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Wednesday 26 April 2006

Mercredi 26 avril 2006

Speaker
Honourable Michael A. Brown

Président
L'honorable Michael A. Brown

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LEGISLATIVE ASSEMBLY
OF ONTARIO

Wednesday 26 April 2006

ASSEMBLÉE LÉGISLATIVE
DE L'ONTARIO

Mercredi 26 avril 2006

The House met at 1845.

ORDERS OF THE DAY

PLANNING AND CONSERVATION
LAND STATUTE LAW
AMENDMENT ACT, 2006

LOI DE 2006 MODIFIANT DES LOIS
EN CE QUI A TRAIT À L'AMÉNAGEMENT
DU TERRITOIRE ET AUX TERRES
PROTÉGÉES

Resuming the debate adjourned on April 24, 2006, on the motion for second reading of Bill 51, An Act to amend the Planning Act and the Conservation Land Act and to make related amendments to other Acts / Projet de loi 51, Loi modifiant la Loi sur l'aménagement du territoire et la Loi sur les terres protégées et apportant des modifications connexes à d'autres lois.

The Deputy Speaker (Mr. Bruce Crozier): Further debate? The member for Durham.

Mr. John O'Toole (Durham): I've been looking forward to this opportunity, perhaps earlier than I was expecting. I would say that this particular bill, Bill 51, An Act to amend the Planning Act and the Conservation Land Act and to make related amendments to other Acts, is almost very much an omnibus type of bill. Quite frankly, much of this has been a debate for some time. I'd say in planning policy, direction and certainty, it is certainly an important bill. The reason is that it sort of expunges all authority or all decision-making from the local level. In my privilege to serve publicly, I always think of the famous quote from Tip O'Neill, who once said, "All politics is local." In fact to me, the very word "politics" means that elected people, whether locally, regionally, provincially or federally, should try to represent the views of their constituents at the level of government they're at. As such, Bill 51 is really uploading more powers to the government and it's actually downloading responsibility to the local level. That pretty well sums it up.

I want to expand on that, Mr. Speaker, with your indulgence. Primarily, I would draw to your attention that when we were in government—and, in fairness, this is the essence of the debate here—we looked at what the NDP had done in the Sewell commission. The Sewell commission, at the time when I was a local and regional

councillor, went through a very profound kind of consultative process about looking at planning, looking at the future, looking at certainty and having some direction. I should mention in this context—a little off topic, maybe a deflection—the sad departure of Jane Jacobs, who was a great commentator on urban development and urban development issues—the death of the city, I suspect. I heard John Sewell talking about it. I go back to the time when Sewell did the commission report. In fact, he probably consulted with Jane Jacobs to get her input. She probably wrote the report. But the real thing is that they tried to have one size fits all. I went to many of the Sewell consultations, because I was a regional councillor at the time in Durham, and one of the recommendations they were very close to making was that they were going to eliminate septic tanks. You couldn't have a septic tank on a property. But little did he know that in a great part of your riding, Mr. Speaker, most of the private services would be a septic tank. He was going to disallow that to happen, and rural Ontario once again would be ignored.

Mr. Richard Patten (Ottawa Centre): It was for apartments.

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Mr. O'Toole: Richard, you would know that. That was part of the Sewell commission, which was eventually removed from the final report, but it set the tone for the one size fits all, Father Knows Best, the government knows best, and we're back to Dalton McGuinty's version of the same thing. In fact, if you really drill down on this, it's almost—and I'm not one of the grassy knoll theorists. I'd say this, though: If I look at three bills that cause me to be seriously paying attention to the real agenda of the McGuinty government—I'm not trying to raise alarms artificially, but there are three bills specifically that I can't delink or decouple from the debate. First of all, we had the greenbelt, and our critic at the time, Tim Hudak, the member from Erie-Lincoln, made a very good argument about the science of the greenbelt legislation versus the political science. And we heard a comment yesterday, a very valid question raised in the media, about the disgruntled nature; that the former mayor of Pickering, Wayne Arthurs, the member here, and his predecessor, his good friend—

Mr. Wayne Arthurs (Pickering-Ajax-Uxbridge): Very happy.

Mr. O'Toole: —very happy—Dave Ryan are opposed to the greenbelt. They're both Liberals, and I mean that in complimentary fashion. Wayne is doing a great service to his community, but they have some disagreement; let's

put it that way. Wayne, is that not true, that you're representing your riding as effectively as you can—

Mr. Arthurs: Every day, all day.

Mr. O'Toole:—even though you're in the backbench, much like I am. What I'm saying here is that Dave Ryan, the mayor of Pickering, said in the paper that it just simply doesn't make sense. Some of the science, political science, in Ajax–Pickering—Steve Parish, the mayor of Ajax, says it should be protected at all costs, irrespective of property rights and other issues. The mayor of Whitby is sitting on the fence, because he knows that eventually the 407 link is going to go right through there. What they've done to that farming operation—this may sound a bit local, but this is about Bill 51. It's driving it down to what people can digest. It's driving it down to what really matters to people. I can think of a particular farm at a particular location, Lakeridge 23. Drive out there and see. It's a beautiful part of the riding. It's in the Oak Ridges moraine. I appreciate that. I want to maintain it, and all the rest of that motherhood stuff. I don't say that disparagingly; I just say you're hiding behind the shield of motherhood statements.

How does this apply to Bill 51? In this case, the greenbelt, as I'm trying to suggest, is one bill that leads me to think that they have a master plan. Somebody does; probably more at the civil service level. That's no disrespect to the hard work and important work they do, and they probably do know best. If this was perfect, if this democracy process and the debate process were perfect, we'd all be in paradise after 2,000 years. So it isn't perfect and there isn't a one-size-fits-all solution, however ideal that outcome would be.

But we have the greenbelt and, yes, there's a lot of outrage. It's people's valued land. They can't sever a lot. Agriculture is in crisis and there's urban encroachment on to primary, class 1 agricultural land. We should recognize and prohibit that to the greatest extent possible, and I mean that quite strongly. Then we have these issues where there is no science to support the decision by the minister, Mr. Gerretsen, and, quite frankly, at the end of the day, this is his bill.

How does this apply to Bill 51? Well, here is what it says in the provincial policy statements. The age-old debate, right from the Sewell commission to this present day, has been an argument between municipalities, which represent and are duly elected to represent the interests of constituents—not just developers, not just people, not just farmers—the people of the province in their jurisdictions.

We changed the original planning bill under—how would you refer to Bob Rae now? Liberal, former NDP leader, Premier of the province? Bob Rae is an excellent guy. I probably would support him, quite frankly. I say that publicly on the record. His piece of work on post-secondary reform—you've got to watch that presentation he made for the David Smith Award, the COU award. I have a copy of that video; it's worth seeing. He says things in there that are quite scary. It's worth reviewing, Liz. I would encourage you to.

But here's the point: In the NDP report, they said they must “be consistent with” policy statements on wetlands, sensitive areas etc. We changed that, to great uproar from John Sewell and others, and probably my good friend Peter, the newest member of the NDP caucus. He was probably out there with his picket signs and everything. Good. That's important; that's democracy. We changed it to “have regard to,” which meant that the official planners, the mayors, the regional councillors, the regional chairs, those local people who are close—and I was one of them. I enjoyed the privilege of representing the people at that level; closer to the people and having regard to their input. Not their influence, their input. But we changed it to “have regard to” from “consistent.” Now, it sounds to the viewer, to the listener or the reader of Hansard rather an innocuous comment, but it's the whole essence of this debate because the province is now going to say, “Thou shalt do the following,” period, end of statement; no appeal, no liability going forward on the part of the minister, on the part of anyone who said, “Thou shalt not farm anymore.” We see it in the particular issue with the First Nations people where there's some conflict of who has jurisdiction, etc., but it is about planning and planning principles for all Ontarians. I don't need to comment with respect to what the mayor said, but I'd just say, that's what the essence of the bill is about.

How does it apply to my riding of Durham? I've told you that the farm that's on Lakeridge Road at Rossland Road, one side of the road is urban, the other is greenbelt and the services are right there. There's a little strip of land, and it's not just unique to that boundary between Whitby; there's more to it. If you just turn the page and follow along with me in the hymnbook here, the real issue is Highway 407 going east from where it currently is. It's an eastern expansion just at the north part of Durham—at Brougham, actually. They have no decision yet at the regional level or the provincial level on that link road that would take you from the 407 down to the 401. That's the issue.

What they've done is this: The greenbelt bill allows the minister to exempt expropriation for government purposes by minister's order. So they're going to say, “We're going to expropriate this greenbelt land,” which has no value now. There's no commercial or residential zoning value, so they're going to expropriate it, because it's a provincial interest area, to put a link down there. Pity that farmer who's been struggling for generation after generation. They're going to take the land from him for nothing. That's Big Brother. That's the suspicion.

The link I'm making here is, the greenbelt was one piece, Bill 51 is another piece, and I'm telling you, the third shoe—this is a three-legged monster here. The third shoe to drop is Bill 43. I'm not a conspiracy theorist or a grassy knoll theorist, but here's the point: Bill 43 is the source water protection act.

I was a member of the caucus and cabinet member on environment and energy and saw the O'Connor report and some of the ministry recommendations. If you read Bill 43, it's implicated in this overall, rather complex

alignment of policies: water policies, land use policies in the greenbelt, and Bill 51. So we have the triumvirate marriage of uncomfortable cousins, in my view.

