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Monday 18 December 2006

Lundi 18 décembre 2006

Speaker
Honourable Michael A. Brown

Président
L'honorable Michael A. Brown

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LEGISLATIVE ASSEMBLY
OF ONTARIO

Monday 18 December 2006

ASSEMBLÉE LÉGISLATIVE
DE L'ONTARIO

Lundi 18 décembre 2006

The House met at 1845.

ORDERS OF THE DAY

Hon. James J. Bradley (Minister of Tourism, minister responsible for seniors, Government House Leader): On a point of order, Mr. Speaker: I believe we have unanimous consent to have a motion moved dealing with this evening's debate.

The Acting Speaker (Mr. Michael Prue): Is there a unanimous consent to deal with the debate? I heard a no. Perhaps if that could be stood down, then. I think there might be some confusion here.

Orders of the day.

MUNICIPAL STATUTE LAW
AMENDMENT ACT, 2006

LOI DE 2006 MODIFIANT DES LOIS
CONCERNANT LES MUNICIPALITÉS

Mr. Gerretsen moved third reading of the following bill:

Bill 130, An Act to amend various Acts in relation to municipalities / Projet de loi 130, Loi modifiant diverses lois en ce qui concerne les municipalités.

The Acting Speaker (Mr. Michael Prue): It's time for the minister to speak.

Hon. John Gerretsen (Minister of Municipal Affairs and Housing): I'll be sharing my time with my parliamentary assistant, the member from Scarborough Centre.

Tonight is indeed a very auspicious night, when we start third reading debate on Bill 130, which I believe will drastically change the way municipalities operate in Ontario.

As many of you and certainly many of the people out in—

The Acting Speaker: I'm having a hard time seeing you. There's quite the conversation going on immediately in front. Okay, please resume.

Hon. Mr. Gerretsen: As we all know, constitutionally set out in the British North America Act there are only two orders of government in Canada: the federal government and the provincial government. Over the last 150 years or so, municipalities have basically been operating under the auspices of the provincial jurisdiction as set out in the British North America Act. Quite often in the past, they were referred to as creatures of the pro-

vince. By that, it's meant that all their powers, whatever they could do, were set out in provincial laws and regulations and could be changed at any moment by the province.

What we're proposing in this act is not to change the Constitution of Canada at all but to give due credit to municipalities and their councils, particularly the professionalism under which the vast majority of councils and municipalities operate in this province of Ontario, and recognize them as mature orders of government. During the hearings that took place after this bill was given second reading, the standing committee on general government met with a number of different organizations and deputants—as a matter of fact, there were 37 of them—and heard a variety of viewpoints as to what should or should not be contained in the act. As a result of that, 55 motions were brought forward, some directly as a result of the deputations that were made to the committee. Some of the motions were put forward by the opposition parties as well that were agreed to by the government, because they basically strengthened the bill. So, first of all I'd like to thank all of those individuals and organizations that made deputations during the legislative hearings for the positive input that they had in the process.

The whole emphasis behind the act is to give municipalities greater autonomy, whereas in the past the bills, the various municipal acts, have always given powers to municipalities in a very prescriptive way as to what they couldn't do or what they could do under certain circumstances. The attitude that this bill brings forward is to make the act a lot more permissive. In other words, there are broad areas within the new Municipal Act where municipalities, if they so wish, can use the powers provided for under the act to pass bylaws that basically affect the health and welfare of their citizens.

1850

I think the bill as a whole recognizes the fact that municipalities and their councils play an extremely important role in the day-to-day lives of Ontarians and, I would dare say, play as important a role as the provincial and federal governments do at their levels. That's why we have been starting to talk about it being truly an order of government, the municipal order of government. Bill 130 creates a framework of broad powers for the municipality that balances the current and future interests of the province and all Ontario municipalities.

We as a government recognize that municipalities are responsible and accountable governments and that they

are given powers and duties under Municipal Act, first of all in the significant changes that took place in 2001, for the purpose of providing good government. We are building on the foundations that are set out in the act of 2001.

The intent is to help municipalities across the province ultimately serve their residents better by providing them with the power to do the following.

First of all, in the area of bylaws, is to give them broad power to pass bylaws so municipalities can respond quickly to local issues.

Secondly, it will have a new authority, subject to certain restrictions, to delegate legislative and quasi-judicial matters to local bodies, such as community councils, which can deal with very local issues that only affect, perhaps, a certain part of the municipality.

The act also gives municipalities licensing powers which they have not had before: a broad authority to license and regulate business, including the authority to impose administrative monetary penalties for failure to comply with the licensing system and, in certain circumstances, suspend business licences without a hearing.

Next, it's giving municipalities broad authority to establish service corporations within the municipalities in most service areas. Of course, where there is an overriding provincial interest, these corporations would be subject to provincial regulations. For example, municipal economic development corporations can perform activities such as the re-development of sites, providing residential housing, and constructing and operating performing arts facilities and heritage institutions in a much less restrictive manner than is currently the case.

Municipalities also will be provided with greater revenue tools and more flexibility to use those revenue tools in such areas as user fees, local improvement charges and area rating—again to a much greater extent than is currently the case.

The enforcement mechanism has been strengthened. It will enable municipalities to pass bylaws which strengthen enforcement abilities, such as administrative right of entry, search warrants and ability to set higher fees.

It will also enable municipalities to better protect affordable housing stock by giving councils the power to pass bylaws to control the demolition of rental housing or the conversion to condominiums.

There was also a change made which was particularly of interest in the rural areas of our province with respect to the Line Fences Act, so that owners of abandoned railway rights-of-way are responsible for the full cost of providing a line fence only when requested to do so by abutting farm businesses.

We as a government recognize that municipalities are responsible and accountable governments and that they were given powers and duties under the Municipal Act, initially, in 2001. And, as I mentioned before, we are enhancing that particular ability at this point in time.

Let me talk a little bit about some of the main—if I could just limit it to one area where there was a concern, it dealt with the issue of closed meetings. Let me quickly

say that it was never the government's intent to close council meetings. That is simply something that was not contemplated; however, we have made significant improvements to the so-called "closed meeting" provisions. Let me just give you an example of that. Let me, first of all, read to you the section that was contained in the original act, as proposed in Bill 130. It stated, "A meeting may be closed to the public if, at the meeting, no member of the council or local board or committee of either of them, as the case may be, discusses or otherwise deals with any matter in a way that materially advances the business or decision-making of the council, local board or committee."

It was felt that that was simply giving too much latitude, that too many issues could be brought behind closed doors where an argument could be made or where a question could be raised as to whether or not the issue and the decision on that issue was being advanced. So we dramatically changed it to come much closer to the intent of the closed meeting provision. We made the following change:

"A meeting of a council or local board ... may be closed to the public if the following conditions are both satisfied:

"1. The meeting is held for the purpose of educating or training the members.

"2. At the meeting, no member discusses or otherwise deals with any matter in a way that materially advances the business or decision-making of the council...."

So we are strictly limiting the closed meeting provisions to meetings that are held for the purpose of education and training of members. That's particularly relevant at this time of the year when we have so many new councillors elected across this province, and certainly the training and education of those councillors is extremely important. We have limited it to just that particular situation.

We have also said that if that happens, there should be a mechanism set up whereby if a member of the general public disagrees with that, they should be able to go to someone within the municipality to complain about that provision. So we are allowing for an investigator to be appointed. That investigator will have almost ombudsman-like criteria, to the extent that the individual should be independent—I'm just looking for the four criteria of the ombudsman powers that are contained in the new act. Well, it should basically be a person independent from the municipality itself.

We've also given a provision in the act that if council does not appoint such an independent individual, then the Ombudsman for the province of Ontario can in effect make an investigation as to whether or not the closed meeting met all the criteria set out in the act. The Ombudsman was very much involved in setting out the four criteria. They're sort of the pillars of the ombudsman office, which I don't seem to have in front me right here. They dealt with the question of being independent and the question of being—where the heck is that? Here it is: independence, impartiality, confidentiality and a

credible investigation process. Those are the four criteria set out internationally as to what an ombudsman, under any kind of government system, should have. As a matter of fact, our current Ombudsman Act here in the province of Ontario does not even contain the four principles under which ombudsmen operate, but we are making sure that those are the criteria that will have to be followed by whoever's appointed by a municipality to launch these kinds of investigations. As a matter of fact, our Ontario Ombudsman has suggested that these four corner principles are important to the credibility of the position that may be created.

