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Jeudi 29 novembre 2001

Standing committee on public accounts

Ethics and Transparency in Public Matters Act, 2001

Comité permanent des comptes publics

Loi de 2001 sur l'éthique et la transparence des questions d'intérêt public

Chair: John Gerretsen
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON PUBLIC ACCOUNTS

COMITÉ PERMANENT DES COMPTES PUBLICS

Thursday 29 November 2001

Jeudi 29 novembre 2001

The committee met at 1004 in room 151.

ETHICS AND TRANSPARENCY IN PUBLIC MATTERS ACT, 2001

LOI DE 2001 SUR L'ÉTHIQUE ET LA TRANSPARENCE DES QUESTIONS D'INTÉRÊT PUBLIC

Consideration of Bill 95, An Act to require open meetings and more stringent conflict rules for provincial and municipal boards, commissions and other public bodies / Projet de loi 95, Loi exigeant des réunions publiques et des règles plus strictes de règlement de conflit pour les commissions et conseils provinciaux et municipaux ainsi que les autres organismes publics.

The Chair (Mr John Gerretsen): I call the meeting to order. Thanks for attending this morning. We're continuing our hearings with respect to Bill 95, an Act to require open meetings and more stringent conflict rules for provincial and municipal boards, commissions and other public bodies. We're here this morning to hear from a number of delegations with respect to the bill. We have 10 minutes per deputant, and if there's any time left over in that 10-minute time period there may be some questions from the various members of the different caucuses.

I understand that the first delegate, Mayor Mike Bradley, is not going to—

Ms Caroline Di Cocco (Sarnia-Lambton): He will be here, but he's caught in traffic.

MICHEAL CHOPCIAN

The Chair: I see. So the first deputant today is Mr Micheal Chopcian. Welcome, sir, and we look forward to your presentation.

Mr Micheal Chopcian: Thank you for providing me with the opportunity to speak to you today on the subject of the proposed Bill 95, Ethics and Transparency in Public Matters Act.

My name is Micheal Chopcian and I live in Sarnia, Ontario. I'm an electrical engineer and I hold a university degree in commerce. I support this bill, and I would like to give you three short examples of how this bill could have prevented some questionable behaviour on the part of the Lambton Hospitals Group in Sarnia, Ontario.

You see, hospitals are exempt from the freedom-of-information act. As such, they don't have to always provide minutes of board meetings or information to the public. Sometimes this can lead to public bodies spending public money without public accountability.

Let me quickly set the stage for what happened in Sarnia, Ontario, with respect to the Lambton Hospitals Group, their operating budget and their capital project.

In 1997, the government directed that the two Sarnia hospitals be co-located on to one site, and in February 2000, the government followed up by approving a $67-million capital project of which the government would fund two thirds. Unbeknownst to the public was that since 1987 the hospital had been quietly assembling lands in adjacent neighbourhoods. After the approval of the capital funding and before any plans were released to the public concerning the approved capital project, the hospital accelerated their land acquisition efforts.

When plans for the capital project were finally released for public input, the community was aghast. They couldn't believe that the hospital went out and began purchasing land before any public consultation on the approved project had taken place. More concerning to the Sarnia community was that the proposed land assembly efforts were to convert yet another urban neighbourhood to a service parking lot. You see, this was the same approach which was used by the same organization around the other Sarnia hospital. Now that hospital is slated for abandonment, and the surrounding neighbourhoods, which were also converted to parking lots, will all be abandoned.

In an effort to understand how the hospital had assembled so much land, particularly in times when operating budgets were being cut, we formed the Sarnia Central Neighbourhood Association and we started asking questions about land assembly efforts. Foremost on our list of questions was, how did they approve such land assembly and where did the money come from?