How does it affect Durham? There are four or five areas of adequate appeal on purely scientific and planning principles that now, under this bill and under the greenbelt bill, are unable to have any mechanism to appeal for 10 years. What does that actually do? It dries up opportunities for people to build homes. We talk about housing and affordable housing. They're drying up the affordability of land by the very nature of this bill, and I have only discussed the very periphery of this bill. But it gives you a symptom. There must be a disease; there must be a more serious ailment here if I can only talk to one principle and raise your concerns to a level where there are certainly some questions that need to be asked.

I'm only comforted on this bill because I do listen to Roger Anderson and to former Mayor Arthurs, now the Liberal member for Pickering–Ajax–Uxbridge—a good member. In fact, I was pleased to attend a meeting with him last night recognizing volunteers in my riding. I commend the ministers here tonight. It was an extremely joyous event in the lives of some 160 volunteers who have built our communities. Just consider that these are the same people we're representing in my riding. It could indeed be the O'Connor family who, for generations, have grown the food that you bought at the store and put on your table for your children.

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Make this human. Don't just make this a bureaucratic ramble about opportunities. All I'm saying here is, if I see this implication for my riding of Durham, which I live in and which I love—because I represent the people there. The province has several discussion papers or policy direction statements. One of them is the Places to Grow document. I don't have it with me, unfortunately—I thought there was someone else going to speak ahead of me—but I've had a quick look at it, and it doesn't identify Durham as a place to grow, technically. And if you look at some of the policy, some of this is a bit—I think I've established the relationship between the greenbelt, Bill 51 and Bill 43, how there is really a theory here to put more people on less land, living intensely and paying more for everything—more energy, more taxes; paying more and getting less. So it really does fit into the overall theme of what I consider the Dalton pressure to give people less quality of life and pay more for less.

I can convince you that not only did they waste the \$3 billion in the budget; they're ignoring the growth parts of Ontario. Not just in health care; let's just look at the more immediate issue. I questioned the minister today about his lack of a plan for transit. There are 500,000-plus people living in Durham. Many of them are young families. Where have they come from? From other parts of Ontario—maybe expensive urban areas in Toronto. Affordable shelter? Yeah, right. In Toronto? It isn't affordable, period. I don't care who's paying; it's not affordable. So they're moving to Durham. The inad-

equated amount of developable space—because of the red tape and bureaucracy of this government, there's less land available for development. So what happens to the available land? It goes up in price.

I went looking for homes this week in Bowmanville and in Courtice. There isn't a reasonable, modest subdivision home for under \$300,000. That's unconscionable for me. We're reasonably well paid. I think we're adequately paid here; I think the feds are paid too much. I can't imagine people paying \$300,000 and \$400,000 for a first home. Look at the real estate reports. The interest rate went up a quarter yesterday. Imagine the dilemma facing you when you've got the taxes going up, the assessment going up, the energy going up, the gas going up to get to work, and no GO Transit. As a matter of fact, all the reports on transit to help these people to get to “places to grow”—and the acting Sergeant at Arms well knows that to commute from Durham, as I and many of my constituents do—how does that relate to this? It's very much related, because building infrastructure, physical and human, is about having opportunities. But not only that, there's nothing in this about transit.

This smart bill that the minister introduced the other day is a complete tragedy. It's a tragedy. It's a travesty. In fact, it's hollow. There's no money, no power; it's planning. After the budget, when they announced all this money for transit and that, I looked at it and the remarks in the media were saying that Durham region was ignored. There are 500,000 people, one of the fastest-growing areas in the province, and it comes down to this: There is no plan that we're actually revealing to the people of Ontario. In fact, the argument I put on Bill 51 tonight is this: There really is a plan, and you want to be very concerned and you want to pay very close attention. There's the greenbelt bill, which basically is expropriation without compensation. I think we started that with the Oak Ridges moraine and the work done by the NDP in 1993 looking at the Oak Ridges moraine and the shadow area. The greenbelt is part of the continuation of the Oak Ridges moraine. The Oak Ridges moraine is important because the other part of that is source water protection, Bill 43. Not only will you not be able to do anything; the water-taking permits are being reviewed. If you are a farmer and have a source well on your property, you can't farm there anymore. I put to you that eventually you will be paying for the water on your farm and in your well. You will have a meter on it and you will be paying for it.

Mr. John Wilkinson (Perth–Middlesex): That is just not right.

Mr. O'Toole: No, that is actually—the member from Stratford, Mr. Wilkinson, is saying that it's not right. I want to put that in Hansard, that Mr. Wilkinson said that's not right. I think he will live long enough to see that you are going to be accountable for the decisions you're making, because clearly you mustn't understand or you mustn't appreciate the implications that I'm trying to relate.

So they've got you in handcuffs; you're paying more, getting less; they're not being forthright; and they're forcing municipalities to comply, to have consistency with the planning policies which they're setting in the backroom, technically. It does nothing for Durham. I can only attest with any accuracy to the pressures on those families, the public transit infrastructure, the gridlock I see every day. They're paying \$5,000 a year, after tax, to commute to a job in Toronto, and more if it's in Mississauga or York. That's \$5,000, and you've got to earn \$10 to spend \$5 with the tax rules. If it's a young married family who's doing it, it's costing them \$10,000 a year, and you call that affordable housing.

This bill in many respects has to go to committee. I'm going soft because I recognize that it's going to the general government committee. Respectfully, I understand the minister is trying to do the right thing, but you've got to respect the roles, duties and responsibilities of locally and regionally elected members. Most members here have served locally or regionally and they know that they have the wish to meet the needs of their community.

Father Knows Best, Dalton McGuinty, thinks he's the only one who knows best, and this bill and the other two bills—the greenbelt and source water—are proof evident that they have a master plan. This government needs to be held more accountable, not just here in the Legislature, but the people of Ontario need to be put on full alert. Let's slow down and be more transparent, as they promised during the election, and this is a good bill to start with. The city of Toronto is another bill. It's about raising taxes. That's what Bill 53 is about. Pay attention. "Pay more, get less," that's the McGuinty—

The Deputy Speaker: Thank you. Questions and comments?

Mr. Patten: I rise spontaneously, because I find that the theatrics and statements made by the member from Durham—he always has sidebars that add tongue-in-cheek statements. But he made the statement that this was a bill that would undercut municipal authority somewhat. He knows two things, because he made reference to them: He knows that the purpose of the greenbelt bill was obviously to protect much of what we have in our natural environment, our agricultural lands, and that we don't want to pave over all of southern Ontario. The source water protection, when we look at the threat—it's not a threat. The actual fact is that we have to do something about the polluted water that we have to live with and sometimes even drink.

More specifically related to this bill, in terms of one major aspect related to the Ontario Municipal Board, the attempt is to have it not be such a planning body as it has been, tampering with the plans of municipalities, but indeed to play more of an appellate role, to take a look at what is happening there. If there is new information that appears from a developer by appeal, then they refer it back to the municipality for the first time, rather than making a split decision. If in fact they must take into regard the decision-making of the particular municipality,

which would obviously be in dispute with the body—usually it's a developer that is there—the information that is being looked at has to be consistent with the proposed efforts of the process in the official plan of the municipalities. That will play a much stronger role in that whole process.

Mr. Gerry Martiniuk (Cambridge): It's always my pleasure to hear from my friend from Durham. I should know, because for 10 years I've listened to the member for Durham expose much of the stuff that goes on around here. His thesis is intriguing and it shows a great deal of validity.

There was one other time where the government expropriated land cheaply via the planning process, and that was after Hurricane Hazel. The result of that was excellent for the majority of the public, because we bought land cheap and we ended up with beautiful parks throughout our province. In my area in particular, the conservation authority was created after Hurricane Hazel.

Hon. Mike Colle (Minister of Citizenship and Immigration): In 1956, wasn't it?

1910

Mr. Martiniuk: Yes, and the flood plain—

Interjection.

Mr. Martiniuk: I bet you could tell me what you were doing that night, but we won't get into that.

The point is that the planning process is an extremely harsh economic weapon when used by the central government, and that's what's happening here. This bill centralizes to a great extent the planning process. Basically what it does is end the dream of suburbia. Whether that was a good dream or a bad dream is something we'll be discussing, but everyone wanted to have a place in the suburbs with a white-painted fence. For some reason, perhaps that has become too expensive. I don't understand why. I thought we were richer than we were a few years ago, but all of a sudden perhaps it is too expensive, and that's what we're discussing in this bill.

Mr. Wilkinson: I know that we're speaking on Bill 51. I saw that the member who was speaking, my friend the member from Durham, was talking about Bill 43. Just so we go on the record, let's be very clear: There is a myth out there that has been perpetrated by some in this province that somehow the Clean Water Act has some reference that people with private wells will have them metered. I can tell you that is completely, utterly false. I can say to those people who are perpetrating this myth that they merely have to look at the bill, they merely have to have the assurance of our Minister of the Environment, the Honourable Laurel Broten. That itself I find to be a great fallacy. I respect the member's opinion, but in this case it's unfounded and I think it's very important that someone from our side of the House correct that.

