance,

this is allowing the types of lawsuits to proceed that should be proceeding and satisfying the concerns of people who don't necessarily want or aren't seeking a monetary award.

On balance, I'm in favour of it.

**1620**

There's also the issue of the cost of litigation now. It's prohibitive for many people to commence lawsuits of this nature, particularly a medical malpractice action.

So I hope that some good can come of it—if there is an apology, that that will go some way, anyway, to alleviating people's concerns.

**The Acting Speaker (Mr. Ted Arnott):** I beg to inform the House that, pursuant to standing order 98(c), changes have been made to the order of precedence on the ballot list for private members' public business such that Mr. Craitor assumes ballot item number 9 and Mr. Delaney assumes ballot item number 77, and Mr. Hardeman assumes ballot item number 3 and Mr. Barrett assumes ballot item number 30 on the list drawn on January 28, 2009.

Further debate?

**Mr. Peter Kormos:** Bogus argument after bogus argument after bogus argument, and arguments that are so ill-informed about the state of the law as it exists in this province. This is an act, this is legislation, that will exclude relevant and probative evidence from being admitted into evidence in civil litigation, pure and simple.

New Democrats from the outset agreed with the proposition that a mere apology should not, in and of itself, be accepted as evidence of liability. Here's an illustration. I see you, Speaker, lying in an intersection with both your legs broken, on the asphalt, and I come upon you and I lean over to you and say, "My God, I'm sorry." That's not evidence of liability. In fact, it shouldn't be admitted as evidence of liability, because I can be truly sympathetic to your plight even though I may have had nothing to do with it. If we express regrets, as we do in our daily social intercourse, about someone's loss of a loved one—"I'm sorry your grandma died"—of course it doesn't mean you had anything to do with grandma's death, does it? If you tell people that you're sorry that their car was stolen—"I'm sorry to hear that. I truly am sorry"—it doesn't mean you stole their car.

So it's entirely appropriate for legislation to reflect the observation that the dangers in admitting an apology—that it could be misinterpreted, a pure apology, as somehow an admission of guilt—make it logical to exclude apologies from evidence. Indeed, the biggest chunk of American jurisdictions that have enacted apology legislation have in fact understood that precise point. The majority of American jurisdictions exclude the apology from evidence as any evidence of liability. I don't quarrel with that. In fact, I suspect that most, if not all, judges here in the province of Ontario would make it clear that they did not consider evidence that somebody apologized, the defendant apologized, as evidence of anything other than that they felt sorry about the plight of a victim.

The province of Ontario, the government of this province, has been hoodwinked. It's been shanghaied by the big insurance companies, by the Canadian Medical Protective Association—that's the doctors' insurance companies—and by the Ontario Hospital Association, because they have a huge interest in making it more and more difficult for people who have been injured seriously in the health care system. They have a strong interest in making sure that those people don't collect any monetary settlement, and if they do manage to reach the point, and it's the rare one—anybody here who has any familiarity with medical malpractice actions, especially in Ontario and Canada, knows that there are very few lawyers doing it. It's a highly specialized field, and more clients are told, "Look, maybe you should just try to work out a settlement rather than litigate," because the Canadian Medical Protective Association has a hard-core, absolute policy to never settle: "Take them into court." They've got deep pockets and they will go to almost any length and use any ruse, any tactic, as would most insurance companies, to avoid being found liable.

This is driven by the insurance lobby. The insurance lobby is no friend of innocent victims. You know that. The New Democrats say it's perfectly appropriate to exclude an apology, an expression of sympathy. That's logical, that makes sense, but that's not just what this bill does. This bill does something far, far more than that, and something that is, in and of itself, very, very dangerous to justice for victims, because this bill turns black into white because the word "apology" is tossed—of course, the prospect of an apology is oh, so warm and fuzzy. Any of us who have ever been in a relationship, at least if we maintain that relationship, have apologized frequently and early. We learn to do it earlier and earlier and oftener and oftener. Apologies help to cement relationships. You're more likely to apologize to your partner, to your spouse, than you are to a stranger, quite frankly, except as a courtesy. We apologize to strangers, again, in the course of social activity. During the course of the day you bump into somebody in the elevator and you say, "I'm sorry."

Indeed, back somewhere around 1970, some of you were so young, and some of you weren't even born yet, that Ali MacGraw stared into Ryan O'Neal's eyes and said, "Love means never having to say you're sorry." The apology was the focal point of that schlocky romantic comedy that Mr. Bartolucci's girlfriend probably forced him to go see at the theatre—now his wife. "Love means never having to say you're sorry," and the apology was intertwined with this romanticism. It's become part of our culture.

This debate prompted me to reflect on the phrase, "Never apologize; never explain." It was interesting, because I think it was in a 1944 movie, *She Wore a Yellow Ribbon*, that John Wayne said, "Never apologize and never explain—it's a sign of weakness." That became a catch phrase for people of that 1940s generation. People have commented to me, "My dad used to say that all the time." Unfortunately for John Wayne, this wasn't the

first utterance of the phrase, because we heard it often. I had heard it attributed—in fact John Robert Colombo’s dictionary about Canadian phrases and Canadian quotes attributes to Nellie McClung, “Never retreat, never explain, never apologize—get the thing done and let them howl.” Again, that has some currency for social activists, I suppose, and people who are taking on battles.

But it appears that it wasn’t even quite Nellie McClung who coined that. “Never apologize, never explain” has had some history. In 1919, John Arbuthnot Fisher in a letter to the *Times of London*: “Never contradict. Never explain. Never apologize. Those are the secrets of a happy life.”