We did not get a copy of the minutes of the board meetings on this subject but we did get various answers to the question. The CEO recently sent me a letter dated November 23, 2001—I'll provide copies of my presentation to all of you afterwards—and insisted that the money came from funds from reserves to purchase the real estate. However, the CEO had also sent me a preceding letter saying that the hospitals do not have reserve funds. Yet another letter from the chairman of the joint

executive committee of all hospitals in Sarnia insists that the money came from operating funds. None of this information can be verified, because the minutes of meetings where these issues would have been discussed are not available to the public. In fact, they don't even have to disclose how much money they spent for the properties. When we asked the hospital how much money they spent on real estate assembly efforts, they simply told us it was confidential.

Then we asked to see the appraisals for the real estate they had purchased, and they said that information was also confidential. So we went to the land assessment office and land registry office and here's what we found. This is one of the most blatant issues that we found. We found that the hospital spent over $1 million on real estate, much of which was spent in years when hospitals were having difficulty financing health care needs in our community. As you can see, the hospital spent over $380,000 on one property alone this year, one which was only assessed as having a value of $152,000. This year, this hospital will report an operating deficit of over $2 million.

The Sarnia community and the municipal planning department repeatedly asked that the hospital put up a parking deck to satisfy current and future hospital parking needs while leaving long-standing neighbourhoods and tax bases intact. The community was worried that not putting up a parking deck would result in delays to the hospital project and ultimately increase the cost of the hospital project. The hospital insisted that building a parking garage was cost-prohibitive. In fact, they quoted from a proposal they received from a private contractor saying that it would be financially impossible. When we asked to see the complete proposal for the parking structure, and the minutes from the board meeting where this was discussed, the hospital refused to release it, claiming that it too was confidential. A copy of the proposal was anonymously donated to the neighbourhood association. What the proposal actually said was that a parking deck could be built and hold 155 cars. This somewhat contravenes the version of the story offered by Lambton Hospitals Group, but again, the complete information that the hospital had was hidden from the public eye.

1010

This whole matter of hospital parking led to an Ontario Municipal Board hearing in September, which did in fact delay the hospital and capital project. The $67-million project is now estimated at $113 million. Still, nobody in the hospital or the government is accountable for the more than 69% increase in the cost of the capital project. The hospital is still on target to generate an operating deficit of over $2 million this year. No one knows where they got the money to assemble lands. In fact, no one knows how the salary increases were approved for hospital executives this year, a year in which major operating deficits will prevail.

I have one parting comment for this committee on something that we ran across and found very interesting. I'll draw your attention to the tax return for the St Joseph's Health Services Association of Sarnia, for the year ending 1999. The first thing I'd like you to note is that the hospital has requested that the public not be allowed to view the separately attached financial statements—that's this little box here you check. The next thing I would like you to note is that the hospital received more than $31 million from the government—that's taxpayers' dollars—and they reported a deficit of over $2 million that year. The interesting thing about this tax return is that in the same year the hospital reported a $2-million loss, they also made a $2-million donation. More interesting is the fact that the recipient of the $2-million gift given by the St Joseph's Health Services Association of Sarnia was the charitable arm of that organization, the St Joseph's Health Centre Foundation.

I'm just a layman in these matters and I don't purport to be an expert, but Bill 95 is needed to help explain these kinds of things to the people, the taxpayers and the voters.

The Chair: Thank you very much. We have about one minute per caucus. The Liberal caucus first.

Ms Di Cocco: Thank you, Michael, for taking the time to come and make the presentation. Just a quick question. How do you feel the concept of Bill 95 would assist in this whole issue of accountability and transparency?

Mr Chopcian: Definitely, if people who are making these decisions, who are charged with the responsibility of looking after the public purse, know that their actions will be scrutinized and that there are penalties for making poor and improper decisions, it would make them much more accountable. What accountability do they have for making a decision right now?

Ms Shelley Martel (Nickel Belt): What reasons were ever given by the Lambton Hospitals Group for refusing to provide information, either copies of minutes of board meetings, copies of plans etc, for public disclosure?