In regard to the bill that we're discussing this evening, sometimes there's time for action. When you're in the government you're faced with problems, you work through solutions, like our good minister has done, and you present to this House the solution of our government. Some people will stand in their place—remarkably, I

think—and vote against this bill for some small reason. But I believe that the vast majority of us here realize that these are necessary amendments, that this is something that our society has been calling for. It's important that we modernize this. When I listened to the minister explain this, I myself found a great deal of comfort in the bill and its ability to weigh both issues, to be able to arrive at a balance. That always is the requirement of government.

There are people, as I said, who will perpetrate myths about bills. Bill 51 is one that perhaps isn't as high on the radar with the good people of Ontario as others, but it's something that's necessary and I'm glad that this evening we're debating it and that we'll move this forward.

The Deputy Speaker: Questions and comments?

The member for Durham, you have two minutes to respond.

Mr. O'Toole: Thank you to the members for Ottawa Centre, Cambridge and Perth–Middlesex. I do want to make sure that this is a place of debate and to bring clarification to a bill, but I'm just going to read one small section of the bill to alert members to what is to be expected. I'm not trying to be overarching or imposing on you, but you are new and I recognize that I, after 10 years, have learned. I'm not preaching to you, because there are implications in this bill drafted by senior policy people. Here's what it says. These are amendments to the Conservation Land Act and this is the link, this is how it's a triumvirate of issues that I've tried to bring out: "The purposes for which conservation easements and covenants may be established under the Conservation Land Act are expanded to include protection of water quality and quantity, watershed protection and management, and further purposes that may be added by regulation. Technical amendments are made to facilitate the creation and preservation of conservation easements...." And those easements are covenants on the land which expropriate your use; you have the right to pay the taxes.

It's in this guarded language of regulation where much of this bill—and that's why it's so important to have full hearings on it in general government: to have full disclosure so that there's no uncertainty on the issues that I'm bringing forward. But I have you on the record as saying—and you did act as the minister when Ms. Broten was with child; I think you did a very good job, at least theatrically. I would say to you that this bill, in my view, is something we should be very concerned about. In essence, it's doing the right thing, protecting all of our common uses, the public land use issues, and rights and responsibilities, but there is more to it when it imposes McGuinty's will on the people of Ontario without the mandate to do that.

The Deputy Speaker: Further debate?

Mr. Peter Kormos (Niagara Centre): Before the evening's over, Peter Tabuns, a member of the NDP caucus, representing the riding of Toronto–Danforth, is going to be addressing this bill as well.

I want to make note of the fact that at this very moment, not a single member present in the assembly is

playing with a BlackBerry. That is a remarkable event, worthy of note. I don't know whether it's because the system is down or we've got people in the program in withdrawal. Is there such thing as a BlackBerry patch that you wear while you're trying to recover? Or maybe it's just carpal tunnel of the thumbs, because Lord knows, at the end of the day, it can't be good for you. But as I say—

Mr. David Oraziotti (Sault Ste. Marie): I've got mine out. I'll send you an email.

Mr. Kormos: There's the member for Sault Ste. Marie playing with his BlackBerry. Lord knows what he's looking at on it, but the fixed gaze sure causes concern. That red-letter moment sure was transitory, wasn't it, Speaker?

I want to thank Colin Chambers on our research staff for giving me a précis of the bill and its impact and, quite frankly, some speaking notes. I appreciate that. From time to time, when the Speaker stands and says to the member for Niagara Centre—that's me—"Will you please speak to Bill 51," I'm going to turn to the next page of the very valuable speaking notes that Mr. Chambers provided for me.

We're talking about this bill in the context of the aftermath of the death, of course, of Jane Jacobs, a tremendous Canadian. She was born in the United States and came here during the Vietnam War. She was just a tremendous light in the context of that postwar sprawl and development that took place in North America. I want to take this opportunity, in the context of this speech, to pay tribute to that wonderful woman.

I read the New York Times obituary on the Internet. It was a four-pager in terms of Internet pages. I tell you, that places her in the ranks of presidents. The New York Times obituary is as good a measure of one's worth as anything can be, after the fact, of course, after one's death. So I just found it truly remarkable.

At the beginning of her activist career, she was an activist in Greenwich Village. That was her home base down in New York City, where she grew up, where she lived and where she was drawn into writing, first magazine articles for high-quality American magazines and then of course she became a writer. She was an autodidact, and that in itself is remarkable, considering that she had just an incredible ability to comprehend, to analyze, to put things together and to confront the iconic beliefs of the day in a way that drew people to her. She had a remarkable magnetic appeal. As one of her American protagonists during the wars over development in New York City said, "Trust me, she's no sweet old lady." That was then the image that she portrayed. She's certainly one of the people who people should read, to understand where she was coming from.

I've got to tell you, I'm a fan of one other writer, and some of you will have read him. He's an architect. He taught at McGill for a while. It's Witold Rybczynski, who wrote *Waiting for the Weekend*. But in terms of urban design he wrote—and this isn't the exact title—the *City*; it's part of the title. His stuff is remarkably read-

able. So if people are like me, you don't have to be a PhD kind of person to read this stuff, notwithstanding that they're brilliant people.

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Rybczynski, in his book about the city, contrasts the North American city model, primarily American, with the traditional European city model. Most of us, blessed now with the ability to travel, have seen the kinds of cities that he's talking about, whether it's the old inner cities of Rome or any part of Italy or eastern Europe, where my family is from, anywhere where the concept of a front yard is alien. The front door is right there on the sidewalk and, of course, the interaction with the community, even passers-by, because passers-by are not just peering into your living room, they're walking right by your living room while you're sitting there doing whatever it is you want to do, writing, reading or watching television. Anyway, Witold Rybczynski, in his book about cities and city design—it's incredibly useful. I've actually commended it most recently. The St. Catharines Labour Council had a seminar for people who wanted to run for city council, and I urged them to read it in anticipation of being candidates. It's applicable to big cities and small towns.

Here for a moment I refer to Colin Chambers's briefing notes, his speaking notes on the bill, because we acknowledge that OMB reform is in and of itself a noble objective. Our concern, of course, is whether or not this bill constitutes any real, meaningful reform. One of the things the bill purports to do is to address the perception that the OMB is basically a pro-development body and that's why we have to give cities more authority, more control over development. Am I fair in that observation, Peter Tabuns? I think I am, aren't I? The problem is, if the OMB is viewed as a pro-developer body, then let's change the standards and the rules and let's change the kind of people who get appointed to the OMB. Because, you see, the problem is folks down in Port Dalhousie, part of St. Catharines—you know, Port Dalhousie, with the five-cent carousel? The old ferry used to travel back and forth from Toronto to Port Dalhousie well into the 1950s. As a matter of fact, the trolley, the rail car, used to go from Port Colborne through Welland. It crossed the Welland River on a wood trestle bridge, because that's where the Welland trolley station was, and its destination was Port Dalhousie on the north side of the Niagara region, all the way from Port Colborne. Of course, Port Dalhousie was a destination in the 1940s and still into the 1950s for young people—outdoor dances, those types of events. The beach was clean at the time; people used to go to the beach. The trolley ride was very inexpensive and, of course, very environmental. It was before people owned a whole lot of cars.

Now, the folks in Port Dalhousie are confronted by a developer. Port Dalhousie is a beautiful piece of beachside, lakeside property on Lake Ontario, the south shore of Lake Ontario. I make no judgment, because it's not my affair, it's not my matter, it's not in my riding. It's in Mr. Bradley's riding. It's the city council in St.

Catharines that makes decisions about zoning and the types of development that it's going to encourage and/or permit. At the same time, it's about the people who live there, who are saying no to the prospect of condo high-rises in old, small-town Port Dalhousie. It's not quite—dare I say this?—as upscale as Niagara-on-the-Lake, but it certainly is as quaint and villagey in its feel, in a sense, as Niagara-on-the-Lake. It may not be quite as big as Niagara-on-the-Lake, either, in terms of acreage. So, you see, when the government says, "Give cities more power," there are groups like the citizens' group fighting back against the Port Dalhousie development proposal who would say, "Gosh, golly, no. Give us more access to an appellate body that's going to hear thoroughly our appeal from a decision of, let's say, a city council." What's remarkable about this bill, Bill 51, is how it eliminates the historic role of the OMB as conducting what I think lawyers like Mr. Martiniuk would call trials *de novo*. In other words, historically you could put new evidence before the OMB and it would reconsider all of the evidence that had been heard in the initial instance by the city council, for instance. Most citizens' groups concerned about, let's say, a big box store, a Wal-Mart moving in—because, boy, when Wal-Mart moves in, does that ever mobilize and generate people's attention.

I've got to tell you, I'm from down in Niagara region and I was taken over to Niagara Falls, New York, last summer—I can't remember the name—to a very popular shopping plaza; it was one of the earlier ones from the mid-1960s. A Wal-Mart had just recently been constructed a mile down the road, and this apparently is a phenomenon that's occurring across the United States. This huge, for its day, mall is now pockmarked. It's like bombed-out Beirut. It's just abandoned. So you've got acres and acres of asphalt that's buckled and caving in and there are weeds growing up through it. You've got this building that has a couple of pinball arcades and a couple of dingy coffee shops in it and the inevitable characters hanging around the parking lot and the interior.

That's what happens. These things aren't designed, apparently, to have very much of a lifespan. Once they've exhausted their profit potential and/or once a Wal-Mart moves in, like the biggest Hoover vacuum you ever saw, the biggest Shop-Vac you ever handled, it just sucks all the life out of one little commercial area—a mall—and then ships it over to the new destination. So it's not just that shopping malls have drawn the life out of downtowns, especially small-town Ontario, like where I come from, but this is whole regions, this is acres and acres and acres that become ghost land, ghost towns, empty, ineffective.