And yet even earlier, in 1916, in Edwin Milton Royle’s novel *Peace and Quiet: A Novel*, old Dr. Jowett of Oxford said, “Never apologize, never explain. Get it over with and let them howl.” There are some who will find that little bit of trivia of interest. I assure them I’ve used the best possible references to obtain the sources and dates. I hope they find that valuable the next time they sit down and play *Trivial Pursuit*, because what we’re doing here is far from trivial. This government is turning black into white, and it talks about apologies: “People will be allowed to make apologies.” People are always allowed to make apologies—always are, always have been and always will.

**1630**

An apology shouldn’t be a sign of liability or culpability; a mere apology shouldn’t be. “I’m sorry your dog died,” should not be construed in any way, shape or form as an indicator that I killed your dog, unless I’m saying that as I’m looking at the front bumper of my car with dog fur all over it. Broken dog bones on the asphalt puts it into a little bit of a different situation, but I suppose in that instance, the apology wouldn’t be the most effective evidence; the facts as they stand would speak for themselves.

This bill excludes from evidence the apology, but it also excludes from evidence clear admissions of liability, admissions of culpability—admissions of guilt, if you will. The law in Ontario is already very clear: Anything said in the course of a settlement effort after a cause of action has commenced, after a lawsuit has been commenced, after the writ has been filed and served, after the plaintiff, the victim, has initiated the action, any discussion, written or otherwise, between the parties or their lawyers in the context of a settlement exercise, is excluded from evidence. It’s called “privileged” and it’s called “without prejudice.” It has been the law for a long, long time, and its rationale is to permit people to settle lawsuits, to settle legal actions, and, to be perfectly candid, in the course of doing it—

**Mr. Paul Miller:** Discoveries.

**Mr. Peter Kormos:** —because, like Mr. Miller says, due to the course of, amongst other things, discoveries.

The law is clear: Anything said, including apologies—never mind admissions of guilt or admissions of liability—is excluded from evidence because it’s privileged communication. It cannot be introduced into court. In the

course of a settlement discussion, you could admit to pulling the trigger, to shooting the gun five times and then to dancing on the corpse, and in a civil action, that admission would not be admissible against you—not that any of you would do such a thing.

In the course of mediation, where a mediator is used to try to resolve the differences as a part of alternative dispute resolution, the law is very, very clear. First of all, not only is that a settlement exercise and privilege by virtue of the law of privilege, but it has been codified in the *Ontario Civil Practice*. It’s the law on civil actions of Ontario, rule 24.1.14: “All communications at a mediation session and the mediator’s notes and records shall be deemed to be without prejudice settlement discussions.”

The law is already clear: Any admission of liability—never mind just apology—made in a mediation is privileged. It can’t be admitted into evidence. Again, the reason for that is so that people can more readily sit down and hash out their differences.

So where would this little exclusionary rule, this sly, clever little bit of legislation, take effect? After actions are commenced, people are, as they say on *Law and Order*—you guys watch *Law and Order* on television at night? The cops always say, “The guy’s lawyered up. He’s got himself a lawyer.” It implies that he’s not going to talk to the police anymore if they’re interviewing him. But by the time a matter has gone to a civil action, people have lawyers, and their lawyers are going to tell them, “Don’t make any admissions unless I’m there and it’s in the course of a settlement conference so that it’s privileged.” It simply ain’t going to happen. But if it does happen in a settlement conference, it still is, currently, without this legislation, privileged and exempt from admissibility as evidence.

We all know that the spontaneous utterance, as close as possible to the event itself, is likely to be the more candid one, the more honest one, the one that’s less likely to be scripted and the most likely to be accurate and truthful. What this bill says is that if I come upon your broken, smashed body in that intersection after you’re attempting to cross the street in a crosswalk, and I bend over you and say, “I’m sorry that both of your legs are broken, and I’m sorry that I was drunk as a skunk and went through the red light while you were trying to cross in the crosswalk at a green light and I ran you over,” that admission is excluded from evidence. The most effective and accurate admission of guilt that you could ever find is excluded from evidence.

You could have a rabbi, a priest and an imam standing beside you, listening to that person say that, stone cold sober, each and every one of them, recording on a video-cam the drunk driver admitting his liability, saying, “I was drunk as a skunk; I went through a red light.” You could have the rabbi, the imam and the priest—oh, throw in a United Church minister, too; I know there’s a whole lot of other faiths, but we haven’t got time—standing there videotaping it, and that wouldn’t be admissible as evidence as a result of this legislation. What crazy kind

of world are we becoming, where we don't want people to be held accountable for their own conduct?

This legislation, and its support by the insurance industry, is all about people who do wrong things, bad things, protecting themselves from accountability, straight and simple. That's why New Democrats don't support this legislation: bogus, flim-flam, scam. This bill has nothing to do with encouraging apologies. It has everything to do with people avoiding accountability and responsibility for their misconduct.

You know what? If a doctor, as a result of malpractice, leaves you without mobility, paralyzed, let him or her apologize, but then let them pay for your losses. We're not talking about trivial things. We're not talking about a sore back or a sore neck for a couple of days. Litigation in medical malpractice—we're talking about some horrific injuries that as a result of negligence have been visited upon people. We're talking about people left paralyzed, people left voiceless, people left without eyesight, left without hearing. We're talking about children whose lives are forever altered. We're talking about injuries that mean that that kid will never grow up walking and standing up straight; that kid will never be able to hold his or her baby in their arms like other folks can.

