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**Official Report
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Tuesday 26 November 2002

Mardi 26 novembre 2002

Speaker
Honourable Gary Carr

Clerk
Claude L. DesRosiers

Président
L'honorable Gary Carr

Greffier
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LEGISLATIVE ASSEMBLY
OF ONTARIO

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ASSEMBLÉE LÉGISLATIVE
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The House met at 1845.

ORDERS OF THE DAY

ROYAL ASSENT

SANCTION ROYALE

The Acting Speaker (Mr Michael A. Brown): I beg to inform the House that in the name of Her Majesty the Queen, Her Honour the Administrator has been pleased to assent to certain bills in her office.

Deputy Clerk (Ms Deborah Deller): In the name of Her Majesty the Queen, Her Honour the Administrator of the province assented to the following bills in the administrator's office:

Bill 177, An Act to amend the Municipal Act, 2001, the Municipal Elections Act, 1996 and other Acts consequential to or related to the enactment of the Municipal Act, 2001 and to revise the Territorial Division Act / Projet de loi 177, Loi modifiant la Loi de 2001 sur les municipalités, la Loi de 1996 sur les élections municipales et d'autres lois par suite de l'édiction de la Loi de 2001 sur les municipalités et révisant la Loi sur la division territoriale;

Bill 179, An Act to promote government efficiency and to improve services to taxpayers by amending or repealing certain Acts and by enacting one new Act / Projet de loi 179, Loi visant à favoriser l'efficacité du gouvernement et à améliorer les services aux contribuables en modifiant ou en abrogeant certaines lois et en édictant une nouvelle loi;

Bill 181, An Act to amend the Legal Aid Services Act, 1998 / Projet de loi 181, Loi modifiant la Loi de 1998 sur les services d'aide juridique;

Bill 211, An Act to resolve a labour dispute between the Ontario English Catholic Teachers' Association and the Simcoe Muskoka Catholic District School Board / Projet de loi 211, Loi visant à régler le conflit de travail opposant l'Association des enseignantes et des enseignants catholiques anglo-ontariens et le conseil scolaire de district appelé Simcoe Muskoka Catholic District School Board.

FUNERAL, BURIAL AND
CREMATION SERVICES ACT, 2002

LOI DE 2002
SUR LES SERVICES FUNÉRAIRES
ET LES SERVICES D'ENTERREMENT
ET DE CRÉMATION

Resuming the debate adjourned on November 25, 2002, on the motion for second reading of Bill 209, An Act respecting funerals, burials, cremations and related services and providing for the amendment of other statutes / Projet de loi 209, Loi traitant des funéraires, des enterrements, des crémations et des services connexes et prévoyant la modification d'autres lois.

Hon Doug Galt (Minister without Portfolio): I seek unanimous consent with respect to this evening's debate on Bill 209: that one hour be divided equally among the recognized parties for the purpose of tonight's debate. At the end of that time, the motion for adjournment of the House will be deemed to have been made and carried and the Speaker shall adjourn the House. For the purposes of standing order 46, tonight's debate will be considered one full sessional day.

The Acting Speaker (Mr Michael A. Brown): Mr Galt has asked for unanimous consent of the House. Agreed? Agreed.

Mr Joseph N. Tascona (Barrie-Simcoe-Bradford): I'm pleased to come before this assembly to speak to the proposed Funeral, Burial and Cremation Services Act, 2002. As honourable members know, the new legislation would, if passed, regulate both funerals and cemeteries, which were formerly regulated under two statutes: the Cemeteries Act and the Funeral Directors and Establishments Act.

In our efforts to find practical solutions that balance industry and consumer interests in this important sector of our economy, we listened to the stakeholders. They told us we needed legislation that recognizes emerging trends and new kinds of transactions emerging in the 21st century marketplace. They told us we needed to encourage the development of new ways of doing business, and they told us we needed legislation that would provide strengthened consumer protection provisions. Based on our extensive and ongoing consultative process, we are confident that stakeholders know they have been heard.

The well-thought-out recommendations from the Bereavement Sector Advisory Committee form the foundation of the proposed Funeral, Burial Services and Cremation Act, 2002.

Today, I would like to address the potential benefits the proposed legislation contains for service providers within the bereavement sector.

Ontario's bereavement sector is a significant industry for this province. It consists of more than 550 funeral homes, 5,000 cemeteries, approximately 60 monument retailers and several other organizations that provide services to consumers regarding responding to the death of a friend or family member. Diversity characterizes the participants in this sector. Funeral establishments tend to be private, for-profit businesses. However, on the cemetery side, profit businesses coexist with religious, not-for-profit and municipal cemeteries.

1850

Purchases in this sector are also unique. About 80,000 Ontario families need bereavement services every year, and most of them will have no experience to guide them through the emotional decision-making process. Adding to the emotional nature of the decision is the financial commitment, a commitment that for the majority of today's consumers is a significant one, with funerals often the fifth-largest purchase most individuals will make.

Given the complexity and sensitivity of this sector, regulating it is no small feat. And let us not forget the implications of conducting business the 21st-century way. New business models and structures are developing at lightning speed in every industry, and the bereavement services sector is no exception.