So I understand how Wal-Marts scare the daylights out of smaller-town Ontario. They have huge purchasing capacity, as you well know, and labour relations practices that aren't very attractive or enviable, nothing worth bragging about. Remember in the United States—this was last year. We checked and it didn't happen in Canada, thank goodness. During inventory, Wal-Mart

was literally—you could bring people in to do an inventory overnight, but they were locking the doors from the outside. They were locking people in the Wal-Mart to avoid so-called shrinkage or theft of items. Here were workers being locked in, like a lock-down at Millhaven when the guards discover a knife or a sharpened screwdriver in one of the cells or a riot is about to erupt, so they lock everybody down. Here are workers—minimum wage workers—being locked in. That's Wal-Mart.

But I make no judgment—of course, I do. Give me Canadian Tire any day. I don't see why we should be putting profits into a family-owned enterprise down in the southern United States. Let's keep our money in Canada.

But anyway, Bill 51 is going to prevent the OMB from conducting a trial de novo. Let me explain why that has implications for citizens' groups, neighbourhood groups. I'll tell you why, Minister, and I appreciate you being here. You show a commitment to your legislation. I'm talking about the Minister of Municipal Affairs, Mr. Gerretsen, who's here in the chamber. We don't always see that. I've had occasion to note from time to time, more often than not, the absence of a minister or parliamentary assistant.

Hon. John Gerretsen (Minister of Municipal Affairs and Housing): Not this government.

Mr. Kormos: Oh, yes, Mr. Gerretsen, your colleagues. But I give you credit for showing stewardship of your bill through the second reading process and I commend you for being here this evening, late into the night. Mind you, it looks a little lonely over there. One, two, three, four, five, six, seven, eight, nine, 10—the minute Mr. Martiniuk leaves, we don't have a quorum. So as long as Mr. Martiniuk is here, I'm not going to call quorum, but the minute Mr. Martiniuk leaves, we're going to do a quorum call.

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The problem with the inability for the OMB to do a trial de novo—Mr. Hudak comes in and makes quorum, and now Mr. Hudak's gone, so here we go again: quorum is lost—is that most citizens' groups mobilize and present a lay perspective to their city council, for instance, when there's a debate over a development. It's only once they go to the OMB that they organize more thoroughly, that they hold the fundraisers, that they hire the experts, deliver the expert evidence etc. This bill, Bill 51, is going to prohibit that, because an appellant will not be able to ask the OMB to rely upon evidence that wasn't tendered to the municipal council. That's an extremely unfair restriction that is going to create huge injustices. It's for that reason alone that we in the NDP have tremendous concern about the bill. We're going to do our best at the committee level, because we expect this bill to go to committee—we're going to make sure it goes to committee. We're going to deny it third reading unless and until it goes to committee.

I think there should be committee hearings with respect to this bill not just here in Toronto, because—and

Mr. Levac knows this as well as I do—there's more to the province of Ontario than the intersection of Yonge and Bloor. Small-town and smaller-town Ontario, communities like Brantford, Port Colborne, Welland, Thorold, Pelham, St. Catharines, Niagara-on-the-Lake—

Mr. Tim Hudak (Erie–Lincoln): How about Wainfleet?

Mr. Kormos: —and Wainfleet, great Wainfleet, have different interests, different needs, different expectations and different pressures than big-city Ontario.

The committee that seeks public input into this bill and, again, consideration of just how fair it is to deny appellants a trial de novo with the opportunity to introduce new evidence—how fair is that to citizens' groups that Mr. Levac sees from time to time develop in his community, that Mr. Hudak sees from time to time develop in the communities he represents, that I certainly see? And I'm overjoyed when I see citizens mobilizing like that. How fair is it to deny them the opportunity to produce new evidence? In very pragmatic terms, these groups usually don't raise the thousands of dollars necessary to get the expert evidence, the expert analysis, the planners to analyze the situation. To then deny them the opportunity to introduce that at a hearing of the Ontario Municipal Board I say is grossly unjust.

I have but two minutes left, and I've got to highlight yet another very serious objection. That deals with the fast-tracking, which I'm sure is language that the government would want to utilize, in the instance of energy-generating developments, and that is specifically the inability for citizens to mobilize and object. Section 23 specifically exempts private energy projects from the Planning Act. On the one hand, Mr. McGuinty, the Liberal Premier of Ontario, talks about making the OMB process more accountable and transparent, but by virtue of section 23, on the other hand, he exempts private sector energy development projects in excess of two megawatts from the requirements of the Planning Act. Doesn't that strike you as just plain nuts? How can any Liberal member reconcile that with good planning, with fairness, with healthy development? How can you reconcile that? Mr. Levac, how do you reconcile section 23 with good planning? Mr. Colle, Minister of Citizenship and Immigration, how do you reconcile that with good planning? John Wilkinson, exempting, by virtue of section 23, private energy-sector development projects in excess of two megawatts—how dare you exempt them from the Planning Act? How do you explain to your constituents why you support—and I presume you do, because I heard you in your two-minute comments just a little while ago—this bill when it exempts those projects that can have serious impact on their communities? We're talking about the prospect of gasoline generators, natural gas generators, diesel generators—

Mr. Peter Tabuns (Toronto–Danforth): Coal generators.

Mr. Kormos: —oh, coal generators exempted from the Planning Act. New Democrats aren't pleased with that at all. We'll be looking for answers in committee and

then expecting the government to step up to the plate and fulfill its responsibilities as well.

The Deputy Speaker: Questions and comments?

Hon. Mr. Colle: I'm here to comment on the member from Niagara Centre's comments on Bill 51, just to say that I certainly concur about the amazing legacy that Jane Jacobs has left, not only in this province and this country, but I think an international legacy that will be here long after we're gone. I recall first meeting Jane Jacobs when we were trying to stop the Spadina Expressway, which was going to go through my neighbourhood; that's a few years ago. I was able to work with her over the years and was proud to work with her in the battle to try and save Toronto from having that forced amalgamation. She was a very articulate and strong defender of local democracy at that time. I certainly mourn her passing, as we all do.

The one question I have about Bill 51 is that I find it strange that the member from Niagara Centre has said that he thinks there should be de novo hearings allowed and they shouldn't be restricted, because that's exactly what the developers want. In all my time dealing with the OMB, whether at local council or Metro council or whether I was here in the Legislature trying to get people to become aware of Ontario Municipal Board and its shortcomings, that was the one thing that was said over and over again: "You can't have de novo hearings because that gives an amazing advantage to developers at the expense of the little people who go before the Ontario Municipal Board." I remember David Miller, the mayor of Toronto, saying, "If there's one thing you do in the legislative change, make sure you don't give the developers that de novo hearing." That is where the real advantage is, when they can bring the resources to bear to bring new evidence at a hearing and totally disregard what a local council in Leamington decided. Every time there's evidence at a local council, it's totally thrown out and the de novo starts all over again. That's why —

The Deputy Speaker: Thank you. Questions and comments?

Mr. O'Toole: I appreciate the member from Niagara Centre, who has spent some time here—in fact, he'd be very familiar, having been a member of cabinet during the Rae government and probably party to many—

Mr. Kormos: The best Liberal Premier this province ever had.

Mr. O'Toole: Yes.

I just want to read one section. It's very important in looking at how the minister has prevailed at the end of the day. This little section is, "The Ontario Municipal Board's power to determine appeals of ministerial zoning orders under section 47 is restricted if the minister is of the opinion that all or any part of the requested changes adversely affect matters of provincial interest." So they're sort of exempted. In that case, the determination is made by the Lieutenant Governor in Council, which is basically Dalton saying that his will prevails. Here's another interesting subordinate section: "The Lieutenant Governor in council may"—these are the soft kind of weasel words; I hate to use that word—"by regulation

exempt from the Planning Act"—see, they're exempting—"approval process undertakings that relate to energy..." for instance, a nuclear plant or whatever. In fact, under the greenbelt, provincial interests are exempted as well; they can go right through the Oak Ridges moraine and the headwaters and the source water and Bill 43 and build a highway. That kind of decays or renders somewhat suspect in "matters of provincial interest."

Now, the minister is sitting here beside me. I know his interests are there. I'm wondering if the bureaucrats aren't running it, technically. It may be that Dalton and some of his outside advisers, some of the Premier's Council people, the thousand-dollar-a-plate guys and gals, are not involved in this process. I know they had a big soirée at Greg Sorbara's house—we all heard that—during the greenbelt. Now I see it's showing up rather spuriously here in this bill.

So this is going to committee. There should be full disclosure. I'm confident—the minister has assured me tonight—that there will be public hearings—

The Deputy Speaker: Thank you. Questions and comments?

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Mr. Tabuns: Mr. Speaker, my last experience in this House with your calling for questions and comments taught me that it's questions and comments, not questions, comments and answers.

Mr. O'Toole: There are no answers.

Mr. Tabuns: Apparently not.

Interjections.

Mr. Tabuns: No interruption, gentlemen.

In any event, when I put forward a question, I have no assurance that it will be answered, but I'm going to put forward a question and I would ask the minister or his parliamentary assistant to address this.