I say that when someone commits a wrong that injures another person, that person, that someone who committed the wrong, should be held accountable. We shouldn't be generating or designing devices that reduce the accountability, that reduce the ability of the plaintiff to prove his or her case against them.

I hear it all the time during the course of this debate: "Oh, people can still sue." Of course they can. But you're denying them the single, most valuable piece of evidence, if it happens to be part of the case, a first-party admission of liability. It could be detailed, it could be sentences long: relevant, highly relevant, probative, highly probative evidence being denied an innocent injured victim. There are some folks in this chamber who have been fighting on behalf of innocent victims—and amongst other things, innocent victims of motor vehicle accidents—for far too long. They understand how difficult it is to launch a lawsuit, how expensive it is, and how, once again, the insurance industry and the personal injury insurer, motor vehicle insurers, have got deep pockets.

**1640**

You know what happens. First, they'll deny the no-faults. And then, after there's perhaps some process, they'll give the no-faults. And don't forget, in a motor vehicle accident you can't sue anymore for a soft tissue injury, for a neck sprain, even though that can be as painful and disabling for a week, two weeks or three weeks as anything else. You can't sue for that anymore. It doesn't pass the threshold.

You need major, serious injuries to even initiate a lawsuit. So we're talking about people who have lost some ability to earn an income and people who have lost some significant enjoyment of life.

I don't know if Ms. Elliott knows whether they use them up here—I know they use them down in the States in personal injury litigation: They use day-in-the-life films. Do they do them here?

I've seen them. They're effective, powerful things used in the incidence of let's say a quadriplegic—part of the legal team representing the quadriplegic who was mowed down by a drunk driver, to let the jury or the judge know what that's done to this innocent victim. They'll do what they call day-in-the-life films.

It will start with the person waking up, immobile from the neck down. Perhaps the bed is wet. Don't forget, there's no muscle control from the neck down. And the attendants who have to lift him or her out of bed. And maybe they'll include some photos of the healthy young woman or man who was a swimmer, or a skier, or a boxer, or a baseball player before they were mowed down by the drunk driver. And the next scene is the day in the life. And they'll show attendants using cranes to cart that person out of bed. You can't empty your bowels; there has to be a manual evacuation of your bowels if you're a quadriplegic in many instances. You can't feed yourself, can't brush your teeth. You can't comb your hair. Showering or bathing in general is an ordeal. And of course the rest of the day including eating, because, depending upon the nature of the quadriplegia, maybe you can't swallow.

These are the sorts of victims who use the courts in lawsuits in motor vehicle accidents or in medical malpractice. And these are the sorts of people to whom this legislation is denying justice. I find that reprehensible—truly, truly, truly reprehensible.

Look, I've read the scholarly articles, the sociological research on apologies, and there's some brilliant stuff written. I understand that an apology, in and of itself, can be an effective means of an injured party obtaining closure. But this bill is designed for the apology to mitigate and minimize the quantum of damages being paid to that injured victim. The apology that's contemplated here is the contrived apology during the course of let's say a settlement conference or a mediation—which is already protected by law.

Dear, smart, wonderful people from the ADR Institute of Ontario, Heather Swartz and Dr. Barbara Landau: I spoke to both of them on a little conference call on the phone. They were both eager to see this bill passed. They told me about how important the apology was to injured parties.

It's certainly very important in the course of family litigation, isn't it, Ms. Elliott? And hard to come by. But in the course of vigorous family litigation, if a lawyer can get his or her client to apologize, he can probably start things moving along. Those are two parties who know each other, they probably have children with each other, who have to maintain a relationship, who are still going to be parents of children, still going to see each other when one drops the children off at the other's place. But nonetheless, the apology in that context can't be admitted, so they don't need this legislation.

I say to my dear friends in the ADR movement, you don't need this bill to effect apologies during the course of mediation. (1) The rules of practice of the province of Ontario protect that mediation. It's privileged. It's not admissible as evidence. (2) It's done in the course of settlement; it's privileged.

Mediators and alternative dispute resolution practitioners don't need this legislation to protect apologies or even admissions of guilt; insurance companies do.

**Interjection:** They sure do.

**Mr. Peter Kormos:** Coming from the opposite side, from my Liberal Counterparts here: they do and they want it.

Let me tell you a story—

*Interjections.*

**Mr. Peter Kormos:** Let me tell you a story. Quiet down, fellas. You had your chance to do 20 minutes over there, pal; you walked away from it.

*Interjection.*

**Mr. Peter Kormos:** Oh, come on. These guys are talking nasty and mean now. There's a hostile environment here. Take it outside, guys.

Look, suing an insured driver: First they deny you your no-faults. Then you use a little bit of process and you get the no-faults. Then they cut off your no-faults and you haven't had income for six months, then nine months, a year. You've been paying a lawyer's retainer and you've been paying for the work that he or she has to do. The transcripts of discovery in and of themselves cost a fortune, don't they, Ms. Elliott? The insurance company has deep pockets, so they've got your pockets, my pockets; and the insurance company just waits.

The depression of victims when they're put through these ordeals, the pressure on them, the psychological pressure, it's very much like WSIB victims—I say WSIB "victims." In the course of having to appeal and appeal WSIB claims—Mr. Miller knows all about that, because he has represented his sisters and brothers in the Steelworkers union. People commit suicide in the course of these things, whether it's WSIB claimants or whether it's people seeking a remedy against an insurance company. You're battered down.