It is no surprise, then, that businesses and consumers alike have asked for reforms to current bereavement legislation, reforms that would result in legislation that would be more responsive to market forces. Modernized bereavement legislation is called for, and our government has answered with the proposed Funeral, Burial and Cremation Services Act, 2002, before us today. We have drafted legislation that not only keeps step with today's marketplace and its ever-changing demands, but one that can also respond to future needs as the bereavement services sector itself evolves.

The proposed legislation would benefit businesses in the bereavement sector in three ways. First, the proposed legislation would establish clear rules under which combined cemetery and funeral home operations would be permitted. Second, it would foster a level playing field for all industry participants. Third, it would strengthen consumer protection provisions.

In a major reform of what is currently in place, the proposed Funeral, Burial and Cremation Services Act, 2002, would set out conditions under which combined cemeteries and funeral homes would be permitted. The two existing statutes, the Cemeteries Act and the Funeral Directors and Establishments Act, were created to regulate two traditionally separate segments of this sector. With time, the regulatory split has reinforced what many

see as an artificial separation. Ontario is one of only two jurisdictions—Prince Edward Island is the other—in Canada prohibiting joint ownership and co-location of cemeteries and funeral home establishments.

Consumer expectation for a wider range of services and a desire for one-stop shopping are among the reasons for the move toward combinations in many jurisdictions. In general, consumers are increasingly requesting options other than traditional funeral service and burial. The combination of cemeteries and funeral homes would result in the development of innovative business models. By allowing for these new business approaches, consumers would have greater choice.

Expansion of services is top of mind with many service providers as they try to accommodate recent trends in bereavement management. The increasing number of consumers choosing cremation as an option is just one example of a new trend that has had an impact on service providers across North America and Europe. With rising land costs and increasing cultural diversity, this increase has been quite dramatic. In 1989, cremation was the choice for just under 28% of funerals. By the year 2000, 40% of funerals involved cremation. Similarly, there has been an increase in the number of consumers looking for non-traditional services or no-frills interment.

Allowing for a greater variety of services to be made available from service providers would also help consumers who want to make all their arrangements through one location. For example, under the proposed legislation, a funeral home could offer interment services or a cemetery could provide consumers with funeral services.

Let us remember that the concept of one-stop shopping is not simply a trivial convenience for consumers. Simplifying the process is essential, given the emotional fragility of the person making the bereavement arrangements.

Some have asked, "What will the proposed legislation offer family-owned funeral homes in Ontario?" The legislation provides for important new opportunities that would allow family-owned funeral homes to better serve consumers; an ability to serve the growing cremation market directly; an opportunity to purchase and resell interment rights to consumers where the cemetery is agreeable; the chance to enter into partnerships with other service providers, which might include municipalities and other non-profit organizations to develop new business models.

The second major benefit for businesses that would result from the passage of the proposed Funeral, Burial and Cremation Services Act, 2002, is the fostering of a level playing field for industry participants. Operating a business in today's competitive environment is challenging enough without having a playing field slanted in the competition's favour. With the proposed legislation before the assembly today, our government is endeavouring to level that playing field.

First of all, the proposed Funeral, Burial and Cremation Services Act, 2002, would work toward greater consistency in the sector by expanding the scope of

licensing. Sector participants who were previously unregulated would be licensed according to the provisions in the proposed legislation. Throughout the Ontario government's long history of working with the bereavement sector, we have jointly sought to ensure professionals in the industry are properly qualified and licensed and that consumers are provided with appropriate protection.

The proposed legislation before the Assembly today would bring to fruition the work of these joint efforts. Specifically, regulation of the bereavement services sector would now include licensing of the following:

- (a) cemetery operators and their sales representatives;
- (b) crematorium operators and their sales representatives;
- (c) funeral establishment operators;
- (d) funeral directors;
- (e) transfer service operators and their sales representatives;
- (f) casket retail operators and their sales representatives; and finally
- (g) marker retail business operators and their sales representatives.

The legislation would result in the definition of more classes of licences to recognize no-frills players, creating a much-needed consistency throughout the industry.

By setting a standard level of professional requirements, the proposed legislation would help to ensure that consumers are protected. At the same time, by expanding the scope of who is licensed within that sector, the proposed legislation would also benefit businesses by allowing for flexible licensing regimes to recognize new trends. Again, this is part and parcel of ensuring that the proposed legislation is responsive to the demands of the marketplace, not only to the 2002 marketplace but to the shape and form of the marketplace to come.

We have discussed how this new approach would offer a simplified option for consumers and increase service offerings for providers. It would also benefit businesses by allowing for efficiencies that currently do not exist. We need to arm Ontario businesses with the means by which they can thrive and be competitive, especially during these times of global economic upheaval.

In allowing for services to be combined, the proposed legislation would provide the key to a new world of business strategies for the bereavement services sector. New ways of operating would allow for efficiencies that under the current legislation the bereavement services sector cannot leverage. Bereavement services providers who would take advantage of these efficiencies would be able to build stronger businesses. Stronger businesses mean a stronger industry, and that translates into an industry that can better meet the needs of Ontario consumers. A financially sound bereavement services industry would ensure that consumers' investments in their bereavement arrangements are being protected now and in the future.