In this act it is suggested that the promotion of development designed to be sustainable is something that municipalities are empowered to do. That's similar to language used in the City of Toronto Act, and just today that came up at the hearings at the committee. The minister, when he made his presentation, talked about the ability of the city to make new development, new buildings, environmentally more sustainable. I asked him, "Does that mean that the city of Toronto will be able to require a higher efficiency standard than is currently set out in the Ontario Building Code?" I was told no.

So I ask the minister or his parliamentary assistant now, does this provision for sustainability actually mean something? Does it mean that a municipality can actually press for a higher level of efficiency, which in turn would help that municipality reduce air pollution, help that municipality reduce the costs of operation for those building owners or operators, help that municipality bring itself into the 21st century and help move away from inefficient fossil fuels, inefficiency generally? This society faces huge problems around energy. Giving municipalities that power would move things forward. I'd like to know if the government's giving them that power.

Mr. Dave Levac (Brant): The member from Niagara Centre made such a compelling argument and there have been other comments about this, so I'm going to ask—no, I'm going to demand—that this go to committee.

The Deputy Speaker: The member for Niagara Centre, you have two minutes to respond.

Mr. Kormos: Well, I appreciate the support of the member from Brant, Mr. Levac, but he's a Johnny-come-lately. We've already demanded that the bill go to committee. We've already ensured and assured that we're going to say no to this bill proceeding to third reading unless and until there are thorough and adequate committee hearings.

I want the government House leader to note that the member for Brant, the government whip, has indeed taken on the minister this evening by virtue of his call for the bill to go to committee. The member for Brant, Mr. Levac, acknowledges the significant problems in the bill. It's indeed a refreshing thing to see a Liberal member in this government with the guts and the gonads to take on the powers that be, those centralized powers in the Premier's office that dictate the daily comings and goings of folk, and I commend the member for Brant.

I want to assure him that being in cabinet is not the most important part of being at Queen's Park. I say to you, member for Brant, that you can, as you've just demonstrated, be far more effective and far more responsive to your constituents—and you are. I want the folks in Brantford and area to know that their member has done some fine things here in this chamber. From time to time he has outshone his colleagues by showing—

Applause.

Mr. Kormos: Look, I don't know how this Premier sleeps at night, knowing that the member for Brant could well be up in his den, at his desk, plotting out his agenda for the following day. So I commend the member and I look forward to him being on this committee with Mr. Tabuns, who will be our member of the committee.

The Deputy Speaker: Further debate?

Mr. Hudak: I'm pleased to rise and debate tonight on Bill 51, the Planning and Conservation Land Statute Law Amendment Act. I enjoyed the comments from my colleague from Durham earlier on. Of course the member from Niagara Centre, as always, has some very valuable insights into this legislation. Sometimes I miss being the critic for municipal affairs and housing. I know my friends at municipal affairs miss me too. I know my colleague Mr. Hardeman is doing an outstanding job and I—

Interjection: Things are smoother in committee now.

Mr. Hudak: Things are smoother at committee now, they say. This is a good thing, I suppose.

My friend the parliamentary assistant—it's good to see him as well. I used to wake up almost every morning hearing Brad Duguid's voice, usually followed by Sid Ryan's voice or vice versa on the—

Mr. Kormos: In some states that's illegal.

Mr. Hudak: Well, I can tell you it was happening, legal or otherwise.

Mr. Kormos: As long as you were happy, Tim.

Mr. Hudak: It got a little tiresome after a while. Sometimes you want a new trick, so to speak. It got a little tiresome, but I'm glad to see that Sid and Brad are buddies again.

I do want to note for the record, Mr. Speaker, because I know you're clearly impressed by this part of my speech, that we did notice in Bill 81, the new finance bill, that the second look at OMERS, the OMERS review, is part of Bill 81, which is also before the assembly. I thought I understood at the time that Mr. Ryan had indicated it was going to be a stand-alone bill, the review of OMERS in 12 years' time, was it, or eight years' time?

Interjection: It's 2012.

Mr. Hudak: Oh, 2012; maybe that's why I've got the 12 in my head. At any rate, it's part of the finance bill. I'll say to my colleague the Minister of Municipal Affairs that if he wants that to be a stand-alone bill to be debated before the Legislature, we would certainly oblige the Minister of Municipal Affairs if he felt that way.

There are a lot of bills to discuss. The other thing I wanted to bring up with respect to municipal affairs issues connected with Bill 51—because obviously this bill will have important ramifications for our elected municipal leaders across the province of Ontario. I'm always concerned about the municipal leaders in the riding of Erie-Lincoln, who—let me get this on the record—actually did just a tremendous job. They had their Niagara Week and I know had the opportunity to meet with a good number of ministers, MPPs here to advocate for issues important to Niagara. They had a very successful reception last evening to build the networks between Niagara municipal leaders, community leaders, business leaders with provincial decision-makers. I do want to commend Chairman Peter Partington and his organizational crew, his organizing committee, for one tremendous session here at Queen's Park.

Last year, of course, they were successful in achieving an expansion of Highway 406 to four lanes south, and I do hope they'll have continued success with Highway 406. I have a private member's bill before the assembly to rename Highway 140 as part of 406, the natural route south to Port Colborne from where Highway 406 starts in St. Catharines, and I do hope that the government will adopt that legislation as part of their own policy.

I want to say that the other issue of coincidence between Bill 81 and Bill 51 is that Premier McGuinty, at the ROMA conference, announced that his intention was to extend the term of municipal councillors to four years. It seemed a bit arbitrary at the time, and I suspect that Premier McGuinty did so at ROMA because he was worried about a negative reception from municipal politicians at ROMA. The Minister of Municipal Affairs at ROMA—

Hon. Mr. Gerretsen: How can you say that?

Mr. Hudak: The minister asked me how I can say that. The minister remembers his reception in 2004 or 2005 at ROMA, which wasn't exactly a warm embrace, to say the least.

Hon. Mr. Gerretsen: It always has been very warm.

Mr. Hudak: I don't know about that. I suspect the Premier was worried about that and thought he'd have to bring some announcements there to try to encourage municipal politicians to respond favourably, because I know a number were disappointed with some of the decisions of the McGuinty government. I think he plucked this one out of his hat, to extend the municipal terms. So municipal councillors, under Bill 51, will be making these decisions, if the bill passes, under a four-year term as opposed to a three-year term.

Hon. Mr. Gerretsen: Great idea.

Mr. Hudak: The minister says it's a great idea. I do want to say that I appreciate the fact that the minister is here tonight listening to debate. That's always nice to see, and I commend him for that on a Wednesday evening. I wish it were the case more often on the finance bills. But I do want to say, to the credit of the Minister of Municipal Affairs, that I'm pleased he's here for debate tonight.

But I'd say to the minister, who's such an enthusiastic fan of the four-year term, that I suggest you make that a stand-alone bill and have public consultations on the four-year term. When I speak with councillors in Lincoln, Wainfleet or West Lincoln, some like it and some don't like it. If they see new responsibilities coming forward, like in Bill 51, there may be those who will decide, if it's a four-year term, not to run again. But if a three-year term were continued, they may very well do so.

Councillor Walker in the city of Toronto has raised this as a concern, as have other municipal leaders.

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Mr. Kormos: Guy Giorno.

Mr. Hudak: Certainly my friend Guy Giorno has had some concerns that he's expressed in the media.

Mr. Kormos: Josh Matlow.

Mr. Hudak: Josh Matlow, who has been—he was one of you fellows for a while, wasn't he?

Mr. Kormos: And David Meslin, a young New Democrat.

Mr. Hudak: David Meslin, the young New Democrat—is he a councillor? No, I just recognize the name.

Mr. Kormos: An NDP activist.

Mr. Hudak: Anyway, there's a quality group of individuals of all three political stripes who say, "Why don't we put that bill forward for debate in the Legislature and for public consultation?" I would say to the minister and my friend the whip, who I know understands this issue inside and out, separate that out from Bill 81. Let the finance measures proceed, take schedule H, continue with a new bill in the House, and have full debate on the implications of that. Let's hear what municipal decision-makers, taxpayers' groups and business leaders have to say. This is an important change to our electoral system, and I think we should at least have the opportunity to debate that fulsomely, because we've not, really, under Bill 51.

My friend the minister from Sarnia disagrees with me. Maybe I'll go back and look at Hansard. I don't think

there has been much quality debate about schedule H. Some members have spoken about it, but not to the extent that there really should be on this important change. It's hardly trivial. Am I right? It's not a trivial change. I hope you would agree that it's not a trivial change. I would say it's substantive and therefore should stand as a bill and let's hear what the public has to say about this.

Seeing the minister here tonight reminds me of the good times we had with the greenbelt legislation and some other pieces. I'll take the opportunity to say to the minister as well that I hope the Greenbelt Foundation will finally begin making some investments to support the greenbelt legislation. There are no doubt some excellent projects coming forward from Niagara.

Hon. Mr. Gerretsen: It's arm's length from the government.

Mr. Hudak: The minister says it's arm's length from the government, but at least the minister could probably convey to them the importance of investing those funds in local projects to support communities, as opposed to supporting Liberal advertising firms. I think the first several million dollars was all advertising. I think farmers in the greenbelt area, municipal leaders and tourism operators would actually appreciate it if those dollars in the foundation were invested in worthy projects as opposed to contracts to Liberal-friendly advertising companies.