You see, it's not just the good guys who learn about mediation and alternative dispute resolution; the bad guys do, too. You've got yourself a muscle mediator with a bit of an insurance company bent, or who is so hell-bent on settlement because she or he wants to put another notch in their belt—encountered any of those, Ms. Elliott? They want to advertise—oh, they're not supposed to, but they want to say, "I have a 98% settlement rate. I'm a good mediator. Hire me for \$600 an hour."

I've witnessed these mediations. I know some of these mediators. I know many who are very, very ethical, but I know there are others who are so hell-bent obsessed with settlement, and these are the same ones, of course, that the insurance industry will prefer and try to pick before the others. They will create an incredibly intensive environment, an intense boiler room environment. They'll create a sense of urgency: "Come on, come on, come on. We've got to get this done by 4 o'clock today." These

mediators will try to make you feel guilty if you don't start making concessions. Of course, you start making concessions and you create some inertia, and before you know it, you've got a mediator telling you, "You know, you probably don't have much of a case at all. Maybe the best thing to do is just wrap it up today, because after all, this has been going on for far too long. That way you can get closure."

**1650**

Then, of course, the coup de grâce is the insurance company spokesman, who has been tutored and counselled, who comes in and says, "You know, Ms. Smith, we're awfully sorry this happened." Ms. Smith is so emotionally drained that she bursts into tears. The insurance company: "You know, Ms. Smith, we know our driver was at fault." Her chest is heaving in anticipation. "You know, Ms. Smith, the problem is we don't think you can prove it in court. But just to get this matter resolved, we'll settle today, right now; we'll cut a check for \$15,000 and we'll pay your legal fees." See, Ms. Smith's legal fees now are \$100,000. At this point, Ms. Smith says, "It's over." She collapses emotionally, and often-times physically. Anything for this incredible, insane—

**Mr. Paul Miller:** Torture to the end.

**Mr. Peter Kormos:** Torture—to escape from this inferno. Ms. Smith's lawyer, of course, is eager to find somebody who is prepared to pay all of her legal fees, \$100,000. Ms. Smith's lawyer, then, who realizes Ms. Smith has no more money for a retainer and can't afford the \$5,000-a-day-plus for a five-day trial anyway—she's going to end up at the courthouse door without a lawyer. How many times have you seen that happen, Mr. Zimmer? More than a few. At that point, Ms. Smith settles for \$15,000 when she has a lifelong injury that will prevent her from ever crocheting, that will prevent her from ever going bowling, that will prevent her from ever shaking her grandkids—you know, you'd hold your grandkids out at arm's length; maybe you're not supposed to do that anymore, maybe I've been politically incorrect, but you take your grandkids and you shake them and they're just happy as all get-out. But Ms. Smith is never going to be able to do that.

You see, that "sorry" is protected by the rules of practice, 24.1.14, but it's an illustration of how the apology, the mea culpa, is the coup de grâce in a mediation process by manipulative participants, by people who know mediation as well as the mediator does, and it's enhanced by mediators who are obsessed with settlement rates. They think it improves their marketability because, after all, it's a tough business to be in. There are very few successful ones, and if you're going to make a decent living at it, and the good ones do, you've got to have a settlement rate, don't you, Mr. Zimmer? That means somebody loses, and almost inevitably it's the innocent victim. So I'm sorry, my friends. This apology obsession doesn't cut it down where I come from.

Like Ed Greenspan said in that column, in the op-ed piece in the Toronto Sun, apologize all you want, but give me the money. Pay up for what I've lost. Pay for your errors. Part of the promotion of the Apology Act

regimes is that it reduces the cost of settlements. It's designed to reduce the cost of settlements. It reduces the cost of litigation. It's designed to reduce the cost of litigation and the volume of litigation. But who's the loser? The innocent victim is the loser; the insurance company is the winner. I don't know about you folks in your ridings, but however romantic the idea of a sincere Mr. Deeds Goes to Washington—who is the fellow in that perpetual Christmas movie, the black-and-white one, where every time the bell rings, an angel sings?

**Mrs. Christine Elliott:** Jimmy Stewart.

**Mr. Peter Kormos:** Jimmy Stewart in a Frank Capra movie, this sort of, "Oh, I'm sorry"—it's not real-world, friends. And I tell you, the "I did it" by the perpetrator, the most effective, powerful evidence you could obtain—for you to want to exclude that from evidence during the course of a civil hearing is downright shameful.

But the shame goes beyond that. I darn near swallowed my bubble gum in the committee hearings when the government moved an amendment to this bill. And let me tell you, section 13 of the Limitations Act says that if a—and section 13 only has to do with debt, payment of money, by and large. "If a person acknowledges liability"—oh, an apology with an acknowledgement—"in respect of a claim for payment of a liquidated sum"—an amount owing—"the act or omission on which the claim is based shall be deemed to have taken place on the day on which the acknowledgment was made."

In other words, the limitation period doesn't start running until that date. You can be two years into a limitation period, and then before this amendment, section 13 would say an admission of liability revives the limitation period. The government exempted the parties at fault from that provision, said that an apology or an admission of liability, an apology as defined in the Apology Act, will no longer be subject to section 13. That's interesting. It wants to deny that to the property claims, but it won't extend the same courtesy to the person.