Finally, the strengthened consumer provisions outlined in the proposed legislation would offer a protective

umbrella to shield consumers and businesses alike. Prohibiting unfair business practices, increasing disclosure requirements and providing that all licensees comply with a code of ethics are key consumer protection provisions that also have immense implications for protecting service providers within the industry.

Most members of the bereavement services sector deal with their customers and their competitors in an honourable way. Unfortunately, as with many business enterprises, there are those within the industry who not only take advantage of consumers but also engage in unfair practices that thwart fair competition. In legislating against such unfair practices, the proposed Funeral, Burial and Cremation Services Act, 2002, would ensure that all service providers work within the boundaries of fair practice. Under the new legislation, falsifying information, false advertising and the furnishing of false information would all be subject to stringent penalties. Not only would the proposed legislation give power to control current advertising, but regulations would also be put in place that require advertising be pre-approved before publication if an order in respect of false advertising has been made.

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The proposed legislation would also promote a level playing field for service providers by broadening disclosure, including ownership disclosure. Easy-to-understand educational brochures and standardized price lists are also part of these new disclosure requirements. As part of the proposed regulations, licensed operators would be prohibited from selling at a price that is more than the price indicated on the price list. Again, this would ensure that any competitive advantages between service providers were not the result of unscrupulous activities.

Where currently only funeral directors are subject to a code of ethics, the proposed legislation would require that all licensees, including funeral directors, cemetery owners, transfer operators, marker and casket retailers, and all those who work in the bereavement services industry, comply with a code of ethics.

To monitor these licensees, the proposed legislation would provide for the establishment of a discipline committee and an appeals committee. Licensees who have been found to have breached the code of ethics by a discipline committee could be fined up to \$25,000. The proposed legislation would provide for an appeals process as well as an offence section that sets out the consequences of a conviction. Once again, such provisions would ensure that the reforms to our current bereavement legislation result in a more rigorous, protective framework for Ontario consumers, thereby creating a fair-play structure for businesses within that sector.

The powers outlined in the proposed legislation that would encourage compliance and enable enforcement serve consumers and service providers equally well. There is a fairness in this approach. Honourable members, it is critical to recognize that the needs of businesses and consumers are inextricably intertwined. By giving

consumers the mechanism by which they feel confident in the industry, we would be supporting growth in that industry.

Strong consumer confidence strengthens an industry. A strong industry means good businesses. Good business supports a thriving economy.

The reforms proposed today reflect stakeholder input and consensus on significant policy issues in the bereavement sector. The proposed Funeral, Burial and Cremation Services Act, 2002, would support the development of new and modern business models for service providers in this sector, promoting a level playing field while increasing protection for consumers.

This legislation, the proposed Funeral, Burial and Cremation Services, Act, 2002, has been brought forth after extensive consultation with stakeholders. It's trying to deal with practical solutions to the industry as it exists today. We are dealing with the bereavement industry in the 21st century. What we're trying to do is not only encourage new ways of doing business that make sense to the participants in this industry, we're trying to make sure it is also fair and affordable to consumers. When you're dealing with something as abstract as what we are dealing with here today in terms of trying to regulate an industry, you cannot lose sight of the people who get involved in it, the everyday person who has to make those emotional decisions with respect to dealing with their loved one who has died, passed away. It's very difficult for anyone who has gone through that to deal with the different businesses, if you want to put it that way, that are involved in this particular sector. Certainly when you are dealing with going to a funeral home to get that particular service today, you are not only not necessarily seeing church services, you are seeing funeral homes providing that church service, and also at the same time making a decision whether you are going to cremate that body or you are going to bury that body in a cemetery. Those are significant decisions that have to be made, but you are also dealing with significant participants in this industry.

What we are trying to do is license the total industry, all those licensees that form part of that particular industry. That industry in itself is changing. It's changing in a way that consumers need to be made aware of what their rights are. They need to have full disclosure of what their rights are and also what they can expect in terms of services that are being provided through the bereavement industry. It's a very complex, very sensitive area. We need reforms to deal with the way the combined cemetery and funeral home operations would be permitted. As I said before, the one jurisdiction that doesn't allow for this is Prince Edward Island. But what we're looking to do is trying to bring together an approach here that would allow for combined cemetery and funeral home operations.

We are also looking to strengthen consumer protection provisions. We are also looking to make sure that the playing field is level with respect to this particular industry. The fact of the matter is that what we're seeing

by the statistics I indicated earlier—in 1989 cremation was a choice for just under 28% of funerals and by the year 2000, 40% of the funerals involved cremation—is a significant change in terms of how people are dealing with their loved ones, and also what they should be made aware of in terms of what they have to face in a particularly difficult time.

I would urge the members to seriously consider what is being proposed here, to seriously consider what the protections of the consumers need to be here. This is an area that is long overdue for reform. There have been extensive consultations on this area. Certainly this is an area that I think the Legislature needs to address. I am confident that it will be addressed by this Legislature.

The Acting Speaker: Further debate?