With that, I really believe that one of the main objections to that provision in the bill has been overcome, to the extent that we're limiting it purely to educational and training sessions; secondly, that whoever investigates it, whether it's the investigator appointed by the municipality or the Ombudsman, if the municipality doesn't appoint anybody, the Ombudsman or investigator will have the principles attached to them whereby he or she is independent, impartial, there's confidentiality with respect to the information that's received, and a credible investigation process is set up.

A number of minor amendments were made as well directly at the request of different municipalities. For example, in Waterloo and York regions, the spheres of jurisdiction were extended in the area of transportation to include not only the bus system, but also any transportation system that it doesn't currently have. Waterloo and York requested the change so that they could consider other public transit options, such as light rail, as well. I don't think anybody would disagree with that, particularly in today's transportation world.

1900

The term of office for warden was also extended. Whereas currently a warden can be appointed either for one year or the full term of the council, we said, "Leave it up to the individual county councils as to whether they want to appoint somebody for a year, two years, three years or for the term of the council," which of course is currently four years.

There were a number of other changes made with respect to the board of control in London, for example. Currently, the board of control in London, which is the only municipality that has a board of control, could only be eliminated by a two-thirds majority vote. That was changed whereby it, and any other municipality that may have a board of control in the future, may be able to dissolve the board of control with a simple majority of council, rather than the current requirements of two thirds, and without OMB approval, as is currently the case as well.

One of the other interesting things that was added in the new act was the community improvement areas, in that councils were given new authority for councils to use the financial incentives within the community improvement plans without ministerial approval.

Again, all of these powers that we've given to municipalities are of a permissive nature. It doesn't mean

they have to use them, but we just felt it was absolutely important that if they are regarded as true mature levels of government, it is extremely important that they have the ability to get involved in a lot of these areas from which they have been denied in the past or for which they had to get provincial government approval.

If I could just sum up before turning it over to my parliamentary assistant, the basic underlying theory that we used in coming up with this act was quite simply this: We went back to each and every ministry that has anything to do with municipal government and we said, "Where are you involved in the decision-making process?" They gave us a list of items, then we went back to them and said, "Okay, what is the provincial interest in your particular ministry being involved in making those kinds of decisions?" And if there was no provincial interest, then quite frankly we felt it was best to leave those kinds of decisions to the local municipal councils. Because again, we believe that they play just as important a role in the total governance of the province of Ontario within their areas of jurisdiction as we do at the provincial level.

I would hope that, with the amendments that are contained in the bill, this bill will serve our municipalities for many, many years in the future. I sincerely hope that all the members in this Legislature will support this bill, because it will really lead to better local governance than we currently have in the province of Ontario. With that, I'll turn it over to my parliamentary assistant, the member for Scarborough Centre.

Mr. Brad Duguid (Scarborough Centre): I'm delighted to follow the minister here in this debate in speaking to a bill which we've been working on for some time in consultation with our municipalities across this province, Bill 130. It's a bill that really represents amendments to the Municipal Act, which is the bible that governs the relationship between the province and municipalities across Ontario. What we see here in this bill is not just tinkering with the Municipal Act; we see a bill that completely transforms that relationship from a prescriptive approach that has been taken through past history to a permissive approach, an approach that believes in municipalities, that believes that the people in this province can hold their municipal governments to account, that believes in the creativity of municipalities and municipal politicians from one end of this province to the other and believes that because of that more permissive approach, we'll be able to unleash a lot of the creativity that exists out here in dealing with the challenges that many of our municipal governments face.

I am not going to speak for very long this evening, in light of the hour, but I do want to say a few things. I want to thank the opposition critics, Mr. Prue for the NDP and Mr. Hardeman for the Conservative Party, for the good work that they put in throughout the committee hearings and throughout our clause-by-clause. Their input was helpful. I think the committee worked well together and I think we were able to, as a committee, improve the bill overall. I know the job of opposition critics is to criticize,

and I think on this bill they criticized but often in a relatively constructive manner, in a way that allowed us to listen carefully to some of the concerns raised by stakeholders and our critics alike, and to respond to them and improve the bill.

I also want to thank Minister Gerretsen. The minister and I have had the opportunity to work together for the entire term of this government. There are not too many ministers and PAs, I think, who have been stuck together for that long a period of time—and I don't use the word "stuck" in any but a positive way. We really have had the opportunity to work together on a number of pieces of legislation: the greenbelt, the Planning Act, the Ontario Municipal Board reform, the City of Toronto Act and the OMERS legislation, among others. Together we have been able to work on a number of things.

I want to thank him for the approach he's taken on each and every one of those bills, and the approach taken at committee on this bill. It shows very, very visibly that the government was open to suggestions to improve. The minister outlined a number of the very substantial amendments, substantial improvements we've made to this bill that are going to make it better public policy in the long run. I want to thank Mr. Gerretsen for his open-minded approach to this bill and for the other legislation he has brought forward that I think has all been very solid, very good approaches to public policy.

As I said earlier, we believe in the people of Ontario; and we believe in the local councils across this province, that they will in fact use these new powers they're being given, this new autonomy they're being given to make decisions within their realm of decision-making. We believe they'll do that in a way that's going to better serve the public interest. The province will be there, as we should be, to ensure the public interest is served throughout, but we're now giving municipalities the autonomy to discover those creative abilities that municipalities from one end of this province to the other have.

I'm going leave it at that. The minister outlined a lot of the details of the bill. I'll just say that this bill, combined with the dozens of other things we've done in partnership with municipalities, has transformed the relationship between the province and municipalities across Ontario from a confrontational relationship full of conflict to a relationship of co-operation and respect. That's something that I personally am proud of. It's something I think every member of the government should be proud of and it's something I think is going serve the interests of this province for many years to come.

The Acting Speaker: Questions and comments? Seeing none, further debate?

Mr. Ernie Hardeman (Oxford): I am pleased to rise today to talk about Bill 130, the Municipal Statute Law Amendment Act. I want to say that there are many things about this bill, particularly the purpose of the bill, that I agree with and that our party agrees with. The intent of the bill, as was pointed out by the minister at the introduction of second reading, was to create more trans-

parency and accountability, and that local government was a mature level of government and needed legislation that would help them do the things they thought needed doing for their communities in a way their communities wanted them done. That I would agree with. But the processes we went through—obviously, we didn't come up with quite that. So there are a number of areas I have problems with that I'd like to address this evening.

I see some serious concerns with this bill, as do my colleagues in the New Democratic Party. Mr. Speaker, I understand you're going to speak to it subsequent to my speech, and I'm sure you'll mention some of those.

What I found interesting about it, as the parliamentary assistant was talking about it, was that after we got through with the public hearings and we started the clause-by-clause, the NDP had proposed eight amendments, our party had introduced approximately 25 amendments, but the government had over 50 amendments, including one that recommended we vote against a whole section of the bill. In fact, there were so many amendments from the government that we had to extend the committee time in clause-by-clause. There were also two amendments—and this is interesting, Mr. Speaker—from an individual government member dealing with the ability of municipalities to license airport taxis and limos. They were submitted by him as an individual, we were told, so I guess he didn't agree with the government. But to be fair, I should point out that one of those amendments was withdrawn and the other one was passed by the government. So obviously, they did agree with something their member had to say, just not the total.

1910

The reason I'm talking about the number of amendments is that it seems interesting that a government would introduce a bill that they acknowledge wasn't really what they wanted and that wasn't ready. In estimates committee on October 10, the Minister of Municipal Affairs said, "What I've said about any bill I've introduced—I've introduced 12 of them, and 10 of them have passed—is that if somebody has a better idea and a particular amendment, we're always open to amendments. It's the same thing with respect to this bill."

Obviously, this was his best shot at it. But there were 50 different instances where somebody had a better idea than the minister, and they have now been introduced.

On the same day, when the member from Beaches—East York questioned the minister on how several changes in the bill increased accountability and transparency, the minister said, "Do the other two issues that you've mentioned—the electronic voting and the closed meetings—take something away from that? Well, we can discuss that, and we should put parameters around that, quite frankly."

Incidentally, neither of those had any parameters put around. I will go into both of those issues in more detail later on.

My concern, as I've mentioned before, is that if you make that many changes to a bill after second reading, the public doesn't get a chance to comment or even see

the final version of the bill, especially when the government rushes it through with only one evening debate shortly before Christmas.

Greg Levine, who was one of the presenters at the public hearing on November 15, had a very important point. He said, "The comment I heard when I first sat down here while you people were debating whether you'd go on today or not—that AMO is the major stakeholder—isn't right." That's what the man said. "The public is the major stakeholder. The public matters, and you have to have credible institutions for this accountability stuff to work"—he's referring to the bill—"and they aren't."