In other words, it says that the apology doesn't kick off the limitation period. If it's on the day before the limitation period, you can apologize, and contrary to section 13, it doesn't kick off the limitation period. That's a very bizarre thing. It protects the special status in section 13. Now, let me make this perfectly clear, because I want to contrast it. In a commercial relationship, bank-debtor, if it weren't for the amendment, section 13 would extend the limitation period. The amendment says no, the Apology Act applies, and it precludes section 13, sets it aside.

So I asked the government spokesperson at the committee. I gave her the illustration of a woman who was a victim of a sexual assault by an unknown predator. I said, "What you mean, then, is that if a rapist apologizes to his victim the day before the limitation period runs out, that wouldn't expand the limitation period." And she had to acknowledge that that's right. Because, you see, a victim of a sexual assault can sue a rapist. So the government wants to protect the interests of banks and finance companies by saying, "Oh, no. Oh, no."

**Mr. Dave Levac:** Civil versus criminal.

**Mr. Peter Kormos:** Oh, no. Mr. Levac just said, "Civil versus criminal." This is the most ill-informed debate that I have heard. Rape can be prosecuted, sexual assault, criminally, but it could also be the subject of a lawsuit.

Witness O.J. Simpson and his victim: O.J. Simpson was acquitted of the criminal charges, but the lawsuit provided justice for the family of his wife.

I wish more sexual assault victims would sue their perpetrators and have those judgments. We've talked about that many times. We should have a simplified process whereby a conviction beyond a reasonable doubt of certain things like sexual assault constitutes prima facie evidence of liability, so that there could be a simplified process of filing that conviction in civil court.

Most of these perpetrators may not have a lot of money, but don't tell me that rape is only committed by poor people. Don't tell me that child molestation is only committed by poor people.

This legislation, by excluding the apology, even an apology with an admission, will do a disservice, will hurt, will injure, will further damage victims of sexual assault who may want to seek remedies, as I believe they should, in the civil courts. The government stands up for banks but looks down on victims of sexual assault. Not very impressive.

**1700**

The bill is going to pass, folks who are interested at all. It didn't get a single inquiry from anybody in the plaintiffs' bar about wanting to appear at the committee. As sure as God made little apples, you're going to get a phone call in your office two years from now, Mr. Zimmer, from some personal injury lawyer who says, "What? The statement recorded by the police officer at the scene of the accident wherein the defendant acknowledged liability isn't admissible?" He's going to say, "What? Because he said, 'I'm sorry'?" You're going to get that phone call.

A cop is at the scene, a drunk driver admits to the cop that he went through the red light, and he says, "I'm awfully sorry about what happened, though." That triggers this bill, doesn't it? It makes the evidence of that cop inadmissible. That's nuts. That's Alice in Wonderland. That's just so perverse. It's just so bizarre. And you're all doing this under the guise of, "Oh, it's so nice to apologize," that apologizing is such a warm and fuzzy sort of thing. You're creating a scheme whereby people who are admitting their liability can walk free without having to make any compensation for the harm that they've inflicted. The law already protects any admissions, any apologies, made in the course of settlement or mediation.

It's an entirely bogus argument to say that we need this legislation before a hospital can apologize to its victim. It's an entirely bogus argument to suggest that a drunk driver needs this legislation to facilitate apologizing to the victim. In the course of a civil action, it's either the negligent hospital or the negligent doctor or the

negligent driver who can apologize and admit guilt with impunity, knowing full well that the evidence is inadmissible against them.

This is designed to exclude one of the most valuable sources of evidence possible. Look, we know that eyewitness evidence is fallible; it most certainly is. It has been seen as gospel by so many for so long, but in fact it has been demonstrated to be one of the most fallible types of evidence.

I say to you once again, we know that an admission—and I'm not talking about an admission that's obtained after a grilling or after a beating that's coerced out of a person; I'm talking about an admission made right then and there, not just the apology. If I see you lying in an intersection all bloodied, I'm going to tell you, "I'm sorry for the plight you're in," and I'm going to call 911—not just an apology, but an admission of the fact that I'm responsible for your injuries, my friend. To exclude that doesn't cut it.

We will be voting against this. The government is accommodating us by assisting us in ensuring a recorded vote. The vote will be deferred until tomorrow after question period, and that's to accommodate the government.

Just because BC did it doesn't make it right, because the same powerful insurance lobbies co-opted other Legislatures than this province. I'm going to stand with innocent victims and with the law. I would encourage my friends, before tomorrow, to maybe read the rules of practice. Go right down to rule 24.1.14. Mr. Zimmer has a copy in his office. Have Mr. Zimmer explain to you the law of privilege. He'll tell you that admissions of liability and apologies in the course of settlement and in the course of mediation are already exempt from admissibility to evidence.

To promote apologies in lieu of compensation is to promote unaccountability by wrongdoers. You might as well stand up and start writing your letters to the new President of United States saying, "Give Conrad Black a pardon," a pardon that even George W. Bush wouldn't give, "because Conrad Black is ready to say he's sorry." That's the kind of justice that's being promoted here today. Conrad Black belongs in that jail cell for a lot longer than he's been sentenced there. The New Democrats can have nothing to do with this.