Mrs Lyn McLeod (Thunder Bay-Atikokan): I'm pleased to have an opportunity to participate in the debate on Bill 209, An Act respecting funerals, burials, cremations and related services and providing for the amendment of other statutes. Given the substantive nature of the legislation that is now before the House—legislation relating to hydro, an omnibus bill that was just tabled today—you might question whether or not this is one of the most important items on the agenda of the current government. I would submit to you tonight, though, Mr Speaker—and I know you would be entirely sympathetic to this view—that an act respecting funerals, burials and cremations is very significant legislation indeed. You would know as well, Mr Speaker, that when people have to access the services of a funeral director they are doing so on typically very short notice. They are doing so with a need to make instant choices about very large, very expensive purchases that their family is about to incur and they are making these choices at a time when they are particularly emotionally vulnerable. So perhaps there are very few issues of consumer protection that are more crucial to the consumer than this particular bill is.

I would also suggest that not only is it important in terms of consumer protection, but it's also important economic legislation. There are some 500 funeral businesses in the province of Ontario, largely relatively small businesses, many of them family businesses. They are businesses which are potentially affected in very real ways by any legislative changes that are made in the acts and regulations that govern their operations.

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The government is suggesting that the reason this bill is here is because it is really just a repealing of the two acts which do now govern both the operation of cemeteries and the rules and regulations that funeral directors and establishments operate under; that they're repealing the Cemeteries Act and the Funeral Directors and Establishments Act and they're replacing them with one statute. It's a simple process of consolidation. In fact, as you look at what is really quite a large bill, you realize that it does more than simply consolidate two existing acts. When it comes to consumer protection, it's probably fair to say that most of what's being offered in the name

of consumer protection is already in the existing acts and this merely consolidates them.

But there's a very significant addition, a very significant change, and that is the change which ends the separation of the work that is done by those who operate cemeteries and the work and services provided by those who are funeral directors. Under this legislation, for the first time, it's possible for cemeteries to build funeral homes on cemetery grounds. This has been defended by the government in the address that we just heard to the House as being a way of giving the consumer one-stop shopping options. That may be fair enough, that may be something the consumer sees as desirable. But I think there are some very real risks in this, in ending that separation which has been the history of the provision of funeral services in this province.

One of the real risks is that there is a danger of moving from those 500 relatively small businesses that operate in the province of Ontario to much larger, consolidated businesses that could become almost monopolistic. I think that's a serious concern. It would certainly affect consumer choice. It would certainly affect prices that people are having to pay. I think it's a serious enough concern—it goes well beyond simply consolidating two existing acts—that this bill deserves full public hearings.

The government will say, "Why would we need to have public hearings? We've just had extensive consultation." The member opposite in making his address this evening referenced the fact of consultations repeatedly in his remarks, to assure us that everybody who might be concerned and aware of the issues sufficiently to read this legislation has been involved in the consultation, has given their input and is happy with that.

We've had interesting experiences with the consultation process, perhaps from all governments, and particularly from this one. I remember one particular consultation, and you'll recognize it's an unrelated issue but I raise it because of the whole question of faith in consultation, because consultation has been offered repeatedly tonight as justification for not having to look more closely at this bill. There was a sudden announcement in my own particular riding about the name change for a provincial park. Not a big deal as provincial issues go perhaps, but it caught the community by surprise.

I called the Ministry of Natural Resources. I can't remember whether it was under this government or under the previous one. I wanted to find out where this name change had come from. They told me that there had been a consultation, a thorough consultation. As the sitting member, not having been aware of the consultation, I was curious to know about it. I asked, "Could I see the consultation documents, please?" They produced them for me, as they were required to, and there was a lot of consultation. The fact that it was done very quietly is beside the point. There was a lot of consultation, pages and pages of input. People obviously cared about the change in the name of this park.

What surprised me was, as I read through each one of those consultation documents that individuals had taken

the time to send in to the Ministry of Natural Resources, all but one were opposed to the name change. So the government said, "We've consulted," and indeed they had, but what they did was the exact opposite of what the consultation would have suggested they do.

Today in the House I raised another issue around consultation. As you know, this government doesn't particularly like to consult. They have to be pushed into it most times. And when they do consult, they often do it privately, which was the case with the consultation on changes to Cancer Care Ontario which was the issue I raised in the House this afternoon. We find in that case that the government consulted in private, got very negative responses and decided to go ahead anyway. So when I hear the government defend a bill purely on the basis that they've consulted—"We don't need to talk about it any longer; it's fine"—I get very nervous. So I went to what we had heard from the people who were directly involved in the consultation process; for example, the Ontario Funeral Service Association, obviously a group that's going to be involved in a consultation on significant changes to the provision of funeral services. They did in fact have extensive involvement in the committee that the members opposite have referred to. They express in this press release related to the bill, when they first saw the bill tabled, "We are hopeful that this legislation will bring all service providers up to the same high standards of professionalism and accountability that currently exist for funeral homes."

Obviously they're not concerned that there's a lack of regulation or consumer protection currently, but they want to make sure that there's going to be a level playing field for everybody as these significant changes are brought forward.