One of the things that's very interesting to me is that it was the municipal affairs and housing parliamentary assistant who said that AMO was the major stakeholder. I hope that isn't the way that all McGuinty Liberals think about it. That explains some of the problems in this bill.

I want to point out that there are some things that I like about the bill. I respect municipalities and I support giving them more tools to do their jobs, but not at the expense of openness and accountability to their constituents.

I also want to point out there are a number of provisions in the bill that are going to cost municipalities to implement. Municipalities can't afford another Liberal download. The cost of delivering municipal service has increased dramatically over the past few years and the amounts of provincial transfers haven't kept pace. Municipalities are asking for help and instead they received a promise of another Liberal study, the Provincial-Municipal Fiscal and Service Delivery Review. That certainly doesn't seem like they're getting the respect that they deserve.

During the estimates committee on October 10, the Minister of Municipal Affairs and Housing said, "I can tell you that doing as massive a job as this fiscal and financial review in an 18-month time period is not too long, because we want to make sure we do it right."

It is commendable that he wants to do it right. What he neglects to mention is that for the first 100 days after the review was announced, we heard absolutely nothing. It was 100 days after the review was announced that we finally heard something, not from the government but from AMO. The Minister of Municipal Affairs said in estimates that day, "Once we know who the AMO individuals are going to be, both from staff and from the elected side, I don't see any reason why an announcement couldn't be made as to who they are, and the same thing with the individuals from the province's side."

It's been over 120 days since the review was announced and three weeks since the AMO announcement, and from the government side we have heard absolutely nothing. I know there are a lot of municipalities hoping that Santa is going to bring them results a lot sooner than the 18 months the government promised. So far, I've received almost 150 letters from municipalities and over 135 of those municipalities have passed a resolution

calling on the government to speed up the review. I want to take a minute to read part of the resolution most of them have passed:

"Whereas delays in balancing the cost of delivering services with the ability to pay are resulting in delayed maintenance of infrastructure, reduced municipal services and property tax increases across the province; ...

"Therefore be it resolved that in the opinion of the council of [name of municipality—and there are 135 of them so far] that the provincial government's currently proposed Provincial-Municipal Fiscal and Service Delivery Review (which will not be completed until February 2008, after the next provincial election) is needlessly drawn out and that a full review to balance the delivery of service with the ability to pay should be completed much more expediently, in order to avoid hitting taxpayers with unsustainable property tax hikes or significant reductions in service."

It seems to me that before you try to delay the results of a study for 18 months, one of the questions that needs to be asked is what impact the delay will have on the taxpayers. I asked the Minister of Municipal Affairs that question during the estimates committee. He said that his ministry doesn't even track property taxes or property tax increases.

How can you be sure that taxpayers aren't suffering with huge property tax increases if you aren't tracking them? How can you be sure that you can afford all the new responsibilities you are giving them in Bill 130, such as ensuring that they can afford a municipal ombudsman and give him the resources to do his job properly?

That brings me to some of my concerns about Bill 130. There are a number of concerns about the bill that I want to talk about today, but I want to start with the two biggest concerns: more closed meetings and municipal ombudsmen who aren't as effective and independent as they seem.

One of the most outspoken critics of these two sections of the bill was in fact the provincial Ombudsman. Shortly after Bill 130 was introduced, he said, "While purporting to introduce a degree of accountability into municipal administration, this bill will result in an unfair, inequitable and unsustainable patchwork of quasi-oversight measures throughout Ontario." He said that on June 19. On July 26, the Ombudsman spoke and was quoted in the Hamilton Spectator as saying, "It is a piece of legislation that exploits the goodwill associated with the term 'Ombudsman,' yet doesn't deliver on any of the basic tenets. They are making it appear as a very credible, substantial step forward when it borders on fraud."

In fact, the Ombudsman was so concerned about these issues that he asked for additional time to speak to the committee during the public hearings. He needed more than the 15 minutes to express all of his concerns. At that point, we had extra time in the public hearings, so it was a choice of listening to the Ombudsman or going home early. The government members of the committee refused to let him have the extra time. Let's keep in mind

that this is a servant of the Legislature whose job it is to look out for the people of Ontario. Perhaps the government members knew how many amendments were coming and wanted to get started on them early.

The Ombudsman used his presentation to address his concerns about the lack of real independence of the municipal ombudsman. He said, "As it currently stands, the proposed municipal ombudsman model is deficient and offensive to basic principles of oversight." He added, "A fundamental defect is that the ombudsman powers and authority are not set out in legislation. Even though what is required is well known, municipalities are free to establish the powers and duties of their ombudsman. Indeed, the function provisions leave it to municipalities to decide when the ombudsman can conduct investigations. Municipalities can confine the kinds of investigations their ombudsmen can conduct by limiting them to specific complaints or preventing 'own motion' investigations."

The Ombudsman also raised the concern that under this legislation municipalities could appoint a municipal employee to be ombudsman. During the presentation he said, "Contrary to what Bill 130 would allow, under no circumstances should ombudsmen be employees of the organizations they oversee. They should have a fixed term, adequate resourcing and operational independence." That was a quote from November 15. Incidentally, the minister spoke to it, but this was not done.

During his presentation, Gordon Cameron of the Ontario Community Newspaper Association raised a valid point about the conflict of interest created by allowing municipal employees to serve as ombudsmen. He said:

"As you all well know, it's often not enough to do what's right, but you must be seen to be doing what's right.

"This request also serves a practical purpose. For instance, if the municipal ombudsman in their other capacity gave a presentation to council in camera ... that ... was challenged by a member of the public, would it be fair for them to turn around and sit in judgment of that meeting?"

The Information and Privacy Commissioner's office also expressed concern in a written submission to the committee. It said, "We are strongly of the view that any oversight of the open meetings provisions must be at arm's length from, and independent of, the municipal council or board including the staff of the municipality."

We also heard concerns on the proposed municipal ombudsman and auditor general from groups like the Newmarket Taxpayers Association, who said, "The public good is the overriding concern and therefore the independence and impartiality of the auditor are crucial, particularly as there are no opposition parties at the municipal level, as there are at the federal and provincial levels, to help keep the municipal governments of the day honest and accountable. How effective would an auditor general hired by a municipality be where his future career prospects and audit duties are determined by the very people whose decisions he may have to audit?" That was

presented to us by Ray Yorston from the Newmarket Taxpayers Association.

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The government will try to claim that they have fixed this problem by introducing an amendment that mentions independence and impartiality. What they may not be so quick to point out is how weak the section is. It says that the Ombudsman must "have regard to, among other matters, the importance of the matters listed in subsection (2.3)"—"have regard to, among other matters...." The independence of the Ombudsman is one of the key parts of this role, and the McGuinty Liberals have weakened it to the point of being almost meaningless.

If no municipal Ombudsman is appointed, and the minister mentioned this, the provincial Ombudsman has jurisdiction over the municipality and can investigate the concerns of the meetings. The Ombudsman expressed concern that if there was a problem, the municipality would simply appoint someone to the position to stop the investigation. He said, "They can remove the jurisdiction of my office to investigate open-meeting violations by simply appointing their own 'investigators,' and they can define the powers and duties those investigators will have." That's a quote from the Ombudsman. I did propose an amendment to prevent this, and the government members on the committee, of course—Mr. Speaker, you were there—voted it down.

The Ombudsman also expressed serious concerns that Bill 130 allows additional closed or in camera meetings. He said, "There is little room for closed-door politics in a mature democracy.

"We in mature democracies speak about transparency and openness with reverence, because democracy cannot be healthy without transparency and openness.

"The reason is simple. Malicious or self-serving or just plain bad decisions, the bacteria of government, can flourish in the dark but in a democracy cannot survive the sanitizing light of public scrutiny." That was a direct quote from the Ombudsman.

We recently had a municipal election. I want to tell the minister that I talked to a lot of municipal politicians, and I've been reading the newspapers, and I can't find a single person anywhere who lost the election because their municipal council was too open. I can't find a single person who complained that their municipality was too transparent and needed more closed meetings—not a single one. I'm really starting to wonder whom the minister has been talking to. The municipal politicians I've spoken to want to serve their constituents in the best way possible. They aren't afraid of open, public debate.

The minister talks about respecting municipal governments, but allowing additional closed meetings doesn't show respect. It shows that the McGuinty Liberals think that our municipal politicians aren't good enough or smart enough to be able to express their opinions in public. Our party has more respect for municipal politicians than that.