**The Acting Speaker (Mr. Ted Arnott):** Questions and comments?

**Mr. David Oraziotti:** It's a pleasure to provide some comments on the comments from the member for Welland.

I have to say I am very disappointed that the NDP will not be supporting this piece of legislation. This is something that patients and residents in Ontario are calling for, that doctors are calling for, that nurses are calling for. The member likes to say that apologies are acceptable right now and that they're already protected by law. The reality is that a doctor or a nurse is not going to put their livelihood at risk if their insurance provider says, "I'm not going to cover you if you make an apology. I'm not going to protect you." What the member is really saying is that he wants to decide whether or not they get an

apology. He wants to decide whether or not a doctor or a nurse who makes an apology makes it sincerely or not; let's just not have any apologies and continue on our way of clogging up the court system with people who want an apology.

This works in five other jurisdictions in Canada. I haven't seen anybody repeal it yet. It's been working in Massachusetts for over 20 years. It's been working in 35 US jurisdictions. We know that people in Ontario have clearly come out resoundingly in favour of this legislation, yet the member opposite decides to—and I appreciate his theatrics in his discussion and all of his examples. But it's the continued fearmongering about what can go wrong and what possibly could go wrong.

The reality is that residents in this province are calling for this, not insurance companies: Phil Hassen, the director and CEO of the patient institute; Janice Willett, a doctor who has told me that other physicians in this province want that ability; Doris Grinspun, who said that nurses want that ability to make an apology. This does not preclude in any way an individual from pursuing what they are legally entitled to in a court of law in this province. It doesn't change anything in that regard, and to suggest otherwise, that someone will not get a remedy that they're entitled to, is completely wrong.

I know my community is going to be very disappointed to know that the NDP is not supporting this legislation.

**The Acting Speaker (Mr. Ted Arnott):** Questions and comments?

You've got to be in your seat. I'm very pleased to recognize the member for Hamilton East—Stoney Creek.

**Mr. Paul Miller:** I'd just like to rise today and thank the member for Welland. I guess 20 years in this House, a trained lawyer in more than one discipline in law, would mean something. What it means is that Mr. Kormos, the member for Welland, did his homework. Mr. Kormos read his law books. Mr. Kormos brought his answers and his concerns to this House. It's easy to say that certain groups are in favour of it, but those people are not lawyers who have studied law and know what goes on in a courtroom. That member stands up and says, "This organization did this; this organization wants that." They are not trained lawyers.

So I'm saying to you, Mr. Speaker, that this member for Sault Ste. Marie brings the entire party into the discussion because that's his only defence. That side of the House continually goes back 15 years to blame a party for something that happened 20 years ago. They do that because they don't have answers. They're catering to insurance companies and they're catering to special-interest groups. The bottom line is, if you want a comprehensive bill, if you want a bill that protects the victims, if you want a bill that protects everyone—

*Interjections.*

**The Acting Speaker (Mr. Ted Arnott):** Please take your seat. I would ask the House to come to order. You've still got some time on the clock, if you wish to use it. I'm just trying to call the House to order so that I can hear what you're saying. I'll give you some addi-



tional time. I would ask the government members to please allow the member for Hamilton East–Stoney Creek to make his remarks.

**Mr. Paul Miller:** In closing, I can say that the NDP did their homework. The NDP looked at this bill inside out at committee level, unlike my bills that went to committee that they didn't even read, didn't even look at and they voted down. That's how they operate over there. It's a disgrace.

1710

**The Acting Speaker (Mr. Ted Arnott):** Questions and comments? I'll return to the member for Welland, who has two minutes to respond.

**Mr. Peter Kormos:** I opened by expressing my regret about how this was the most ill-informed discussion that's taken place here in a long time. The state of Massachusetts exempts statements of sympathy but not expressions of liability. Expressions of liability are admitted at evidence, just like in Missouri, just like in Montana, where an apology is exempted but admissions of liability are admitted as relevant and probative evidence. The statements of sympathy, in the vast majority of American jurisdictions, are the only things that are exempt from admission as evidence.

It was Wittgenstein—Mr. Zimmer knows this—who said that whereof one does not know, thereof one should remain silent. It's remarkable that the author of the private member's bill would choose to misstate and distort in the manner that I've just illustrated. You haven't done your research. You haven't done your homework. And you're in the back pocket of the insurance industry, which persecutes innocent accident victims.

*Interjections.*

**The Acting Speaker (Mr. Ted Arnott):** I do have to caution the member for Welland with respect to his language and ensure that it is within the bounds of parliamentary discussion.

**Mr. Peter Kormos:** Thank you, Speaker. This bill is all about protecting insurance company interests. The opening declaration, that it's about reducing the quantum of settlements, means that it's about saving the insurance industry money, and it's about protecting wrongdoers from full responsibility and accountability for their misconduct, their negligence and their misdeeds. New Democrats oppose that type of policy position.

**Hon. Ted McMeekin:** On a point of order, Mr. Speaker: I seek consent that today's adjournment debate take place immediately—

**Mr. Mike Colle:** Not yet.

**Hon. Ted McMeekin:** Not yet? Not yet.

**The Acting Speaker (Mr. Ted Arnott):** I gather that the Minister of Government Services is seeking the unanimous consent of the House to allow the adjournment debate to take place immediately following the conclusion of consideration of Bill 108. Is that correct?

**Hon. Ted McMeekin:** That's correct, Mr. Speaker.

**The Acting Speaker (Mr. Ted Arnott):** Is there consent to allow the adjournment debate to take place right after the conclusion of Bill 108?

**Mr. Peter Kormos:** On today's occasion, yes.

**The Acting Speaker (Mr. Ted Arnott):** Agreed.

Further debate?

Mr. Bentley has moved third reading of Bill 108, An Act respecting apologies. Is it the pleasure of the House that the motion carry?