And what does this association, probably the single most involved stakeholder group, say about the legislation itself after all this consultation? They say, "Although the basis of the legislation is in place, there are some issues that remain a concern." They add that they "have every intention of playing an active role in drafting regulations that address them."

Well, if this group is to be involved in regulatory changes, they've got their work cut out for them. I looked at this quite large bill and discovered that there are no less than nine and a half legislative pages that are used to set out the regulatory powers to be held by the minister and the government. How can we even talk about what this bill does for consumer protection when nine and a half pages worth of regulations are going to be determined not in the full view of the Legislature, not with public debate, not necessarily with consultation at all, as much as the funeral service association is planning to have involvement in the development of regulations, but it's to be done by the minister and the government behind closed doors, as all regulations are developed?

I think we have reasons to be concerned when the main stakeholder group, the group most involved in the consultation process, feels that they have to make this bill work through a process of affecting regulations which we

know is not going to be done in public. Not only that, but when the funeral associations are making these comments, expressing these concerns, they say “without having reviewed the bill in its entirety.” We can only imagine how those concerns would be magnified if they’d had a chance to actually look at the details in the bill.

I think it’s probably true that the other very involved stakeholder group, the Canadian Federation of Independent Business, has had some opportunity to really look at the bill and to express its concern. Obviously, as I mentioned, there are 500 small businesses involved. These are the people who are represented by the Canadian Federation of Independent Business. So the Canadian Federation of Independent Business was also involved as a stakeholder in the Bereavement Sector Advisory Committee. They wrote to the minister in May and talked about the fact that negotiating a consensus within the stakeholder group proved far more difficult than was imagined.

But much of what was agreed upon by the committee was based on the following principles: that there be a single regulatory regime—now, with nine and a half pages of regulations, how do we know there’s going to be a single regulatory regime to ever emerge out of this? Nine and a half pages of regulatory powers, not regulations that we’re looking at; powers to create regulations. You don’t give away that much regulatory-making power and expect that you’re going to have a single regulatory regime.

The other principle, an important principle, was a level playing field for industry participants; a third principle was that there be strengthened consumer protection, that there be clear rules for allowing combinations to include “strengthened viability of separated operations.” It sounds to me like the directly opposite way from which this government has chosen to go with this bill.

They go on to say, “The ‘level playing field’ imperative resulted in a proposal that would have municipally owned and non-profit businesses in this sector make payments in lieu of taxes.”

It’s the whole issue of a level playing field: who has an advantage, the kind of advantage that might put other businesses out of business because they’re at a competitive disadvantage?

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What does the Canadian Federation of Independent Business say about the bill itself? Well, they say, first of all, on the issue of the lack of a level playing field—I should preface it by saying that before they get into the details, they simply say, “We have reviewed the draft legislation ... there are areas where it does not respect the agreement of principles put” forward by that committee, the very committee that the government keeps holding up as the model of consultation. The CFIB says, “Our reading of the legislation is that there are areas where it does not respect the agreement of principles put forth by the BSAC to your predecessor.... As a consequence, we worry that the future viability of independent operations

in the bereavement sector will be threatened, ultimately putting consumers at risk.”

So what are their specific concerns? First of all, on the issue of a lack of a level playing field on taxes: that whole question of whether or not those who are not now paying taxes, those who own cemetery properties should be paying a grant, a payment in lieu of taxes, has been rejected, that the proposed payment in lieu of property taxes, which may appear, is to be returned, dollar for dollar, to the municipal cemeteries, ostensibly for care and maintenance, and this without any accounting for the disposition of the money, clearly giving the advantage to the cemetery, to the great competitive disadvantages of those 500 businesses, funeral homes, that are currently in operation.

The CFIB is concerned about restrictive practices. They’re concerned about the “operators of ‘existing visitation centres’ on cemetery property, and existing crematoria ... being rewarded through a ‘grandfathering’” clause, that they’re going to be grandfathered. The reason CFIB points out this concern is that these are the operations that have essentially been illegal. These are the sorts of phony funeral homes, not called funeral homes, visitation centres on the cemetery, with something off-site owned by the cemetery operation to do what is not technically allowed to be done on cemetery property. They’re essentially unregulated funeral sites breaking a rule, and this government has decided to reward them for that by grandfathering them even as they bring in new legislation.

There you have the results of the consultation: two of the key stakeholder groups, both very involved in the consultation, both expressing serious reservations, serious concerns about the legislation which has actually resulted from that consultation process, and saying they don’t believe that this legislation is true to that consultation at all. So, again, this needs to go out for public hearings, because it is significant enough to warrant that kind of hearing.

There’s a question of who is concerned about this, who should be concerned. Clearly, small funeral homes—we’ve talked about that; the not-for-profit operations, the Memorial Society of Thunder Bay, for example—that offer a low-cost alternative to individuals who choose that route. What new rules are they going to play under? What kinds of new costs are they going to face and what costs will have to be passed on to the people they’re offering services to, offering services in the name of a low-cost alternative? Those are all unknown.