As I mentioned earlier, the Ombudsman didn't get to make the rest of his presentation, but he wrote it and sent

it to the Chair of the committee and each of the three parties because he felt that the concerns were that serious. The Ombudsman asked that it be read into the oral record. The government members once again said no.

Finally, at the beginning of clause-by-clause, I had a chance to read it into the record to ensure that all members of the committee heard his views before we debated the amendments. I'm not going to read the entire presentation now because it is available in Hansard, but there are a few quotes that I want to mention.

The first quote is: "In truth, the oversight regime that has been designed is decaffeinated; it is too weak to keep any councils or boards awake to the importance of open meetings." He also said of Bill 130, "It is badly flawed. It's a shame that it is in fact enabling legislation—it enables closed government while appearing without critical examination to champion openness."

The Information and Privacy Commissioner's office also expressed concerns in a submission to the committee: "Our concern with this provision is that it undermines the basic principle that all meetings should be open to the public unless there is compelling need to keep information confidential." Once again, this is a servant of the Legislature, there to protect the interests of the people of Ontario, expressing serious concern about the fact that Bill 130 allows additional closed meetings.

The government will tell us that they now have fixed this problem because they brought in an amendment that makes additional closed meetings for training or education, so they've kind of narrowed the scope of the closed meetings. In the presentation to the committee, Gordon Cameron, from the Ontario Community Newspapers Association, specifically discussed education and training. He asked the government to ensure the media are allowed to access those sessions. He said, "Having access to experts in the more technical fields has enabled me to write more complete stories than I otherwise would have been able. Basic questions sometimes asked by members of council assist greatly in that pursuit."

He went on to say, "If the only reason to deny the public the right to attend them is to prevent possible embarrassment to an elected official, than we don't feel that is a good enough reason."

I agree. When so many voters and taxpayers get information about the changes that will affect them through the media, how can you justify barring the media from anything that might help them do their jobs? The decisions that politicians make affect people's lives. No politicians should be embarrassed to ask a dumb question. They must ensure that they fully understand the changes they are making and the impact on people's lives. People also need the ability to fully understand how those changes affect them. Sometimes they need the answer to the dumb question just as much as the politician asking it. And sometimes they rely on the politicians to ask the dumb question and get the full explanation because the citizen may not get a chance to ask that question.

I expect, Mr. Speaker, having served on a number of committee hearings with me, I would rank right up there in the higher echelon of asking dumb questions, but that has never bothered me or stopped me from doing that. There have been a number of times over the last couple of years when I thought, as I'm sure many of my colleagues have, that they couldn't possibly be doing what I think they're doing because, now, that would be dumb. So you ask what seems to be a dumb question only to find out that they really are doing it.

Let me give you an example in Bill 130. In this act it outlines the duties and responsibility of the mayor as CAO of the municipality. One of the duties it says that he shall do—not "may," but "shall"—is to promote the municipality locally, nationally and internationally. Reading this, I thought the bill was actually requiring the head of every municipality, large and small, to promote their municipality internationally. So I asked some of the staff at the Ministry of Municipal Affairs if that was correct. And the answer? You guessed it: The answer was yes. It seemed like a dumb question, but it turned out it was really just a dumb answer. I introduced an amendment to change this to "may" instead of "shall" so every mayor didn't have to take a trip to Paris at the taxpayers' expense, but the government members on the committee again refused to change the word.

I have a number of other areas of concern in this bill, and there are a number of problems in the area that are significant enough that people took time to come to the committee and express their concerns. I want to take a few minutes to tell you about some of them and how they were addressed.

Oxford county and the city of Woodstock are both in the great riding of Oxford, and both made presentations requesting that the government clarify some of the waste definitions. Specifically, they asked the government to define what constitutes waste collection, waste management and recycling collection. These are two local governments coming forward and saying the current situation is confusing and if it isn't fixed, it may lead to disputes in the future. Now, remember, the issues of collection and disposal—the jurisdiction for those belong to two different levels of government. If recycling is not defined, who is responsible for the process of recycling? They wanted that clarified with definition. I introduced these definitions and of course the answer was no.

This is another area. Under Bill 130, municipalities are allowed to form corporations. A number of organizations raised concerns that municipal corporations may result in unfair competition with the private sector. We have a lot of faith in our municipal politicians, but we thought that it would be wise to have safeguards in place. The auditor's report last week showed what can happen sometimes when people are allowed to run wild. Rob Cook of the Ontario Waste Management Association, during his presentation on November 22, said, "It's the structure of how municipalities can provide support to these entities that isn't on the same sort of level that the private sector deals with."

These organizations were just asking that the government ensure that there was a level playing field for all taxpayers so taxpayer dollars weren't used to subsidize municipal corporations. We proposed two amendments to ensure that taxpayers and voters would have some protection.

The first amendment required that municipal corporations would have to report to their shareholders with annual financial statements open to the public. This would ensure that taxpayers know how many of their hard-earned tax dollars are going into funding the corporation, or subsidizing it. The government members on the committee—you guessed it—voted it down.

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The second amendment was to give the municipal auditor general the authority to investigate the municipal corporation if there were complaints about the way they were conducting business. Again, the government members voted it down.

When Doug Reycraft, the president of AMO, appeared before the committee, I asked him whether he thought municipal corporations would compete with the private sector corporations. He said he didn't think they would. He also said, "But if there's a need to clarify something like that to prevent municipalities from doing that sort of thing, then I think we'd have no objection to such an amendment." The president of AMO—who was, according to the parliamentary assistant, the major stakeholder—had no problem with our amendments to put some guidelines in place for those corporations, but the government, of course, didn't see fit to do that.

Another concern that these industries expressed was the potential that private corporations, which already require a provincial licence, may now require another municipal licence. That was presented by a number of presenters. For instance, the Greater Toronto Home Builders' Association and the Urban Development Institute pointed out that they're already required to be licensed by the Tarion Warranty Corp. In their presentation to the committee, the Greater Toronto Home Builders said, "It is the position of the residential building industry across the province that Tarion, not municipalities, is in the best position to protect consumers and builders and set standards which home builders and developers must abide by. Further, duplication of licensing of home builders by municipalities is an unwarranted tax grab." This additional level of paperwork and red tape would cost business money, resulting in increased housing costs and lost jobs. Again, no changes were made in that section of the bill. In fact, it is still possible for municipalities to license and to charge fees for the same purpose that someone else is already doing it. Such is the case with the home builders.

Now, another area is buried deep within schedule D of Bill 130. It's a little change that very few people have noticed but that can affect thousands of landowners across the province. The change is written in the act as changes in the Line Fences Act, and it has to do with railroads. Presently, if former railroad rights-of-way are

conveyed to municipalities for recreational circumstances, then the municipalities are solely responsible for fencing, as the previous owner of the right-of-way was. Bill 130 says the Line Fences Act would apply. There was some confusion during the committee on what the Bill 130 changes would do, so I want to quote from the memo that our very capable legislative research people created, as I asked the question of the legislative research. I asked if they could tell me what that really means, because the presenters had a different view from what I thought it was.

The note we got back said, "Under the proposed amendment, municipal fencing requirements would be limited to cases where a 'farming business' was being carried out on the land adjoining the former railroad right-of-way."

People who bought their properties along railroads or railroad rights-of-way bought them with the expectation that the fence along the line of their property would be maintained by the right-of-way. That was the agreement that was put in place as the property was split for the use of the railroad. Now, with this little change, landowners will be responsible for part or all the cost of that fence. It seems to me it would be more likely that a hiker might wander off the right-of-way than a train. I want to point out that I'm happy that farmers are being protected and would only have to pay half the cost, but what about the rest of the ratepayers?

Before this change was made, Dr. Caldwell did a review on behalf of the government of the Line Fences Act and consulted with a number of groups, but what is amazing is that in the consultation on this change, there were just three people consulted who didn't represent organizations. That seems like a major flaw in the consultation. I don't know how the consultation was done, whether they advertised to the public, but I know they didn't ask my opinion, and I don't know of an individual who lived along a right-of-way who was asked.

I also introduced an amendment that would ensure that someone whose property is bisected by a right-of-way would have the ability to cross that right-of-way. During his presentation to the committee on November 27, Paul Mistele, vice-president of the Ontario Federation of Agriculture, said, "We also recommend that the Line Fences Act be amended to protect the right of property owners whose land is bisected by former railroad rights-of-way to continue to be able to cross that right-of-way, whenever necessary, and without prior notice, for as long as their property is landlocked by virtue of the right-of-way cutting their land in two."