Mr Chopcian: I can show you that. I have the letter they sent. They said it was confidential.

Ms Martel: That was it? There was no—

Mr Chopcian: You'll receive a copy of the letter—

Ms Martel: So that's what you're going to give to us? This was the most recent letter you got from them, November 23?

Mr Chopcian: Correct.

Ms Martel: So at this point in time, all requests that you've made for information continue to be blocked?

Mr Chopcian: Yes, ma'am. I can provide that documentation as well.

Ms Martel: OK. That would be helpful.

Mrs Julia Munro (York North): Certainly, to get this kind of insight into specifics is very helpful for us. One of the things that we have looked at as well is expanding the auditor's role in potentially being able to look at our transfer partners. I'm just wondering whether or not you would see something such as a value-for-money audit conducted by the auditor to be appropriate in situations such as the one you've given us today.

Mr Chopcian: I think you hit the nail right on the head. I would like to see an auditor come in and audit the books of the hospitals. I'd like to know why there's a $2-million deficit this year, when their CEOs are receiving salary increases, when they're crying for nurses and they're declaring an operating deficit. It's a wonderful idea, particularly because this is taxpayers' money going to a target of our economy that is expanding in need and use in our community—health care.

The Chair: Thank you very much, sir, for your very enlightening presentation.

COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

The Chair: Next we have the College of Physicians and Surgeons, Rocco Gerace, immediate past president. If you'd like to take a seat at the table, please.

Thank you for being here this morning. You will have 10 minutes for your presentation. Perhaps you could identify—you're Mr Gerace?

Dr Rocco Gerace: Yes, and Katya Duvalko.

Good morning. As you've heard, my name is Rocco Gerace and I'm the immediate past president of the College of Physicians and Surgeons and currently a member of college council. The president of the college, Dody Bienenstock, was unable to be here today and has asked me to address you in her stead. Katya Duvalko has joined me today. Katya is the head of our policy department and I'm going to try to highlight some of the prepared remarks that we've circulated.

Firstly, let me say that the College of Physicians and Surgeons of Ontario, or the CPSO, welcomes this opportunity to comment on Bill 95, the Ethics and Transparency in Public Matters Act. In particular, we're asking that the college not be included as a designated public body under that act.

As you know, the CPSO is the regulatory body for physicians practising in this province, and we are given this responsibility under the provisions of the Regulated Health Professions Act, or the RHPA. It is our responsibility to regulate physicians by issuing certificates of registration allowing physicians to practise medicine, by investigating complaints, by disciplining doctors and finally, by ensuring the continuing quality of physician practice. We do so under the overarching principle of the act, which is "to serve and protect the public's interest."

It is the intent of Bill 95 to set up provisions that will affect the openness of certain committees and boards. It is the further purpose of this bill to increase the accountability of public boards funded by public dollars and to make their decision-making processes more open and transparent.

According to Bill 95, this college, along with 20 other health professional colleges, has been included as a designated public body that will be affected by the provisions of this proposed legislation.

I think you should know that the college operations are funded by fees paid by physicians, not by the public purse. Therefore, we're not a public body according to the intent of this bill. Notwithstanding this, we do have a strong commitment to openness and accountability. I'll try to outline how we currently demonstrate this.

First of all, all college council meetings are open to the public, and minutes from these meetings are readily available to anyone who requests them. Discipline hearings are similarly open to the public and discipline committee decisions are available, both in print form and on our college Web site.

Other regulatory information, such as referrals to discipline and restrictions placed on physicians' practices, are also available to any member of the public.

Further public accountability is provided by members of the public who have been appointed by the Lieutenant Governor in Council to represent the public interest in the work of the college. These members of council are intricately involved in virtually every activity associated with the college.

Given our extensive public protection mandate, there are multiple regulatory processes conducted by multiple committees within the college. These committees are not open to the public currently because the RHPA has established confidentiality rules that apply to them and keep them closed for legitimate reasons. I'll try to give you an example.