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

All those opposed will please say "nay."

In my opinion, the ayes have it.

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

I wish to inform the House that I have received a deferral notice. The vote on Bill 108 at third reading will be deferred until tomorrow at the time of deferred votes.

*Third reading vote deferred.*

**The Acting Speaker (Mr. Ted Arnott):** Pursuant to standing order 38, the question that this House do now adjourn is deemed to have been made.

## ADJOURNMENT DEBATE

### SMALL BUSINESS

**The Acting Speaker (Mr. Ted Arnott):** The member for Parry Sound–Muskoka has given notice of dissatisfaction with the answer to a question given, I believe, last Thursday by the minister of consumer and commercial relations. The member has up to five minutes to debate the matter, and the minister may reply for up to five minutes. I recognize the member for Parry Sound–Muskoka.

**Mr. Norm Miller:** I'm pleased to have the opportunity to question the Minister of Small Business and Consumer Services again.

Last week I questioned the Minister of Small Business and Consumer Services to ask how he can support small business in this province. He continues to support legislation that imposes increased regulatory burdens on small businesses. This is an important question, so I hope the minister will have a thoughtful answer.

Small businesses are struggling in this province for two reasons. First of all, the global economic crisis, but secondly it's because the McGuinty government continues to introduce legislation that adds red tape to small business. Small business is already suffocating, and your government is making it more difficult for them to compete in this economic climate.

You claim that your government is reducing red tape, but let's look at what's really going on. Your government keeps adding legislation that threatens small business: bills like the mandatory WSIB coverage bill that's going to add \$11,000 in costs for the small construction companies; the pesticide ban, which has created all kinds of uncertainty for lawn care companies that don't know what to do with their past supplies, don't know how to plan for this year because you haven't agreed, so far, to phasing in the legislation. It also creates uncertainty for golf courses, which have to hold public meetings that don't serve any useful purpose; and your latest bill, your

Bill 139, the temporary help agencies bill. These are all different pieces of legislation that tackle different issues, but they all have something in common: They add red tape and regulations for small business—lots of it.

The new regulations are far too overwhelming for small business to bear in today's economy. They may have greater intended benefits, but introducing and supporting this legislation at a time when small businesses are hurting is making it harder and harder to survive in this province.

We all understand the impact that the global economy is having on this province, but that has nothing to do with all the new rules and new regulations your government is introducing. As the Minister of Small Business, why aren't you doing more for small business? Bring reason to the new legislation and change the culture within key ministries, like labour and finance, so that they help small business instead of looking for heavy-handed ways to shut businesses down or charge or fine them.

Let's look at your most recent piece of legislation, Bill 139, the temp help agencies bill. If ever there was a time where we needed these temporary help agencies, it's now, and your Bill 139 is creating more red tape, more bureaucracy, making it more difficult for these businesses to stay in business. It's at a time when we have a weak economy, when people need jobs, when people need the benefit of these temporary agencies. Often, people will work more than one job. They'll work for a temp agency as well as at another job. It's a great opportunity for those people to find permanent work. It's a great opportunity for the businesses in this uncertain economy, where they aren't certain of their orders, to be able to hire staff as they get more orders to provide that flexibility. But you're creating more rules, more costs.

I received an e-mail from Steve Daynes at the Staffing Connection. He says, "These additional costs have made some of our clients question the benefits of using an agency for the purpose of filling their peak demands and the recruitment of full-time employees. Why would they use an agency if it will cost them so much?" There are too many small businesses like the Staffing Connection that cannot stand to suffer any more than they already have. I want to know how the minister can support this type of legislation if he's truly committed to supporting small business in this province.

You can't control what is happening south of the border and around the world but, Minister, you can control and influence how small business is treated in this province. It is time for the minister to stand up for small business in this province.

**The Acting Speaker (Mr. Ted Arnott):** The Minister of Small Business and Consumer Services has the opportunity to respond.

**Hon. Harinder S. Takhar:** Actually, I want to thank the member from Parry Sound–Muskoka for asking this question. I said in my response last Thursday that small businesses are very important to this province: 99% of all businesses fall into the small and medium-sized business category, they generate about \$250 billion worth of activity for our province, and more than 50% of all

employment is generated by this group of SMEs. So this group is really, really important to us, and I think that's why we are taking a very balanced approach with any legislation that we bring forward.

I want to talk about some of the legislation that the member talked about. The temporary help agencies bill, Bill 139, actually is not passed yet. It has gone through two readings. It's in front of committee. I really want to encourage the member to present his views and say what needs to be changed in this legislation. He is the House leader for the PC Party and he knows that this is the place where he should be making points on what needs to be done with this legislation. I have actually checked in Hansard all the comments he has made so far and I don't see one good suggestion that he put forward that needs to be introduced.

Having said that, I want to talk about some of the things that our government actually has done to make life easier for small businesses in terms of the rules and regulations. First of all, I want to talk about the cap-and-trade regulations. This is a concept that we have introduced where if any minister wants to bring a new regulation forward that affects small businesses, he or she has to do two things: First, they have to justify why they're bringing in the rule and regulation for small businesses. The second thing they have to do is, if they do need to bring in a new regulation, which you might need to at a certain point in time, then what you need to do is bring too what you will offset in order to eliminate the rules and regulations for small businesses. I think that is a step in the right direction.