When asked about what the current situation is for those landowners, his colleague Peter Jeffery, senior policy researcher from the Ontario Federation of Agriculture said—and again this is a quote, "Some of the trail organizations that are running the trails are quite responsible in allowing the farmers to continue to cross the trail as needed. Others are taking the position that they have no obligation to allow crossing," and yet the government

members of the committee voted against an amendment that would have given the landowners the right to freely access both halves of their property by crossing the right-of-way.

Bill 130 also includes a large number of amendments to the City of Toronto Act. In fact, there were 68 pages of amendments to the act or amendments consequential to the enactment of the act. This, Mr. Speaker, you will be aware, is pretty amazing considering the City of Toronto Act hasn't come into force yet. When I questioned why there were so many amendments, I was told that it was to make the same changes to the City of Toronto Act that we were making to the Municipal Act; in other words, to eliminate differences. Now, to many, this may come under the category of a dumb question, but if the government wants the act to be the same, why did they go to all the trouble of exempting the city of Toronto from the Municipal Act? Why did they not apply this act to all municipalities in the province, including Toronto? Why not just leave Toronto in the Municipal Act and then create a City of Toronto Act to give them the additional powers that are in the City of Toronto Act, such as the taxing powers that they didn't want other municipalities to have?

During clause-by-clause, we introduced an amendment dealing with the extra taxing powers which would have removed the additional taxing powers from the City of Toronto Act. Since so many changes were made, I thought the most important one that needed to be made was that we should remove that, and I want explain why we did that.

First, because the City of Toronto Act was brought to you by the McGuinty Liberals, the ones who looked Ontarians in the eye and promised they wouldn't raise taxes. Well, whether it's introducing the health tax or the new taxes in the City of Toronto Act, it's still raising taxes. It's still what the McGuinty Liberals promised the people of Ontario they wouldn't do.

Secondly, I introduced the amendment because I have a real fear that come the municipal budget, instead of helping Toronto, the McGuinty Liberals are going to tell them to raise their own with their new taxing powers. We already know that the Liberals are dragging their feet on the Provincial-Municipal Fiscal and Service Delivery review. Why would we expect them to behave any differently here?

Thirdly, I introduced the amendment because it is an issue of fairness. Why should people pay more to own a car or have a drink just because they live in Toronto? Should a restaurant in Toronto earn less on a drink because they have to include more tax than the restaurant across the road in Mississauga?

The Ontario Restaurant Hotel and Motel Association pointed out during their presentation that the profit margin in most restaurants is extremely low. They are concerned that any new tax will likely have to come from the funds that could otherwise be used to create jobs, increase wages or invest in future businesses.

The government talks about how this bill respects municipalities and recognizes them as a mature level of government. Once again, the Liberals are saying one thing and doing another. The bill fails to give taxpayer protection, but the McGuinty Liberals have included a section that provides themselves protection. Section 451 allows municipal bylaws to be suspended by regulation when it is considered necessary or desirable in the provincial interest—no taxpayers' interest, no constituent interest, just the provincial interest. So our locally elected government can consult with the people and enact a bylaw that reflects what the people wanted, but if it isn't what the provincial government wants, the province can just suspend it. How is that respecting municipalities?

Mayor Fennell from the city of Brampton said, "Bill 130 contradicts itself with its own inconsistencies. The bill is intended to provide more autonomy, yet it introduces clauses that take away that opportunity."

I want to thank everyone who came forward to share their concerns on this bill, and I appreciate all the phone calls, the presentations and submissions. We respect municipalities. We know how hard municipal politicians work. But one thing we have been hearing over and over from stakeholders and members of the public is that they want to ensure that there is protection for them and their tax dollars.

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Give municipalities the ability to form corporations but give taxpayers the right to see the books and make sure the corporations are in their best interests. Give municipalities more responsibility but make sure that there is a truly independent and effective ombudsman and auditor general to investigate and oversee municipal operations. Give municipalities tools to be able to function effectively but ensure that citizens and taxpayers have the ability to question how they are functioning and what they are doing.

During her presentation to the committee, Sheila Jacobson, a citizen from Brampton, said: "We've tried to turn to Queen's Park. I've called the Premier's office, I've called Minister Gerretsen's office, and we're told that the cities are on their own, the regions are on their own. You cannot throw away the key. You cannot leave people to their own devices." Sheila made a presentation to the committee on November 20.

The people of Ontario have made it clear that they don't want the McGuinty Liberals to give children's aid societies a blank cheque, they don't want the board of Hydro One to have a blank cheque, and they don't want municipalities to have one either.

The minister tries to claim that this act creates transparency and accountability, but sadly, that is exactly what it fails to do.

Thank you very much, Mr. Speaker, for allowing me a few minutes to make my presentation.

The Acting Speaker: Questions and comments?

Hon. Mr. Gerretsen: Let me just make one comment with respect to the open-meeting provision. Currently, there are about six or seven exceptions to the open-

meeting concept, and they deal with issues such as personnel matters, security of property of the municipality, labour relations, impending acquisitions etc. What we've simply done is added one additional provision, and that is for the training and education of councillors. That's all we've done.

From listening to the critic for the opposition, you would think that he was against any of these provisions at all, yet it's interesting to note that he moved an amendment that would add three further categories in which closed meetings could be allowed. It was his amendment that said that if a matter had "an adverse effect on the finances of a municipality or local board," if it tended "to prejudice the reputation and character of any person, unless the person requests an open meeting" or resulted "in the disclosure of records, if the disclosure of the records is prohibited under this act"—the sole point that I'm trying to make is that he wanted to allow for even greater closed-meeting provisions than we have in this act.

If I might just finish off by saying that we truly believe that the time has come when the vast majority of municipalities are mature orders of government, and they should be allowed to make their own decisions. From everything I've heard from the member here today, he obviously wants municipalities to remain creatures of the province and wants to prescribe, in as detailed form as possible, what municipalities can or cannot do. We believe that they are just as accountable. They are subject to elections every four years in exactly the same way that we are, and, as he will openly admit, they're even closer to the people than perhaps the politicians at the provincial or federal level.

The Acting Speaker: Questions and comments?

The member from Oxford has two minutes in which to respond.

Mr. Hardeman: I want to thank the minister for getting up and at least letting me know that he was listening to my presentation. I very much appreciate that.

In relation to the comments that he made, I want to point out that those three instances that I put forward in an amendment were in fact just clearer definitions of things that are presently allowed in the Municipal Act and that just read out as clearer definitions of what falls under "legal" and "personnel" within a municipality.

The second thing I wanted to point out is, as Mr. Cameron from the Ontario Community Newspaper Association made quite clear in his presentation, if there's one area where the press needs to be and there's absolutely no reason to keep the press out, it's where you have someone making a technical briefing to council on the issues so the press can understand it as well as the people who are going to make decisions on it. Secondly, when you have a training session, what could possibly be confidential about a training session in a municipality? So those are two areas that have been included in the closed meeting section of it. In my opinion, the opinion of my caucus, the opinion of the newspaper association and the opinion of the Ombudsman of Ontario, there is

absolutely no justification for increasing the closing of the meetings for training and technical briefings. I just wanted to clarify that for the record.

I thank the minister very much for listening to my presentation.

Ms. Andrea Horwath (Hamilton East): I ask for unanimous consent to stand down the lead of our critic, just for one round.

The Acting Speaker: Is there unanimous consent? Agreed.

Ms. Horwath: Thank you for recognizing me in the opportunity to debate Bill 130. I've had a chance to speak on this bill once before and was expecting some changes to address some of the issues that I had during the second reading clause-by-clause debate, at which time amendments come forward. I was concerned that it doesn't look like they—at least the ones that I was interested in—had much change to them. I'm only going to put a couple of them on the record, because I know that you, in fact, Mr. Speaker, my lead critic in this area, have yet to speak to this bill in third reading debate.

There are a couple of things I thought were important from my perspective. The first is the issue of ombudsman opportunities. The bill actually allows municipalities to appoint an ombudsman-like figure for the municipalities. Again, it allows for that—it doesn't require it, but it enables a municipality that may wish to do so to actually appoint an ombudsman-like figure.

Interestingly enough, some of the editorializing in my own community initially took this as a very positive thing. However, I wanted to quote from a letter that was sent out by the Ombudsman of Ontario's office. He says, "While purporting to introduce a degree of accountability into municipal administration, this bill will result in an unfair, inequitable and unsustainable patchwork of quasi-oversight measures throughout Ontario." Why is it a patchwork? It's a patchwork because some municipalities will undertake the opportunity to appoint an ombudsman-like figure and others won't. Therefore, there will be no consistency across the province and there will be no consistent level by which residents of municipalities from one end of the province to the other can obtain accountability from this particular position, because in some cases there will be one and in other cases there won't; hence the patchwork comments from the Ombudsman.