The function of the complaints committee is to consider public complaints and make decisions regarding the appropriateness of the behaviour of or clinical care provided by physicians. By necessity, consideration of public complaints generally requires a review of a patient's personal health record. This information, as you can well imagine, is very private and highly sensitive. If meetings where personal health information was discussed were to be open to the public, we could not expect patients to agree to the review. This would seriously compromise our college's ability to carry out its regulatory functions in protecting the public interest. There are multiple further examples I can give you, and I can assure you that this concept holds true for virtually all statutory committees.

1020

Further, the college council is of the opinion that the provisions of Bill 95 would actually run counter to the privacy protection provisions being developed by the Minister of Consumer and Business Services in conjunction with the Ministry of Health and Long-Term Care. Opening the work of its statutory meetings to the public would not only cause the kind of unnecessary disclosure now being addressed by privacy legislation, but it would be clearly contrary to the ethical principles of both our profession and our college. The confidentiality principles date back to Hippocrates and are the cornerstone of the physician-patient relationship. We would submit that patient trust must not be compromised.

Although the exemptions envisioned by the bill could be called upon to close these meetings, this would seem to be an unnecessarily cumbersome, potentially confusing and certainly a costly process. Most activities, if not

all, would continue to be closed, and we feel that college resources would be better directed to fulfilling our statutory responsibilities. We do feel we can be more open and accountable, but I think we have to be careful.

In 1999, the Health Professions Regulatory Advisory Council, or HPRAC, conducted a legislated five-year review of the RHPA. This review has thoroughly and systematically considered the privacy versus openness and accountability issue.

As part of this review, our college has been aggressive in suggesting amendments to the act that would give us permission to be more open and accountable. For example, when there is a matter being investigated that would be in the public interest to disclose, we would like to be able to do so.

Further, regulatory outcomes that might be in the public interest should be disclosed and we're advocating that this disclosure be allowed. The Ministry of Health and Long-Term Care is currently considering how best to proceed with these suggested amendments, and we are hopeful that they will be incorporated.

It is the feeling of our college and our college council that the provisions of Bill 95 do not take into account the complexities and special needs of health regulators. It is on this basis that, while supportive of the principles of openness, high ethical standards, accountability and transparency, we're very concerned about the effects of the proposed provisions of Bill 95. We are concerned about their effect on our college's ability to do its statutory duties in regulating physicians in the public interest. The need for openness is better dealt with through alternative processes. It's for this reason that the college cannot support Bill 95 in its current form and is requesting that our college specifically, and health regulatory colleges generally, be granted an exemption to its provisions.

That's the end of my remarks.

The Chair: We have time for one question from each caucus.

Ms Martel: Thank you for coming today. I think Ms Di Cocco might make some comments with respect to amendments that will be coming with respect to the regulated health professions. I was curious, though, about page 6, when you said that the CPSO has suggested amendments to the Regulated Health Professions Act that would allow for changes. Can you give the committee some idea of what those changes will be and whether or not you expect the government will move on those as well?

Dr Gerace: Sure. I think, as I mentioned in my remarks, there are occasions when there are issues being investigated by the college that are high-profile, that the public has an interest in, and we feel that we should be able to make the facts of the investigation public in those cases. Similarly, there are dispositions by certain regulatory committees that are currently not public that may involve restrictions or alterations of a physician's practice, and we think that such dispositions would be in the public interest to disclose, to make public. Those are just a couple of examples.

Ms Martel: Just so I'm clear, those changes, then, would require actually amendments to the Regulated Health Professions Act in order to allow that information to be disclosed?

Dr Gerace: Yes, that's correct.

Mrs Munro: I just wanted to look further in terms of the question that has already been raised with regard to looking at the manner in which your effectiveness could be enhanced, because that's clearly what you're looking at with this review. Is that fair to say?