I digress a bit, but I did want to give the minister the heads-up. There are probably some good projects coming forward from Twenty Valley Tourism, for example, in the Jordan and Vineland area, as well as improvements to the Balls Falls conservation area owned by the Niagara Peninsula Conservation Authority. I do hope that they will find favour with the Greenbelt Foundation.

My colleague from Niagara Centre had raised the issue about section 23 of the bill, which would allow the Lieutenant Governor in Council, by regulation, to exempt from the Planning Act approval process undertakings that relate to energy and have been approved or exempted under the Environmental Assessment Act—I think I have that accurate—which is somewhat curious and seems to be a bit inconsistent. I know that members opposite had fought, tooth and nail, the process that was being undertaken for the mid-peninsula corridor, arguing that the scope process was too narrow and that there should be a broader process. I see here in the bill that the government is actually going in the opposite direction to that which they had preached on highway projects when they were in opposition. To be as direct as possible, I don't know if they've exactly earned our trust on energy issues.

Certainly my colleagues in the third party sitting here tonight—as well, the new member for Toronto–Danforth has talked about the nuclear topic and the lack of consultations. I would ask, have the McGuinty Liberals lived up to their commitment for extensive consultations on the nuclear issue? I think my colleagues would probably say that they have not.

Mr. Kormos: They promised.

Mr. Hudak: They had promised extensive debate on the topic. I think they've made up their minds already. They're breaking that promise, one of their many broken promises.

I guess it's not surprising to see that there is an exemption from the Planning Act to allow for projects like a new nuclear facility, new power plants, by the Lieutenant Governor in Council behind closed doors. So much for praying at the altar of greater local public consultation or hearing what municipal leaders and local ratepayer groups have to say about that. In fact, if Dalton McGuinty and cabinet decide, or those that are giving the Premier advice without cabinet, they could bring forward under section 23, if unamended, these projects without going through the local planning act.

We have some visitors in the gallery tonight, which we don't often see. There are members of the Scouts here this evening. Welcome. Where are you from? Etobicoke? Fantastic.

Mr. Kormos: What troop number?

Mr. Hudak: The 233rd, Etobicoke. We do welcome them here on a Wednesday evening for Bill 51. It's always good to see the hard-working Scouts learning about democracy and how this place works.

I know my colleague from Durham and my colleague from Oxford, the critic—and Cambridge may have as well; I think he did—raised the section 4 issues. I think it's section 4 that limits certain groups from bringing forward new information. It's a lopsided issue: Municipalities could bring forward new evidence to hearings, and those that are project proponents could not. So I think there's a fair argument, and we look forward to committee hearings, about whether there is a balance in that. If one group can bring forward new evidence if an issue is before the OMB and the other side of the argument cannot, I ask you, what's the fairness in that? It moves us away from a long-standing tradition, where each side in the debate, in the process before the OMB, a quasi-judicial body, would have the same opportunity to bring forward new information or rely on old information. You'd think you would choose one or the other. But it's a lack of a level playing field that I think causes some concerns and that I wanted to highlight this evening.

There's also the issue—I guess this is more section 4—of the consistency with provincial policy and plans at the time of decision and comment. The tradition has been a long-standing approach at the OMB and the courts as well, which is to generally apply policies and plans in effect on the date of application, to base it on the laws and the evidence at the time as opposed to the date of the hearing.

Mr. O'Toole: It's called retroactive justice.

Mr. Hudak: Is it called retroactive justice? My learned colleague from Durham calls it "retroactive justice." There's no doubt there is a retroactivity here, where they are changing the rulings of the game *ex post facto*. I wanted to raise that concern, which I think is actually more accurately section 4 of the bill.

These retroactive provisions are really no surprise. We saw similar commitments to retroactivity by the government in the greenbelt legislation, among other topics that have come forward and other bills from the Ministry of Municipal Affairs, which are effectively changing the rules in the past. Instead of saying, on a go-forward basis, "These will be the rules of the day," they have said, "We're changing the rules in the past retroactively," which is demonstrably unfair. I guess there may be a time where an exception could take place, but it should be a rare exception. Instead, it's become a common tool in the Ontario Legislature.

Which reminds me, my colleague is reading *The Da Vinci Code* over there. The parliamentary assistant has taken an interest in *The Da Vinci Code*, which is an entertaining novel, but—

Mr. Kormos: But fiction.

Mr. Hudak: But fiction.

Mr. Kormos: And it demonstrates the Liberal obsession with fiction.

Mr. Hudak: Maybe it is symbolic of the Liberal obsession with fiction, but it's enjoyable reading. It's certainly been a bestseller for a long time. It's made Mr. Brown millions and millions of dollars, and he's been successful in the courts.

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Mr. Kormos: I've not read it, and I won't.

Mr. Hudak: Good for you. I think I read it too early, but I did read it, and it is fiction. I know my colleague the member for Scarborough Centre would put it on the fiction shelf, as well.

Mr. Kormos: Why isn't he reading the bill instead?

Mr. Hudak: I think the parliamentary assistant, knowing the quality of work he puts into it, is thoroughly familiar with the legislation.

The Greater Toronto Home Builders' Association always has some important input. I'm quoting from a document they presented when discussion was occurring over at the Ontario Municipal Board, and their view. There was some discussion at one time. Before I get into what the GTHBA said, I remember Liberal members, when they were on this side of the House, talking about abolishing the OMB altogether. I think I'm right. I think there were a number of those members opposite who talked about abolishing the OMB altogether.

Mr. Patten: Should have done it.

Mr. Hudak: Some say that they should have done that. I would tend to disagree with that opinion. I think that OMB plays a very important role in decision-making as a quasi-judicial court of last resort, if you will. So I would certainly not support abolishing the OMB. I know some of my colleagues now on the government side still support abolishing the OMB. There's been a U-turn, as there has been many times with the McGuinty government. Now they are making some changes to the OMB, but certainly not of the fundamental nature that you may have expected from the campaign rhetoric in 2003.

The Greater Toronto Home Builders' Association "does not support any recommendation for a local appeal

body or municipal model of secondary appeal where the OMB is not granted the authority to hear an appeal of its decision. Exempting planning decisions from the review of the OMB or creating a local appeal channel for certain types of applications would not serve the provincial interest.”

They go on to say in their submission to the ministry, “the voter often exerts significant political pressure on a councillor’s decision over what land use will or will not be approved,” and they’re concerned that these types of changes would lead away from consist province-wide decisions.

It will be interesting to see how changes that the McGuinty government is making in Bill 51 and other changes around the Planning Act will jell with their goal to intensify development. Certainly when the growth plan came forward and suggested that the Yonge and Eglinton block would be replicated across the province in various mid-size cities, I would expect that a lot of folks, whether they live in Welland, St. Catharines, Milton or Oakville, would object to that level of intensification taking place in their communities. Certainly there has been example after example of intensification projects that have raised the ire of local residents, and these are local residents who tend to be sophisticated and motivated, who do their research and put pressure on their councillors, as they should, and then the local councils back down and tend not to approve those projects. I think we’re all aware of the list of those types of intensification projects.

So it will be interesting to see how the government squares that circle. A lot of their decisions are premised on this heavy intensification, but their legislation increasingly will result in a situation where these intensification projects never actually move forward. That’s not something that we’ll see tomorrow or the next year; it’s something that will be felt down the road. But when you see models like the greenbelt and the Planning Act that are based around an unlikely scenario of these intensification projects actually occurring, you wonder if their entire approach to planning is going to unravel. Again, we won’t know for some time, but we definitely have seen a pattern emerge of intensification projects rejected. The Port Dalhousie project is another one that I’m well aware of, coming from the Niagara Peninsula, where a very active citizens’ group has caused council to think twice and to reject that original project.

I know my time is expiring. It’s always a great opportunity to speak on bills like 51. Again, I welcome the Scouts from Etobicoke here this evening.

The Deputy Speaker: Questions and comments?

Mr. Kormos: I appreciated, enjoyed and indeed found significant value in the comments by the member for Erie–Lincoln with respect to Bill 51. He shares many of the same concerns that New Democrats do. While we’re eager to see this bill go to committee, should the bill not be remedied at committee, I can tell you that New Democrats will be taking a strong stand in opposition to this bill, should the government not listen to the voice of reason.

Reference has been made a couple of times now to the Boy Scout members of 233 Etobicoke in the visitors’ gallery. I was a Boy Scout. I was a Wolf Cub as well, 12th Welland; I don’t want to discourage you, but 12th Welland, the Atlas Steels group. It’s a historical one now because it hasn’t survived, but neither has Atlas Steels, in its original incarnation. You young men should understand that here we are in the chamber; there’s the Speaker there, those are government benches in front of me. You’ve got the Minister of Tourism there. He’s one of the most powerful people in the government. He’s got seniority; he’s a minister. Mike Colle is the Minister of Citizenship. You’ve got the Minister of Culture over there. Those are the government, the Liberals. This is the Liberal rump. This is where they put extra, leftover Liberals. They’re over here. Over here is the official opposition. These are the Conservatives, and we’re the New Democrats, eight of us. This is the most newly elected New Democrat, Peter Tabuns from Toronto–Danforth, because there was a by-election in which two Conservatives got elected and one New Democrat. The government failed miserably to gain any seats in the by-election. So I say welcome, enjoy. This is your building. Feel as comfortable here as you do at your city hall or at your school or in your church basement. When I say it’s your building, you and your folks pay for every penny of it, over and over again. I want you to understand that and I want you to come back as often as you’re inclined to.