But that's not the only problem with this proposal. As it was initially in the bill and as it continues to be in the bill in the same way, the actual arm's-length nature or completely unbiased separate nature that an ombudsman needs to have to be an effective oversight body simply will not be in place if, in fact, that person is hired by and becomes a staff member of the municipality that decides to take on that position. It's just passing strange, the idea that this creates some kind of extra level of accountability. I just can't see how that's the case.

I come from working on a municipal council for a number of years. At any time when there were discussions or disputes about whether something was

being done appropriately or not, particularly in closed-door meetings, which I'll come to next, we would often-times turn to the clerk. Of course, the clerk was also an employee of the municipality, so that clerk was often put in an awkward position when having to make judgments as to whether there was an appropriate question being raised about a procedural issue.

Similarly, if the ombudsman is appointed by the municipality and is the employee of the municipality and has offices within the structure of the municipality, then obviously their ability to be unbiased is quite compromised. In fact, Mr. Marin, our Ombudsman of Ontario, warned that "All of these municipal offices would lack the independence and strong investigative authority that is characteristic of an ombudsman. They would essentially be an internal complaint departments run by municipalities and dressed up as ombudsmen."

Although I understand the sentiment and thought that perhaps it could have some positive possibilities, in fact, when you look deeply at the position the government is taking on ombudsmen, it's very clear that that's not something that is going to be very effective in terms of an accountability measure in the bill.

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The next issue I wanted to talk about very briefly is the idea of closed-door meetings. I know the Conservative critic Mr. Hardeman has raised that issue as well, and I will be doing so myself, even though the minister seems to think they've addressed that issue adequately. I don't believe it has been addressed adequately, and I wanted to read from an editorial letter—or I guess it's better described as an opinion column—from a columnist in the Hamilton Spectator. Here's what he had to say about this, and I raise it because sometimes people put things in a way that is very humorous, and oftentimes I find that Andrew Dreschel from the Hamilton Spectator, in particular, can put things in a very wry way.

This was published June 19, 2006, and here's what he says about the open meetings: "But there's at least one major head scratcher in the proposals." These are the proposals when the bill was first introduced.

"In the portion of the legislation dealing with open meetings, it says a meeting may be closed to the public if no member of council discusses or otherwise deals with a matter that in any way materially advances the business or decision-making of the council.

"Given the tendency among councillors to noodle around issues without coming to concrete conclusions, that sounds like a green light to retreat behind closed doors more, not less, frequently.

"Lord knows, councillors often talk about issues without materially advancing the business of the city.

"Under current legislation, a meeting may only be closed to the public if discussions involve the following issues"—and we've already put on the record what those are, including things like personnel issues, real estate transactions, labour relations, litigation etc. But the bottom line is that he's a bit suspicious as to whether or not councillors need to go behind closed doors.

I come from a community where there has been significant criticism of the council already undertaking to have behind-closed-doors meetings, and people have become in my community extremely suspicious of what goes on in those behind-closed-doors meetings. So frankly, anything that expands the capacity of a council to go into closed-door meetings is disturbing and I know will meet with some cynicism from the residents of the city of Hamilton.

Interestingly enough and kind of coupled with that, there are clauses in the bill that discuss the flexibility of a council to determine for itself appropriate notices to be given for various kinds of meetings. One of the criticisms that's come up in debate of this bill in the past is the fact that there are some concerns that, particularly for communities that are considered to be pro-development communities, the manipulation of or the use of meeting notices to affect the ability of people to participate or not becomes problematic.

I come from a municipality, again, where there has been some controversy over the past couple of years, particularly the last decade or so, around the extent to which public meetings or emergency meetings having taken place, whereby no public notice has been forthcoming, or to the extent to which the entire agenda or the proposed topic of a suggested emergency or a sudden meeting taking place has not been made public.

So you'll know that some of the issues that I raise around closed-door meetings, around the lack of transparency, a sense that things are being done in an inappropriate way, or at least not totally on the up and up, in fact led to a significant shake-up at my local council in these last municipal elections. You'll know that our mayor, who had only been there for one term of office, was not re-elected. I'm not saying specifically that that's his responsibility alone, but I do have to say that there are many people who had a sense that things were not being done in an open, transparent and on the up and up kind of way, and that negatively affected our former mayor's ability to get re-elected in the city of Hamilton.

There was one last thing that I wanted to raise, and then I'll make a final comment, and that is the issue of the siting of energy-producing or power-generating facilities. You may know that in the city of Hamilton, there is one particular energy facility that has been attempting to get a certificate of approval and an operating licence, more or less, from the municipality and from the province. It's called Liberty Energy, and its function is basically to take sewage sludge from hundreds of kilometres around and burn it, or gasify it, which I guess is the better word. It's what they're calling it: a gasification process. They're going to be incinerating sewage sludge at this facility. However, interestingly enough, they are not considering themselves a waste disposal facility or a waste facility, which is what you would think they would be classified as since one of the major kinds of waste, sewage, is what they're going to be actually processing in that plant. But in fact, very interestingly, they have decided that they are more important, and their more

primary activity is the generation of power. Well, that's a bit too cute by half. They're going to generate 10 megawatts of electricity for the grid, and they're calling themselves a power generation facility as opposed to what they really are, a sewage incineration facility, which is a waste management facility. But in order to get around the more stringent siting requirements and certificates of approval for a waste management facility—because the government of Ontario, the Liberal McGuinty government, is saying that if you're generating power, you get a “get out of jail free” card and you don't have to deal with the same kinds of stringent rules around the siting of these kinds of facilities. That raises significant concerns for myself as a person that represents an area that's got heavy industrial zoning in large parts of it, and it really concerns the residents of our community who actually have homes and neighbourhoods right up against that heavy industrial zoning. So it's quite a concern.

Last but not least, I wanted to put on the record a concern that I heard from my local BIAs. I spoke to a woman named Kathy Drewitt, who's the executive director of the downtown Hamilton BIA. She was speaking from HABIA's perspective, which is an association of local Hamilton-area BIAs. She had a little bit of a concern—maybe not a little bit of a concern but a significant concern—that because the bill is very free in terms of the way it allows municipalities to determine what issues, bylaws, regulations and situations BIAs can deal with, it will weaken the provincial collectivity that currently takes place with BIAs. So HABIA in Hamilton—I know my friend and colleague from Parkdale–High Park, Cheri DiNovo, talks about TABIA from Toronto. So there are associations of BIAs within cities and then there are ones that meet from a province-wide perspective. Again, the concern is that by not being very clear in the bill, by not being very clear about what BIAs look like, what they act like, what they're able to do and what they're not able to do, it opens it up so that BIAs will have less and less in common and will become less and less of an effective voice province-wide.

That was the last thing I wanted to get on the record about this issue. I'm concerned that the government really hasn't dealt effectively with some of these concerns that have been raised by myself and others in this debate. Having said that, I think I've adequately raised those issues and I want to thank you for having had the opportunity.

The Acting Speaker (Mr. Shafiq Qaadri): The Chair thanks the member from Hamilton East and now calls for further debate. Questions and comments? Seeing none, we'll now proceed to further debate.

Mr. Michael Prue (Beaches–East York): I am delighted to join in this debate. First of all, I would like to thank you, Mr. Speaker, and in turn the member from Hamilton East, who I understand may be taking the chair in a few minutes, for giving me this opportunity to leave the chair tonight and to participate in the debate. I'd also like thank the chief government whip as well for making

this arrangement. It is often very difficult in a small party like ours to balance the many things that need to be done, to balance participating in the debate with sitting in the chair and going to the many committees and things that happen around this building. So I want to thank everyone for participating and for allowing me to do this.

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This is one of many bills that have transpired over the course of the last year or two related to municipal government. Each one of them adds upon what has already been done. In some ways, I'm very happy to see some movement around municipal structures, laws relating to municipalities, because it was, after all, what drew me into this Legislature in the first place. It was what drew me in and made me want to come to Queen's Park, as opposed to the safe sinecure—at least what I thought was the safe sinecure—of Toronto city hall. It was to effect changes and to finally, once and for all, give municipalities their rightful place in the political life of Canadians.