Dr Gerace: I'm sorry, I didn't understand. Looking at—

Mrs Munro: The effectiveness of your abilities. That is the focus of this review, am I correct in assuming?

Dr Gerace: The review of the RHPA?

Mrs Munro: Yes.

Dr Gerace: Yes, we've commented on it because we think there is a need for more accountability. So that has been our aggressive submission to HPRAC.

Ms Di Cocco: Just a quick comment, but then I'd like to pass it to my colleague. When it comes to self-regulated bodies, I have been looking at that whole issue of the amendment, as you have suggested, because it did get caught, as did the marketing boards, in this whole web. Again, it's the legalese that came out of the discussions. I just wanted to reassure you of that.

Mr Richard Patten (Ottawa Centre): Thank you for coming today. As you know, this bill doesn't really affect your organization, but I'm pleased to see that you're suggesting a review, particularly related to the complaints review. In spite of Monte Kwinter's bill, which is to provide physicians with an opportunity to utilize complementary therapies, I've met with a number of doctors who are fearful of your organization because of its historical pursuit of doctors using something that that particular committee—I understand the gentleman who was in charge of this has left and so there may be an attitudinal change. But I hope that review is part of the review that you have, because my understanding is there's been a witch hunt for a lot of doctors who have employed complementary medicines; no complaints by patients but perhaps from some other doctors or from your organization itself. I hope that's part of the review, because I think it's time to move out of the dark ages.

Dr Gerace: I would just like to correct some misconceptions, if I can, Mr Patten. Firstly, there has never been a witch hunt; there have never been targeted groups. I think the allegation that the providers of complementary care—

Mr Patten: They have been targeted. I'll be happy to provide the information.

The Chair: Let the gentleman reply, please.

Dr Gerace: It's simply unfounded. I would suggest to you that over the course of the past 450 discipline hearings there have only been three or four that have been related to complementary medicine. I would just like to dispel the notion that we're targeting, and certainly in the

future we will be looking forward to taking a proactive approach to physician practice and physician behaviour and look not at punishment but at helping them practise better.

Mr Patten: I'd be happy to talk to you about that.

The Chair: Thank you very much for your presentation here this morning.

ONTARIO MEDICAL ASSOCIATION

The Chair: Next we have the Ontario Medical Association: Dr Tom Dickson, Dr Ted Boadway and Barb LeBlanc, director of health policy. Welcome to our hearing. You'll have 10 minutes for your presentation, and if there's any time left within the 10-minute time period there may be some questions from some of the members present today.

Dr Tom Dickson: I'm Tom Dickson and with me today are Ted Boadway and Barb LeBlanc, from the staff of the OMA. I chair the OMA's committee on hospitals and I'm a past president of the OMA. I'm an active ENT surgeon and spend a lot of my time, actually, at the present time, as chief of medical staff for a large multi-site organization and in that role have chaired an MAC for the past five years.

The OMA has prepared a written brief that makes recommendations regarding a number of aspects of the proposed law, including the Health Professions Appeal and Review Board, and the colleges that regulate health professions. But I'm going to focus my time this morning on the inclusion of hospital medical advisory committees as public bodies under Bill 95. I intend to spend only a few minutes on my prepared remarks and then we'll respond to questions.

Every public hospital in Ontario has a medical advisory committee, and they serve a number of very important functions within the hospital. Most importantly, the MAC is the bridge between the independent physician contractors, if you will, and the board of trustees of the hospitals who have the fiduciary duty for the quality of care delivered in the institution. The MAC makes recommendations to the board, not decisions, about appointing and reappointing medical staff. As part of the reappointment process, the MAC does things that would typically be considered part of the human resources function of most organizations, for example, reviewing the performance evaluation of physicians who are up for annual reappointment.