Last week, the Premier talked about the open-for-business concept and strategy. Under that, in the next two years we will be eliminating 25% of the regulations. We will also be introducing a 1-800 number which will provide businesses with a single contact for government information. Instead of calling 12 places, you have to call one number. The third thing we will be doing is, if you have a federal business number, then we will be using that for our Ministry of Revenue and Ministry of Labour.

These are the right changes that we have made. Not only that; I want to say that the Small Business Agency of Ontario, which is part of my ministry—actually, we have worked very hard in the last two years to reduce paper by 24% in seven key ministries in the first phase and 25.6% in the next eight ministries in the second phase, and we're working on the next 10 ministries.

In addition to that, we have moved ahead with harmonizing the corporate income tax, and we are now looking at harmonizing the GST and the PST in this province.

I think those are all very good measures that we have taken in order to facilitate and make it easier for small business to operate in this province. Not only this, but we also have brought in really relevant programs for small business to succeed in business. There are 57 enterprise centres and 12 advisory groups that are all keen to help small businesses whenever they need help.

The points that the member has raised are good points, but he also needs to consider what we have done for

small businesses. I think that's where sometimes, just because we are sitting on different sides in the House, you always need to criticize. But I think sometimes you need to also recognize what has been done for small businesses. We recognize that small businesses are really important and we are absolutely committed in our government to make sure that small businesses stay the backbone of this province and thrive and keep adding to the economic well-being of this province.

I want to thank the member for raising this issue. I also want to thank him for the tone in which he asked the question as well.

**The Acting Speaker (Mr. Ted Arnott):** There being no further business, I deem that the motion to adjourn to have been made and carried. This House stands adjourned until tomorrow at 9 a.m.

*The House adjourned at 1724.*

**LEGISLATIVE ASSEMBLY OF ONTARIO**  
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Brownell, Jim (LIB)	Stormont–Dundas–South Glengarry	
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DiNovo, Cheri (NDP)	Parkdale–High Park	
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Hardeman, Ernie (PC)	Oxford	Deputy Opposition House Leader / Leader parlementaire adjoint de l'opposition officielle
Hillier, Randy (PC)	Lanark–Frontenac–Lennox and Addington	
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Jaczek, Helena (LIB)	Oak Ridges–Markham	
Jeffrey, Linda (LIB)	Brampton–Springdale	
Jones, Sylvia (PC)	Dufferin–Caledon	
Klees, Frank (PC)	Newmarket–Aurora	
Kormos, Peter (NDP)	Welland	Third Party House Leader / Leader parlementaire de parti reconnu
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Marchese, Rosario (NDP)	Trinity–Spadina	
Martiniuk, Gerry (PC)	Cambridge	
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McNeely, Phil (LIB)	Ottawa–Orléans	
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Miller, Norm (PC)	Parry Sound–Muskoka	
Miller, Paul (NDP)	Hamilton East–Stoney Creek / Hamilton-Est–Stoney Creek	
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Runciman, Robert W. (PC)	Leeds–Grenville	Leader, Official Opposition / Chef de l'opposition officielle
Ruprecht, Tony (LIB)	Davenport	
Sandals, Liz (LIB)	Guelph	
Savoline, Joyce (PC)	Burlington	
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Tabuns, Peter (NDP)	Toronto–Danforth	
<b>Takhar, Hon. / L'hon. Harinder S. (LIB)</b>	Mississauga–Erindale	Minister of Small Business and Consumer Services / Ministre des Petites Entreprises et des Services aux consommateurs
Van Bommel, Maria (LIB)	Lambton–Kent–Middlesex	
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Peter Kormos, Jeff Leal  
Dave Levac, Reza Moridi  
Lou Rinaldi, John Yakabuski  
David Zimmer  
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permanent de l'Assemblée législative**

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Bob Delaney, Joe Dickson  
Kevin Daniel Flynn, Sylvia Jones  
Norm Miller, Mario Sergio  
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Norman W. Sterling, Maria Van Bommel  
David Zimmer  
Committee Clerk / Greffier: Katch Koch

**Standing Committee on Regulations and Private Bills / Comité  
permanent des règlements et des projets de loi d'intérêt privé**

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Vice-Chair / Vice-président: Paul Miller  
Bas Balkissoon, Mike Colle  
Gerry Martiniuk, Paul Miller  
Bill Murdoch, Yasir Naqvi  
Michael Prue, Tony Ruprecht  
Mario Sergio  
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**Standing Committee on Social Policy / Comité permanent de  
la politique sociale**

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Vice-Chair / Vice-président: Vic Dhillon  
Laurel C. Broten, Kim Craitor  
Vic Dhillon, Cheri DiNovo  
Helena Jaczek, Shafiq Qaadri  
Khalil Ramal, Peter Shurman  
Elizabeth Witmer  
Committee Clerk / Greffier: Katch Koch

**Select Committee on Elections / Comité spécial des élections**

Chair / Président: Greg Sorbara  
Howard Hampton, Greg Sorbara  
Norman W. Sterling, David Zimmer  
Committee Clerk / Greffier: Trevor Day

**Select Committee on Mental Health and Addictions / Comité  
spécial de la santé mentale et des dépendances**

Chair / Président: Kevin Daniel Flynn  
Vice-Chair / Vice-présidente: Christine Elliott  
Bas Balkissoon, Christine Elliott  
Kevin Daniel Flynn, France Gélinas  
Helena Jaczek, Sylvia Jones  
Jeff Leal, Liz Sandals  
Maria Van Bommel  
Committee Clerk / Greffière: Susan Sourial









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