The Deputy Speaker: Thank you. And now questions and comments.

Hon. James J. Bradley (Minister of Tourism, minister responsible for seniors, Government House Leader): There appears to be some latitude being permitted by the Speaker tonight. My friend the member for Erie–Lincoln is very powerful within the Conservative Party. I’m trying to figure out what it has to do with this bill, but I notice there are negotiations going on over softwood lumber. What we have to do so often is encourage our federal brethren and sistern to stand up for the province of Ontario—

Interjections.

Hon. Mr. Bradley: —our brothers and sisters to stand up for Ontario. I’m imploring my good friend from Erie–Lincoln, who is well connected within the Conservative Party, to speak to Dean Allison, his federal member, and other federal members in the area to try to encourage them to help Ontario in these negotiations.

We have a fear, those of us in this House, that perhaps some Western provinces, particularly one that’s almost as far west as the other one, may receive some preferential treatment over Ontario. In the last election, there were a number of Conservatives elected in Ontario. I remember it said, “Stand up for Canada.” We want them to stand up for Canada, but we also want them to stand up for Ontario. Because I know my friend is so well connected with the Conservative Party, I’m going to implore him to implore his federal colleagues to stand up for Ontario when it comes to equalization, when it comes to payments that flow to the provinces outside of equalization,

softwood lumber, the border situation. Knowing him as I do, I know I can count on him to exercise his considerable influence.

The Deputy Speaker: I don't want to disturb the delicate balance of the House tonight, but I really do need to hear some questions and comments that at least come close to relating to the speech of the member from Erie—Lincoln. Questions and comments?

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Mr. O'Toole: I do want to comment on the speech of the member for Erie—Lincoln because he draws a distinct revelation, I believe, *The Da Vinci Code*. I don't want to add to the—

Laughter.

Mr. O'Toole: No, no, this is relevant. Really, if you read *The Da Vinci Code* by Mr. Brown, it's a riddle, it's a maze, it's the search for the Holy Grail. Now, in the details in this bill—I can relate this, because it raises the question, did Christ survive the crucifixion and have a child, and was the child living in England?

Interjection.

Mr. O'Toole: I've read the book, twice, actually.

What it does is raise to a higher level the debate here. It's the idea that this legislation has a twisted maze to it as well, the linkage that I tried to establish earlier in my debate on the greenbelt, Bill 51, and Bill 43, the source water protection bill.

With your indulgence, Mr. Speaker, I want to announce that on March 19, at the Ontario Minor Hockey Association's provincial D championships, the Newcastle Stars Atom Reps won. I want to commend coach Scott Turner, assistant coach Paul Choiniere, Dave Connolly, trainer Patrick Kennelly and assistant trainer Tony Hunt. But most importantly, it's important to the children, because one of their parents works here in the Legislature, and I told her I would get it on the record. The players on the team were Kevin Turner, Matthew Hunt, Matthew Connolly, Tyler Rusaw, Michael Smith, Robert Thompson, Jeff Guernsey, Garrett Thompson, Brennen Kennelly, Zachary Bonura, Ben Choiniere, Connor Sikma, John Wood, and goaltender Daniel Feeney. They won the Ontario championships, and Scott Turner is the head coach.

It's about community. At the end of the day, the Minister of Municipal Affairs is trying to build communities, but he's using a cookie cutter, as has been described by the member from Erie—Lincoln, to bring us back to the debate. For some time, he served as critic on this file, so he knows of what he speaks. In fact, he coined the term "the green botch," as I recall it. When we get to Bill 43, the water one, it's connected—

The Deputy Speaker: Thank you. Questions and comments?

Mr. Tabuns: When I last had an opportunity to pose a question and comment, I asked about the reality of the term "sustainable development" in the legislation before us. I asked if the minister or his parliamentary assistant could address this House and tell us whether those words were of any consequence whatsoever. That hasn't hap-

pened. That causes me great concern, because there are people out there who apparently think that this legislation and the legislation related to the city of Toronto are actually going to increase the powers of municipalities to do something about the energy challenge or crisis, the environmental crisis that faces our society.

This morning I went to a press conference held by the Minister of the Environment to talk about an \$8-million or \$9-million program to send out coupons for energy-efficient light bulbs. I've got nothing against energy-efficient light bulbs, but the reality is that we are going to have to deal with the energy crisis, the environmental crisis in our urban areas, and we're going to have to do that through energy efficiency and energy efficiency standards. When legislation provides a government with an opportunity to address those questions, it should be taking that opportunity. It does not in fact appear to be doing that. It appears to be putting in wording that sounds green that will make some people very happy but, in the end, is of no consequence. Because of that, we will continue to go forward on an energy path that is not sustainable, that is increasingly expensive, and one that eventually will undermine the economy of this province.

Again, I can't command an answer from the government on this, but I think the minister or his parliamentary assistant should address the House this evening and say whether or not those words are of consequence.

The Deputy Speaker: Member for Erie—Lincoln, you have up to two minutes to respond to all of that.

Mr. Hudak: All of the varied topics. In the order that I can recall, to my colleague from Niagara Center, I appreciate his kind words. I do want to note for the record that it's nice to hear that he was a Cub Scout and then a Boy Scout for so long. In case it didn't get in Hansard, my friend the Minister of Tourism did note on behalf of the House that he continues to be a Boy Scout to this day. I'm sure members of all parties would agree with the Minister of Tourism's thoughts on that.

Minister of Tourism, I do my best to help. As you've seen in the House, I am also trying to help the finance minister with the Homestead Act. Maybe he could help me out there a little bit and see that become law, and I can do my best to help in Ottawa. The member is a big hockey fan. He also knows that when you're down 4-0 or 5-0 in the last period and a new line comes on close to the end of the game, it's pretty tough to even up the score. But I'll do my best to communicate with my friends, usually playing the right wing, to try to even up the score, considering how late in the game some of these decisions have come about.

To my colleague from Durham, I enjoyed his words earlier on tonight. Obviously, he's also had a chance to read *The Da Vinci Code*. My colleague the Minister of Citizenship I think shares my concerns. While I did read it, it is fiction, we should note. I do want to put in a plug. At Eastertime, I did watch *The Passion of the Christ* by Mel Gibson, an outstanding movie—very intense, very shocking, but much more a documentary than the fiction of *The Da Vinci Code*.

Lastly, to the member for Toronto–Danforth, I’ve enjoyed having him here in the assembly. I welcome him. He made an outstanding point about the City of Toronto Act. As I’ve said, I’d recommend to the minister that he should name it the Weaker Toronto for a Stronger GTA Act, because it does not actually address any of the main critical issues that are causing jobs to flee the city of Toronto. I think there is a conspiracy behind the bill by members from Durham and Peel and York to take the rest of the jobs out of Toronto and put them in their ridings.

The Deputy Speaker: Further debate?

Mr. Tabuns: Bill 51 before us deals with the important objective of Ontario Municipal Board reform. Unfortunately, this bill doesn’t provide us with the reform that the citizens of this province deserve, it doesn’t provide us with the reform that the citizens of this province need, but it gives a minor facelift to the OMB and at the same time removes the rights of citizens to provide input, to have control over or some say in the siting and construction of energy projects—privately owned energy projects—or their ability to appeal such projects to the Ontario Municipal Board. So I want to speak to the energy provisions first, and then I want to deal with the larger problems in this legislation relating both to the rights of citizens, the support of citizens to speak at the OMB, and the introduction of evidence.

On the one hand, the McGuinty government talks about making this OMB process more accountable, more transparent. There’s no question that that’s a fine objective. Everyone in this room would be supportive of that. But the government has not delivered that, when you consider section 23 of the bill. Section 23, for those who may be following this outside this chamber, exempts private sector energy developments, private sector energy projects in excess of two megawatts—so that’s a relatively small project—from the requirements of the Planning Act. I’ll give you an example. The University of Toronto runs a steam plant cogeneration facility in the middle of its campus. It’s about five or six megawatts—relatively small. Anything bigger than that that’s privately owned can be taken out of the realm of zoning powers of the local municipality, which is quite extraordinary, absolutely extraordinary.

I look at the experience we had in the east end of Toronto dealing with the Portlands Energy Centre. Now, that experience isn’t over yet, but a number of years ago when this project came forward, our community said to the government, “We want to have a full hearing on this. We want hearings in which the citizens can come forward, address the issues, challenge the evidence put forward by the proponents, look at what the alternatives are, compare the costs, look at the different environmental impacts and then have a decision made about the direction that’s going to be taken with power, with electricity in downtown Toronto.” That was not allowed. The proponent submitted its studies for consideration by the Ministry of the Environment. Those studies were considered. There was no bump-up, no raising it to the level

of a hearing, and all the environmental approvals went through.

As this stands, if in fact a similar proposal went forward in any project in any town or community represented by the people in this chamber—in Stratford, in Oakville, in Mississauga, in Peterborough, in Ottawa—if someone came forward and said, for instance, “I have a private sector proposal to burn waste. I’m going to go through the environmental assessment screening process,” there would be no hearing necessary, really, depending on the whim or the mood of the Ministry of the Environment of the day. If the province wanted to go ahead, that would simply be exempted from all kinds of zoning. So municipalities that try to plan their future, try to plan the structure of their city, would simply be stymied, and the citizens that you sitting here tonight represent would come to you and say, “Why on earth did you take that power out of our hands? Why on earth did you let this go ahead without us having a chance to be heard? Why did you ensure that our municipality,” a political level that citizens tend to have more influence on, “couldn’t have any impact on this?”