As one of the earlier speakers—I believe it was the minister—had to say, the Constitution of this country recognizes only two levels of government: the federal government and the provincial governments. It does not set out anything for the municipal governments. As I was too painfully made aware during the great megacity debate and the court challenge, municipalities are creatures of the province.

Having said that, this bill was to build on a number of government initiatives over the last while: the City of Toronto Act, changes to the Municipal Act, Bill 151—there's a whole slew of provisions contained in all of those acts. I must say I do find it a little strange, Madam Speaker—the Speaker has changed now, anybody watching on TV.

Hon. Jim Watson (Minister of Health Promotion): No one. Trust me.

Mr. Prue: I'm being goaded here a little.

The—you've thrown me off. I'm going to start somewhere else.

This bill sets out five goals, of which I think two were cured in committee—and I'd like to deal with that—and three were not.

Now I remember what I was going to say. I was going to say that this government often goes on to talk about treating municipalities as a mature level of government, but I am daily reminded that that is in fact not the case. Although in this Legislature we passed and all New Democrats who were present passed the bill on the City of Toronto Act, which was to give the city of Toronto those extraordinary powers that they had never had before, it only took some six weeks for this government to recognize, I suppose, in their eyes, the errors of their ways and to recant some of those powers. They did so in a way that boldly and very badly affected my community and my neighbourhoods in Beaches–East York and in the neighbouring riding of Toronto–Danforth. That was to take away the municipality's right to hold public hearings and to have the public come forward at the public hearings to challenge energy projects.

There is a development called the Portlands in the southern edges of Beaches–East York and Toronto–Danforth which is very controversial. The mayor was opposed; at the time, the councillors were opposed; the czar of the waterfront was opposed; the citizens were opposed. And this government simply took away the rights of the city of Toronto to challenge this in any way whatsoever. It is just an example of this government saying that municipalities are mature levels of government and then acting in ways to show that in fact the province is in charge and that they are not as mature as this government likes to pretend they are.

Having said that, there were five aspects to this bill which were troubling to me going into committee. The first one was the whole issue of electronic voting. The second one was the whole issue of closed meetings and what constituted a closed meeting. The third one was the government continuing to give itself the power to limit a municipality's power by overriding whatever bylaws the municipality might want to enforce for a period of up to 18 months. The fourth one was the issue of airport taxis, which resurrected quite magically a few days before the committee was actually structured and caused a huge debate within committee. The fifth and last one was that of the ombudsman and the role that the ombudsman will or will not play under the new Municipal Act.

To deal with each of them in turn, the first one of electronic voting: This was resolved in one of the more bizarre fashions I have ever had the opportunity to witness in committee. There was a huge debate taking place around whether or not to allow electronic voting. The government record clearly indicated in the original bill that that was to be part of their agenda. Questions were asked of many people. The citizens almost universally were opposed to electronic voting, and I am not surprised that some of the politicians who came forward were totally in favour of electronic voting. People watching this and some of the members may wonder what constituted electronic voting. It was a very strange request, a very strange portion of the bill put in by the government that would allow people who were not present at a meeting to vote. It didn't matter where you were in the world. The example was given by the government that if you were in a snowstorm and couldn't make the meeting, you could still vote. But the opposite was true: If there was no snow around at all and you were on a beach in Acapulco with a drink in one hand and a cellphone in the other, you could vote too.

I considered this bizarre. This would be the only level of government in Ontario, and probably the only level of government and the only jurisdiction of government in the entire country, that would allow people sitting on a beach in Acapulco with a drink in one hand and a cellphone in the other to participate in a meeting. Questions were asked: "Well, if this is such a good idea for the municipalities, why don't you do it here in the Legislature?" You have to be in the Legislature. They lock that door. If that bell rings and you're not fast enough, that door is locked and you cannot get in,

whether you're a member or not, whether you have a cellphone or not. You have to be in your seat. You can't be elsewhere in the room; you actually have to be in your seat to vote. You have to stand one at a time, you have to be recorded and it has to be announced.

The same is virtually identical in the House of Commons in Ottawa, and with good reason. Only members are allowed to vote. You have to see that that is the member and not someone else. You have to see that they are present. You have to know that they participated in the debate, that they were there, that they heard the arguments. We hold that very dear in this country. It is a form of the tradition of our parliamentary system going back not generations but literally centuries, to Britain, and literally centuries to the Magna Carta, that members who are present can vote. Those who are not present cannot.

But this government was bound and determined to go along with electronic voting for municipalities. The only thing they had to have in a municipality was a quorum. Provided there was a quorum present, everyone could vote, no matter where they were, and just simply call it in. You can understand my consternation at all of this. You can understand how upset I was. We put in a motion to delete this particular section. You can imagine my surprise—I know there was genuine confusion in the government ranks when the government members all voted in total agreement with my motion, forcing me to vote no so that I didn't twig to them that they had made a mistake. It was—

Hon. Mr. Gerretsen: You don't even like it when we agree with you.

Mr. Prue: No, because in the end, the mistake was discovered after less than 15 seconds. They had realized they had voted the contrary way, and a request was made to reopen the debate, but never the fool I, I wouldn't allow that to happen. I think this was—

Hon. Mr. Gerretsen: So you win.

Mr. Prue: No, I think this was a good thing for your bill. I told them at the time that this was one of five aspects which I had come to oppose the bill on, and it was suddenly gone.

Now we were down to four. The second one, which happened on the same day, involved the taxi industry. I was really quite surprised, because it was not contained within the original bill, but it was two motions that were put forward by a government member related to the airport taxis. I don't have to tell you the great deal of upset that has been caused within the taxi industry of Toronto because of the rules, regulations and policies adopted at Pearson airport. It is literally almost impossible for a taxi driver in Toronto—they can take someone to the airport, but, having driven all the way out there, they cannot drive anybody back out, save and except if they are willing to go into a line, if there's a pre-arranged drive made available, and if they can get into that line, pay \$10, wait, and hopefully the person will be there to be picked up. If they don't do that and they pick someone up there, it's called scooping.

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But the reverse is also true with the airport limousine drivers, or at least we have been led to believe it's true. The limousine drivers are coming downtown to drop someone off. Especially when they drop them off at the hotels, they pay what is called a cookie. The cookie is \$10 or \$20 or \$30 to a doorman at one of the major hotels and that doorman in turn directs business back to the limousines. It's usually a very lucrative business. It's tourists in Toronto from Europe or Asia who want to go to Niagara Falls for the day. A Toronto cabbie would die to get a fare like that. It would pay the groceries for a week—it would pay the groceries maybe for a month. Those invariably end up in the hands of the limousine drivers, according to the Toronto tax industry.

What was contained within the body of the bill was a provision that would not allow the city of Toronto to do something about the scooping in Toronto. I am very mindful of what was contained in there. We had taxi drivers come to make deputations, we had airport limousine drivers come to make deputations, but in the end, I think sanity prevailed on behalf of the government and that particular provision was withdrawn.

So there we go. There were two things that were bad in the bill and both of them were resolved—one, I think, by an error in voting, the second one by having been withdrawn.

There were three things left. I don't think they were resolved and they still trouble me somewhat, although I must say—and I know the minister is listening intently—that I find the overwhelming majority of the bill to be a good bill. I do find that in large part it's going to assist municipalities. I do find in large part that it's going to make them better forms of government, it's going to make them more accountable. But there are three provisions in the bill which I think take away from some of that. I'm only suggesting—I know it's in third reading and I know with the government majority it's likely to pass, but there are three things remaining which still cause some grief to me.

The first one relates to section 101, which is the provision of closed meetings. There is a new proviso. In the past, there were only three things that could close a municipal meeting: if you were talking about a personnel matter, a legal matter, or the sale or disposal of property. Those were the three reasons, and if there was anything else—I know this as a former mayor and the minister, as a former mayor, knows it too. Those were the only three grounds on which a council could go into in camera sessions. But what has been added here are two other provisions—or one provision and a very strange statement.

The other provision is, you can now go in camera for education or training. So if a municipality wants to give education or training to its elected officials, they can invoke section 101. They can go in camera and nothing that is done within that education or training meeting will be seen by the general public. The public cannot comment on how their elected officials are being educated or

trained, the discussions that take place or ensue. I believe this is going to cause some degree of difficulty.