I honestly don’t know exactly where the municipalities stand on this; I’ll confess that to you. I’ve heard that there are some real advantages for municipalities. The Canadian Federation of Independent Business thinks that municipalities may use their local government powers to serve their own commercial interests, that they can take advantage of this bill, particularly since they are not going to be expected to make the payments in lieu of taxes or, if they’re expected to make those, that they’re

going to get compensation in full from the government for that. The CFIB clearly feels that municipalities could be a beneficiary of this legislation.

On the other hand, I understand that many of the municipalities are extremely concerned, as cemetery owners, that they may be liable, if the operator of the cemetery goes out of business, to take over the operation. So I think, again, we need to find out whether this is something municipalities agree with or don't agree with once the municipalities have had a chance to find out, not what was being recommended through a consultation process, but what actually appears in the bill.

I'm actually running out of time, because there is a lot to talk about with this bill. I wanted to come back to what the minister has offered as his reasons, his defence of the bill, why he thinks this is a good bill. He talks about the fact that we are a very diverse community and that we need in this kind of legislation to be able to reflect the diversity of religious and faith beliefs that exist in our community. I couldn't agree more with that sentiment. I just don't understand how setting in place legislation which potentially creates a greater monopoly of the provision of services responds to the diversity of the Ontario culture.

The minister has talked in his opening comments on the bill about providing greater choice for consumers who want to make all the arrangements in one place. I understand the making of all the arrangements in one place. That's clear: one-stop shopping. The members have made it obvious that that is the main reason they're bringing this forward. It's what they say is the main reason for bringing this forward. But I have to argue with whether or not that provides greater choice. Because if we should lose the existing funeral homes, if we jeopardize and lose some of the small not-for-profit operations, the operations like the Memorial Society of Thunder Bay, if we make it virtually impossible for them to continue to do business in this climate, then we haven't created greater choice for consumers; we've restricted choice for consumers.

The minister also said that this permits new business models and, by permitting new business models, it will allow businesses to grow and create jobs. Well, again you have to question whether or not that's what the legislation actually achieves. Sounds good. Think it's a good idea. But suppose those 500 businesses are negatively affected. Suppose some of those 500 businesses are shut down. In what way have we actually created jobs? Does creating bigger and bigger establishments offering one-stop shopping to consumers create jobs or does it in fact reduce jobs?

Obviously, the main purpose of this legislation is to offer consumer protection. I guess as I look through this bill, this very extensive bill, 85 pages, if I have any sense at all—and I won't claim expertise—of what was in the two acts that this replaces, I would think that most of the legislation that provides consumer protection is already in the other acts. In fact I think there's been general agreement that legislation in Ontario regarding both

cemetery operation and the operation of funeral homes has been quite stringent. The regulations around the requirements of the people operating those homes are also very stringent. So I'm not sure we've added much consumer protection through this; in fact, it's at least possible that we've opened up a new area of challenge for consumers, because it's not clear that this bill prohibits retailers from coming knocking on the doors, selling funeral services and doing so on commission, a totally different situation from the way in which pre-sold funerals can be done now.

Again I tell you, we've had very recent experience in the province with a retail opportunity newly opened up by the government of Ontario: people knocking on our doors to sell us electricity. We've seen how vulnerable the consumers are to that kind of operation and to sham presentations and misrepresentations that get presented to them at their doors. So there may be less protection here than there was under the previous acts.

I do believe that there are enough concerns around this bill and that this act affects people in a way which is profoundly important to them at time of need, that it affects the operation of small businesses in virtually every community across this province, sufficiently important that we do need to call for public hearings. I am not optimistic. We have seen what's happening in the legislative agenda of this government. We've seen that what they want to do is ram through legislation in the next—what do we have?—two and a half weeks left before the government wants to adjourn the House for the Christmas season, and it appears they want a clear docket. We should still push for public hearings.

Mr David Christopherson (Hamilton West): I want to begin my remarks where my colleague from Thunder Bay left off, and that is the call for public hearings. Some might say that happens on virtually every bill. Well, surprise, surprise. When you pass laws, there's this argument out there in the public—I know it's kind of a silly notion they have—but they kind of like to be a part of the process of the laws that are going to affect them. So we'll begin and end with that request. It's probably the most substantive part of what I'll say this evening, that there needs to be hearings on this.

I just want to briefly in the time that I have go through a bit of a chronology. The first time this issue came on to my political radar screen was a phone call from the faith groups, who asked for an opportunity to meet with me to talk about this pending legislation. I couldn't make it at the times that were available. My good friend and colleague Tony Martin from Sault Ste Marie took that briefing and advised me of the concerns they had. A little time goes by, and the next thing I hear, I get a phone call from one of the councillors who just happens to be in one of the areas of my riding, Councillor Marvin Caplan, who called me and said that he had it from reliable sources that within a day or two indeed this bill would be tabled. He wanted to express concerns that he had, both on behalf of our city, Hamilton, and AMO, the Association of Municipalities of Ontario, where he had played a part

in the role of looking at this bill to determine what the implications were for municipalities. So both locally for Hamilton and on the broader municipal scene, he had some concerns.