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We know the direction that this government is going in. The McGuinty government is making a push towards privatized power in this province. It’s making a push towards mega-nuclear power plants and mega-natural gas plants. The reality is, with this legislation, because there’s the desire to make them private, the protection of the environmental rights of citizens and the protection of their communities is going to be swept away. That’s what’s encapsulated in this legislation. Every member of this House, particularly those on the government benches, is going to have to answer to their public, to their citizens, to their voters, for taking away that political power.

In the future, nuclear power plants could come forward and, if they’re privately proposed and privately financed, why would the zoning of any rural municipality have any impact on the construction of that nuclear power plant? It wouldn’t. That authority to control the destiny of a local area of a regional municipality or of an urban municipality is going to be gone. That’s a huge loss for the people of this province.

In place of Planning Act oversight, private energy projects would be subject to an environmental screening process, which, as I’ve described with the Portlands Energy Centre, would mean only token consultation at best. We know that the Minister of the Environment recognizes that reform is needed in this area. Well, I’m not seeing reform come forward and I’m not seeing bills come forward; what I’m seeing come forward is this bill, which takes away those powers from communities and municipalities to determine their future, their direction.

It’s a bad approach to legislation. It means that host communities will have their autonomy dramatically diminished. I don’t know if that was the intention of the writers of this legislation. I wasn’t in the room when they wrote it. But I can tell you, that’s the end effect of it. Not

only will they lose municipal control over decisions regarding private, large-scale energy projects, but then there's transmission line construction, ancillary structures and all of that. All those things that go with large-scale power—that's something that you citizens who may be watching this and you legislators here this evening will no longer have the ability to control.

We here in the NDP believe that the planning, siting and permitting of private sector power generation has to be dealt with at the municipal level. That power has to reside with the community. The community has to have the input so that what does come forward is consistent with the needs of the community. We believe that when those projects of any kind come forward, there needs to be intervener funding so that citizens, whose resources are dramatically less than major international or national energy companies, have a fighting chance of putting forward their position and having it heard, having it really paid attention to. This bill is not dealing with that.

Along with a number of environmental groups, the NDP finds section 23 to be offensive, one that should be taken out of the act, and we'll be filing motions at committee stage to make those changes.

I've addressed the whole question of energy but I want to address the larger question of the structure of the bill. As you know, and as I know from having been a city councillor and a person who organized at the community level, citizens' groups and municipalities have complained about the OMB for a very long time. The reality is that far too often the powers of municipalities have been usurped, have been taken away by the OMB, and municipal councillors are left feeling that their presence at a planning meeting is ultimately irrelevant. Why be there, because we know in the end the OMB will make the decision?

The OMB has had and will have the power to overturn the decisions made by duly elected bodies, by municipal councils. That's not the case in the rest of Canada. In the rest of Canada, municipalities make the decisions and are then held accountable. They're re-elected, they're thrown out, they're argued with or they're praised. It's theirs to wear, theirs to carry. But here in Ontario, that's not the case. The power is turned over to the OMB, an unelected body, and that body can and does ignore the intent and direction of council.

When the body responsible for a planning decision in an area, in a community—the municipality—makes a decision, people can appeal that decision to the OMB. We thought when Bill 51 was introduced that this government, the McGuinty government, was seriously going to deal with the long-term problems that communities and municipalities have faced with the Ontario Municipal Board. I think there was probably a lot of hope that, "Okay, we know there are problems; the government recognizes there are problems. We're going to see what we can reform, we're going to see what can be changed in order to make sure that the OMB functions in a way that's democratic and reflects the needs of the com-

munity." But what we have before us falls very far short of that mark.

There are two unsubstantial changes that need to be addressed in the course of this debate, and hopefully they will be addressed in committee. One is that in this bill we have the wording that the OMB shall "have regard to the decision of the municipal council." I suspect that's very much like the line regarding sustainable development: It sounds good but it is of no consequence in terms of the legislation.

What the OMB is given to decide is whether or not a municipal decision will stand. The OMB now will "have regard" for the municipal decision. They'll hear it, they'll think about it and they can accept it or they can throw it out. It's in their jurisdiction. This particular amendment will not change that. The direction that a municipality wants to set for its destiny, for its community, is not of great concern to the OMB.

If in fact the wording "be consistent with" was used, as it is used with the provincial policy statement, then you would constrain the OMB. You would say to the OMB, "Look, you've got something before you. You know the direction this municipality is wanting to go in. Your decision needs to be consistent with that." It's not just "having regard to." I can have regard to my colleague's comments about the Scouts; it doesn't affect the direction that I would take this speech in. Is it going to "be consistent with"?

Mr. Kormos: Are you badmouthing the Scouts?

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Mr. Tabuns: No, I'm not badmouthing the Scouts, just so things are clear. The record must be very clear.

Using the phrase "have regard to" does not change what has to be changed. It leaves the power of decision-making with the OMB and does not reform the OMB in the way that people expect it to be reformed.

One other point that needs to be addressed is the whole question of intervener funding, and I touched on that briefly earlier. When citizen groups try to stop a development, be that a gravel quarry that's going to destroy the water table they depend on, be that an incinerator sited for their area or a development that's simply completely out of scale for a neighbourhood, they often find themselves before the OMB.

Citizen groups can attest—and since I've worked with a lot of them in my time, I know they're telling the truth—that they have tremendous difficulty pulling together the resources to adequately contest the resources placed against them by a developer or by a proponent. If you're going to actually be successful in an OMB hearing, you have to provide technical information, some of which is very expensive to obtain. You have to make sure that you can go toe to toe with those proponents in a way that gives you credibility. That poses huge problems for citizen groups. It makes sense that we provide intervener funding so that people arguing those technical points are able to bring to the table the same level of expertise as those proponents who have the ability to

build 500-, 600- or 1,000-home subdivisions. We have to have that.

If it's not citizen groups, it's municipalities. As you know, municipalities in this province face cash problems. The city of Toronto is facing huge cash problems because of the download that happened under the Conservative government, and that has not been reversed by this government. Municipalities much smaller than the city of Toronto are facing financial crunches. Where are they going to find the money to defend their positions before the OMB when a well-heeled developer shows up with limos full of experts, vans full of prospectuses, studies etc.?

Mr. Kormos: The Sorbaras.

Mr. Tabuns: I won't even name a group.

If we're going to talk about an effective hearing process for decisions, we have to talk about intervener funding. That's something this government should be doing.

I'll read very briefly a letter sent by Monique Atherton of Vinemount, Ontario, who went through two separate OMB processes. She talks about the difficulties she and her neighbours faced in moving these issues forward. She writes:

"Interpretation, selection and presentation of data by an expert can vary widely, depending on the position the expert is supporting. A peer review and/or consultation with independent experts early in the process may reassure citizens, making a hearing unnecessary, or it may facilitate a settlement or help to refine outstanding issues. If the board considers expert testimony to be the best evidence ... on issues where the board is considering the public good," then "funding for experts and lawyers could be made available for parties determined to be acting in the public interest who do not financially benefit from the investment in the services of these professionals. Without this best evidence from all parties the board is only determining what position can afford to purchase the best evidence—a determination which hardly requires a public hearing of issues."

So what does this bill say about this discrepancy in resources between proponents and community? The reality is, this bill says nothing. It makes some minor changes which may reduce some of the money municipalities spend at OMB hearings, but it proposes others that will add to the costs of municipalities.

Right now we have groups like Save the Rouge who are before the OMB and working very diligently to protect the source waters of the north Leslie lands. They're trying to defend source waters for the northern part of the GTA, they're trying to defend the source waters of the city of Toronto, and they are on their own. They're scrabbling to find the money to do what has to be done to protect the water sources that this government says it's dedicated to protecting, but they're doing it without the resources you need to have to do a good job.

If we're going to have a bill that has meaningful reform, we have to provide intervener funding. We have to make sure that language is adjusted so that the decisions of the OMB take consideration of municipalities' direction, not just "have regard to." And the whole section on private sector energy plants has to be taken out of this bill. That is completely unacceptable, and frankly I don't think most of the people in this province right now know what's happening. When they do know, which will likely be when this legislation is rammed through, they are going to be a very unhappy lot.

The Deputy Speaker: Questions and comments? There being none, further debate? Does any other member wish to speak?

Mr. Gerretsen has moved second reading of Bill 51. Is it the pleasure of the House that the motion carry?

All those in favour, say "aye."

All those opposed, say "nay."

In my opinion, the ayes have it. It's carried.

Shall the bill be ordered for third reading?

Hon. Mr. Bradley: I ask that it be sent to the standing committee on general government, please.

The Deputy Speaker: Agreed? Agreed.

Hon. Mr. Bradley: I move adjournment of the House.

The Deputy Speaker: The government House leader has moved adjournment of the House. Is it the pleasure of the House that the motion carry?

All those in favour, say "aye."

All those opposed, say "nay."

In my opinion, the ayes have it.

This House is adjourned until 10 of the clock tomorrow morning.

The House adjourned at 2037.

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