There is another statement that says this can only happen if it does not materially advance the topic. I'm not sure what that means. I'm not sure if the council goes in closed session saying they're being educated or trained, has a whole big discussion, passes no resolutions, but walks out and it's all orchestrated. I did witness some of this in the new megacity of Toronto on one occasion, although we blew the whistle on it pretty fast. "You go out and make the following motion, you go out and make that motion, and then we'll support it and there'll be no debate and it'll be over one, two, three." That was the suggestion made by one of the councillors. He's no longer in the city of Toronto and I won't name him. But that was made and this is what worries me here. The same thing may happen again in a closed session, where the public is not there. The deal may be struck: "You go out, you move the motion; you go out, you speak in favour of it. No one else will speak and we'll have a vote and it'll be over in five minutes." Many of these issues that are dealt with in camera can be quite contentious.

We proposed—and I proposed, but it was defeated in committee—a bit of a saving grace for this. We proposed an amendment that would force the municipality to advertise that they were going to have a closed meeting if they knew in advance—and we understand that you can't always know in advance, but when you know that it is going to be closed—you must advertise the closed meeting in advance so that the public understands that the meeting will not be open to them. We also suggested that at that same time they have to give a substantive reason why the meeting would be closed, i.e., a personnel matter, a legal matter, the sale of land or, in this case, an education or training seminar.

The third thing we suggested as well was the general nature of the matter that would be discussed: if you were discussing a property, the nature of the property, where the property was; if it was a personnel issue, the type of issue that may be involved, without naming the individual; and if it was a legal matter, the court case or whatever that the municipality was involved in, so that citizens would know and would be able to decide up front whether or not it was closed properly. This was defeated. For the life of me, I don't know why it would be defeated, because municipalities should be right up front, and if they know in advance that they're going into closed session, they should not be afraid to say it.

That was not done, so I remain a little upset about section 101 and the provision for closed meetings. In my view, there is no rational or good reason to close them, especially for education or training matters. It just makes no sense. As one of the members said earlier today, to ask the dumb question is no real problem. Asking dumb questions sometimes gets you pretty good answers, and I don't know why any member, particularly a new member, would be afraid to ask the questions that his or her electors had sent them to ask.

There was a second provision that remains outstanding that is very troubling to me, and that is that the Lieutenant Governor in Council may limit the municipality's powers, that at any time the minister and the Lieutenant Governor in Council, i.e., cabinet, can and will limit a municipality's powers by controlling a bylaw for up to 18 months. Literally by the stroke of a pen, what the municipality is attempting to do can be wiped out and the minister can rule by caveat from Queen's Park.

We find this difficult and I find it very difficult. I don't know how often it will be used. I was assured by the parliamentary assistant that it may hardly be used at all, but it's still there. It forces municipalities to wonder just how much authority this government intends to give them, on one hand saying, "You're a mature level," and on the other hand maintaining this provision that at the stroke of a pen the minister may take away any bill or any bylaw that was proposed and passed by a municipality. This is indeed, and continues to be, troubling.

Last but not least was the whole issue of the Ombudsman. The Ombudsman came before the committee. As the member from Oxford correctly stated, the Ombudsman came before the committee and said that he wished to make more than a 15-minute presentation. There was agreement with the Conservative members who were there. There was agreement with me that the Ombudsman should be given an extra time slot because we did in fact have an extra time slot available that day. It was denied. The only reason I would have given him an extra time slot, not so much because there was an availability, that no one else was being displaced, is that the Ombudsman is a unique individual in the province of Ontario. There is only one. He is a servant of this Legislature. He acts for and on behalf of the 103 members who are assembled here. The Ombudsman has a unique perspective, and in no other place in this province is an individual constituted in such a way that he or she would have those kinds of powers.

This bill sets out that municipalities can have an ombudsman-like person in their employ. What the Ombudsman wanted to tell us in some considerable detail was that if a municipality wants to hire an ombudsman, if a municipality wants to have them do the right things, there have to be many, many safeguards. And it's just not enough to simply place the resolution within the body of the bill saying if a municipality wants to hire somebody they can go out and do it.

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The Ombudsman said three very careful things:

"First, minimum standards should be established under Bill 130 to ensure that ombudsmen appointed at the municipal level are able to provide credible and effective service to Ontario's citizens.

"Second, Bill 130 should provide an avenue of complaint to the provincial Ombudsman on the basis that a municipality has failed to comply with legislated standards.

"Third, Bill 130 should provide that when a municipality has not appointed an ombudsman, citizens may

complain to the provincial Ombudsman about that municipality's administration."

He spoke at some considerable length in the 15 minutes and he did, on the second day, when he was not allowed to speak, send along a letter, which the member from Oxford read in its entirety into the record. So I'm not sure what time was saved by the government, because the information was totally received from the Ombudsman. Some of the more important things that he had to say, and I'm quoting here from the little synopsis:

He said, "Minimum standards should be established ... to ensure that ombudsmen appointed at the municipal level are able to provide credible and effective service to Ontario's citizens."

He said the bill "should provide an avenue of complaint to the provincial Ombudsman on the basis that a municipality has failed to comply with legislated standards."

He said the bill "should provide that when a municipality has not appointed an ombudsman, citizens may complain to the provincial Ombudsman about that municipality's administration."

He said, "A fundamental defect is that the ombudsman powers and authority are not set out in legislation."

He said, "The ombudsman should be able to compel disclosure of information and to inspect. There should ... be sanctions available to deal with individuals or organizations that fail to comply" with the ombudsman's requirement. "In addition, the ombudsman should be able to deal effectively with any reprisal against whistleblowers."

He said that under no circumstances should the ombudsman be an employee of the organization he or she oversees. The ombudsman "should have a fixed term, adequate resourcing and operational independence."

He said, "The ombudsman must be exempt from any relevant access to information legislation and not compellable, in law..."

That is what the Ombudsman had to say, but unfortunately most of what he had to say did not find its way into amendments made by the government and/or certainly none of those that were made by the opposition because none of them was passed.

The Ombudsman was quite clear that an individual appointed to a municipal ombudsman's position had to have security of tenure, that that person had to not be a municipal employee, had to be above the power of the municipality, which could not hire or fire at whim when the ombudsman was investigating municipal practice. He was very, very clear in what needed to be done in order that that person allow themselves to be called an ombudsman and not just simply a civil servant hired by the municipality and beholden to the council that put him or her into that position. That was not done, and I think for that reason, and the reason of the Ombudsman, the bill also failed.

So in conclusion, because I don't want to take too much longer—we're all getting a little tired—the bill had five major flaws when we walked in. There was the flaw

of electronic voting, which mercifully was rationalized and gone. There was the problem of the airport taxis, which appeared literally out of nowhere, but was resolved in the end with, I believe, the Toronto taxi drivers seeing that the threat of what was proposed had passed and that, in fact, the city of Toronto will have jurisdiction to stop scooping within the city of Toronto. But it was not resolved in the last three: that of closed meetings, which literally everybody disagreed with; with the provision of the Lieutenant Governor in Council, which every single municipality and the Association of Municipalities of Ontario complained about, that the Lieutenant Governor in Council have authority to undo bylaws that were legitimately passed by municipalities—they were all opposed to that; and last but not least was the whole provision around the Ombudsman, the Ombudsman's role in Ontario and the ombudsmen's role when and if they are appointed in the municipalities to look into citizen involvement.

These are the problems that remain extant in the bill. They have not been resolved; they will not be going away. I know that this government will use its majority to pass this bill, but I would question in the long term whether this is the direction in which this government wants to go. I believe that passing these three particular sections will cause difficulties in the short term, and in the long term, we will see ourselves back in this Legislature, either us personally, the next group or the group after that that comes here, undoing those very parts of the bill that will prove to be problematic. Once they are out there and municipalities start holding closed meetings where they shouldn't, once it is out there and the Lieu-

tenant Governor in Council starts undoing the work of democratically elected councils, once it is out there and the ombudsmen's provisions, which have not been well-thought-out, are put into practice and people start to complain, we will find ourselves back in this House undoing what should have been done during this legislation.

Thank you very much for the opportunity to speak.

The Acting Speaker (Ms. Andrea Horwath): Questions and comments? Are there any questions and comments?

Is there any further debate?

Seeing none, Minister Gerretsen has moved third reading of Bill 130, An Act to amend various Acts in relation to municipalities. 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.

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

Mr. Dave Levac (Brant): I don't think so.

The Acting Speaker: The chief government whip has provided a deferral slip that defers this vote until 1:30 tomorrow.

Orders of the day.

Hon. James J. Bradley (Minister of Tourism, minister responsible for seniors, Government House Leader): I move adjournment of the House.

The Acting Speaker: All those in favour, say "aye." Any opposed? The motion carries.

The House stands adjourned until 1:30 of the clock tomorrow.

The House adjourned at 2028.

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