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As things turned out, last night I was in the Speaker's chair when we had the first round of debates on this and I heard the Minister of Consumer and Business Services, Mr Hudak, when he stood in his place and expressed an opinion that this need not be partisan. I have had no reason to date to do anything other than take Mr Hudak at his word on other matters and I believe he was sincere. If he's walking me down the garden path, then so be it. That's always possible, but that's not the way I took it.

Further to that, in fact, a little later in the evening the Honourable Norm Sterling, another individual known for his integrity, said this—this is just last night in the House: “Yes, I think we should have hearings on this if that's what you feel comfortable with,” meaning the opposition members. “There's no fear on our part about the outcome because the outcome should be whatever the consumer and the industry want.” From all of that, one would conclude that the government is serious.

I asked my caucus whip, Gilles Bisson, whether or not we'd had that kind of indication or commitment from the government and, to date, that hasn't happened, and to this moment my colleague is indicating to me we still haven't heard that there will be committee hearings. It would be very helpful, assuming we are to believe—and as I say, I choose to believe the word of two cabinet ministers, Mr Hudak and Mr Sterling—that the government is not seeking to impose any kind of ideological thinking on this, that they're not looking to score any political points, that what they really want to do is get a good bill.

OK, let's hear it. It would be really helpful if somebody—even one of the ministers who is here—would just nod to me now. We have the Deputy Premier in the Legislature right now. It would be helpful if she would indicate to us that, yes, there are going to be public hearings. Then we could really stand down a lot of our concerns here and put those over to the committee hearings where we can have experts come in.

In talking to a former minister of this ministry, Marilyn Churley, no one is questioning the complexity of this. From last night's remarks, I'm led to believe it's been like 100 years since some of this legislation has been looked at, and for decades various governments have said, “You know, we really ought to do something about this legislation. We ought to get it modernized. There are things we need to do in the industry to bring some better harmony and consumer protection,” etc.

Fair enough. Let's accept that it's complex. Let's also accept that it's not an easy thing to debate. I've watched members both from this vantage point and where you are, Speaker, and there's nobody here who is truly 100% comfortable with this. Maybe the Speaker, because it's his profession, but for most of us it's not something we're particularly comfortable talking about. Usually we don't know an awful lot about it, because whenever we

are dealing with the details, it's at a time of great emotional distress: life is in chaos, you've lost someone who means a great deal to you and you're hurting. It's more a matter of, “Let's get the mechanics of this over with, because I've got to deal with what I've lost and somehow put my life back together and keep going.” I think that's perhaps the story for a lot of us here and, I would suspect, a lot of the people who may be watching and listening to the debate around this.

Is it just us? Is it because we aren't prepared to tackle the hard political choices that are to be made? Some are suggesting that is the case with the government, notwithstanding the excellent work of Justice Adams. I understand he's played a crucial role in trying to bring the various parties together in an attempt to, if not mediate, certainly, through discussion, come to a consensus within the industry and those people who are involved. Let's not be shy about calling it an industry. There are businesses, there are a thousands of people in this province who earn their living in this area of society and of life, and the other part. Knowing there has been that attempt again gave me reason to believe that the minister is not trying to spin anything, that he really wants to do something about this.

But I want to underscore comments made by previous speakers, both this evening and last night, about the number of groups involved. I did hear a couple of government members suggest that everything is all hunky-dory now that Justice Adams was able to work everything out. Well, apparently not, because a lot of the detail, once again, is going to come out in the regulations. We don't know what the regulations are. It's one thing when a bill is being driven by the politics of the government and damn the torpedoes—they'll bring out the regulations when they darn well choose and not a moment sooner—versus a bill where the lead minister is telling us, “We don't want this to be partisan. There's a lot of work that needs to be done and, as lawmakers,” as opposed to being labelled by our parties, “we should be attempting to do something about this.” It would be very helpful if the government would indicate, in addition to public hearings, that we get some sense of what the regulations are going to look like. If that's indeed where the bulk of the law is, notwithstanding 86 pages of Bill 209, the regs are crucial.

There are a lot of different players involved in all of this, all legitimate players who have a right to have their voices heard. I've mentioned the faith groups. There are the independent funeral establishments. I've got notes that indicate that the urban perspective is different than it would be for the rural or the medium-sized, and then there are general applications for all funeral establishments. That's just within that one part of the overall sector.

Cemeteries: there are a lot of different entities that own and operate the cemeteries. So now we're getting into sub-subgroups that have a valid concern, a valid voice, and deserve to be heard, if you're being forthright about this not being a partisan bill.

Consumers: obviously, and there are people who have had some very bad experiences. There are consumer groups who represent those consumers who know these issues from that consumer perspective. That's not going to be heard through this debate.

Casket and marker retailers: there's another whole world. Municipalities have serious concerns. As I heard from my friend Councillor Caplan, municipalities have some real issues. AMO, the Association of Municipalities of Ontario, sent in a letter advising that they have concerns and outlining what they are. What do they want? Public hearings. They just want an opportunity to be heard.

In fact, AMO said, "The report"—meaning the initial government report—"offered a number of recommendations aimed at meeting the minister's objectives, claiming it had broad consensus from committee members. However, municipal representatives on the committee have indicated that a broad consensus does not exist and a number of recommendations have the potential to negatively impact municipalities"—exactly what Councillor Caplan was outlining to me in his phone call about the concerns they had. What he didn't want to find out was that this would be one of those rare occasions when, given the fact the government says this isn't partisan, it gets all-party support and hustles through here. So his point in calling me as his MPP was to make sure that didn't happen. Of course now, as I get more into this issue and as all of us here get more into this, we're finding out that municipalities aren't the only significant players that have concerns. So I say to the minister, we're not there yet; notwithstanding what some members of your government may say, we aren't.

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The Anglican Church of Canada says in part in their correspondence, "We told the minister that we supported the intention in the bill of furthering consumer protection, but have concerns about the board of a new authority making decisions that would have inadvertent consequences for religious communities," and then they proceed in their correspondence to outline what those concerns are. I can't believe for a second that you're going to just turn your back on the churches, on the faith groups.

But I'm still not getting an indication from the Deputy Premier that there are going to be public hearings. That's all we're really asking at this stage, and it's not that much to ask. Nothing.

Some of the concerns of the Canadian Federation of Independent Business have been raised, but I'll put one more sentence in their correspondence on the record: "As a consequence, we worry that the further viability of independent operations in the bereavement sector will be threatened, ultimately putting consumers at risk."

The Ontario Monument Builders Association says in part, "OMBA is deeply concerned that the proposed act will severely disadvantage consumers and further create an uneven playing field between competitors in the bereavement services industry."

So not only are there concerns in each of the various components that make up this sector and their relationship to the law and concerns about the consumer, as I would hope, being the ultimate interested party in this matter, there are also concerns raised that if this isn't done properly—my words—and thoroughly and with broad enough consultation, it's going to create problems between businesses within the industry, within the sector.

If this is all starting to sound pretty complicated, it's because it is. Again, all we're asking at this point—I can tell you, I can't imagine anybody building an election plank out of this matter. It's just not going to happen. Given the reputation of the two ministers I've mentioned, Ministers Hudak and Sterling, I would say the government's integrity is on the line here. For what it's worth, your word is on the line. All we're asking for at this stage is to let us have some public hearings. I know that's a huge thing to ask of this government; it shouldn't be, given all the times that bills should have gotten some attention, but you're the one that led this debate by saying, "This isn't partisan." I heard the minister last night. He was almost baiting opposition members to prove him wrong, that given the nature of what we're talking about, surely opposition members wouldn't make political hay out of this. Fair enough. Some of us enjoy nothing more than the opportunity to actually have some input and affect the outcome of legislation. It's sort of a rare treat when you're on this side of the House. I can assure you there are a lot of us who would be quite—what are you doing? Is it going to fire something at me? For those who can't see, one of the ministers was putting something rather interesting on his desk.

Anyway, I don't want to treat the matter too lightly. I just want to point out that you'll notice that even my volume is down this evening because I'm not angry about anything; I am concerned—

Interjection.

Mr Christopherson: I know. See? It can happen.

Hon Helen Johns (Minister of Agriculture and Food): It's a shock.

Mr Christopherson: Well, there you go. Now shock me by asking your Deputy Premier to indicate that there will be some public hearings, and we can all walk away happy and shocked rather than angry and shocked, which is usually the way I find myself leaving this chamber.

But I don't want to be too trite about it. It's obviously an important matter. It affects virtually every one of us—literally, I guess, every one of us—at some point.

Hon Mrs Johns: You don't care when it happens to you.

Mr Christopherson: Well, I like to think somebody will. But even if it's not for ourselves, we do have loved ones. We all go through these very difficult times in our lives. The business of burying our own shouldn't be a further burden. We've now got an opportunity. The bill is in the House. We're halfway through the debate, or maybe close to the end of the debate, on second reading. The ministers, on behalf of the government, have indicated that they really want to have a non-partisan bill.

Both opposition parties have pointed out that there are very serious, legitimate concerns, that there are people who have expertise and who are prepared to come to committee hearings to assist us in making whatever changes are necessary. And maybe there are no changes necessary. That could be. But we really won't know until we give these individuals and these organizations an opportunity to come in and have their say.

So I put it back to the government: if you're legitimate and you're sincere about what you said and you're going to stand behind your word, then indicate to us that we'll get at least a few days of public hearings. Then perhaps we can have one of those rare times when we all walk out of here feeling good about a law that has been enacted rather than the usual winners and losers. On this issue, there is really no room for losers, because it affects all of us.

Again, on behalf of all those involved in this as a business and as a profession or as an investment or as part of their religious practice, give Ontarians a chance to have a say. Let's make it one of those bills that's non-partisan. Let's work together. I'm prepared to take up the government on their offer to see what we can do to come up with a bill that meets everyone's needs. We can all take credit for that, as if that was the most important thing, but more importantly, we'll get a law that reflects the needs of the people of Ontario. At the end of the day, isn't that supposedly why we're all here in the first place?

The Acting Speaker: With reference to the unanimous consent, this House stands adjourned until 1:30 of the clock tomorrow afternoon.

The House adjourned at 1948.

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

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