1030

The MAC also monitors quality of care on an ongoing basis for the board. It is comprised of a number of appointed physicians from across the hospital. Certain other senior hospital people are entitled to attend meetings but are not members, such as the CEOs or chairs of boards or vice-presidents. The MAC's meetings are closed to the medical staff at large; they are not open meetings generally. The MAC receives reports from all medical departments and committees—and they often include sensitive and at times controversial issues—and, it's quite key, at very early stages of policy development. Premature release and circulation of these types of documents is not helpful.

The mechanisms used by MACs to ensure quality are varied, but most of them at some point involve detailed reviews of individual physicians' and/or patient information. Having this information open to the public would be in direct conflict with our existing laws and ethics regarding patient privacy. In addition, it would have a significant repercussion for hospitals' ability to engage in effective quality improvement and medical disciplinary action, since you would never get the level of candour required if the meetings were open.

Like most hospitals, we at William Osler use our MAC and its various committees, as well as other structures, to gather information about care, including where things have gone wrong, in order to improve our processes and overall systems. The essence of quality improvement is candour, frank discussion and case-by-case analysis. Opening it to the public and press would undermine this candour and stifle discussion. I also believe it would ultimately result in new structures, outside of the MAC, being developed to handle sensitive issues.

In short, the OMA agrees with the Ontario Hospital Association that hospital MACs are not public bodies and should be removed from Bill 95. We believe their inclusion in the ethics and transparency act would cripple hospitals' ability to engage in meaningful quality improvement activities.

That's the end of my oral remarks. If you have any questions, we'd be glad to try to address them.

The Chair: We have a couple of minutes per caucus. We'll start with the government side.

Mrs Munro: No, I think we've got a pretty clear idea of the position that you've taken on this. Thank you.

The Chair: Any other government members? No? OK. Ms Di Cocco.

Ms Di Cocco: I certainly appreciate your submission. Thank you very much for the input.

One of the things I find when you redraft a private member's bill is it's always interesting to see the reactions of the people it affects. This is why public hearings are a great process whereby there is this ability, if you want, to convey the considerations to be made for the various entities that are going to be impacted. I certainly appreciate all of that.

When it comes to your concerns, which I understand, because it's a subcommittee basically—it's an advisory committee to the hospital—it's a valid argument, I must say. I know that in London my understanding was that the medical advisory board said that they gave a different recommendation and then the board went ahead and made another recommendation. But of course there's no documentation that that was the case. It's "He said, she said," I believe, because there is really no recommendation. Do you not think that if there was a little more transparency in the recommendations that are made to the hospital board, it would assist the medical advisory boards?

Dr Dickson: The minutes of the MAC would be tabled and approved at the board meeting. That would be part of the normal activity in the hospital, so that would be on record as part of the board meeting, and any recommendation that would be made, if it were discussed at the board, would appear in the minutes of the board meeting.

Ms Di Cocco: I guess the problem is that there are really no criteria for the hospital board to make it public. They don't have to. They can just announce whatever they need to announce. They're not guided under the open-meetings aspect of the Ontario government.

Dr Dickson: There's not much doubt that certain portions of hospital board meetings could easily be open, but they deal with very sensitive issues as well and generally go in camera when that occurs. Actually, my remarks were mostly addressed at the MAC function itself. The board is a separate issue.

Ms Di Cocco: Yes. As I said, I do appreciate it. I am bringing forward a number of amendments to fine-tune the bill for bodies that didn't need to be in here that got caught in that whole structure of looking at public bodies under the statute.

The Chair: Ms Martel?

Ms Martel: I don't think there are any questions because I believe there will be some amendments that will exempt certainly MACs and also the self-regulating professions from the contents of the bill, from the provisions. We appreciate the comments you brought forward here today.

Dr Dickson: That will be much appreciated.

The Chair: Thank you very much for your presentation. Thank you for coming this morning.

FEDERATION OF HEALTH REGULATORY COLLEGES OF ONTARIO

The Chair: Next we have the Federation of Health Regulatory Colleges of Ontario: Mr David Hodgson, president. Good morning, sir. Again, you have 10 minutes for your presentation. If you take less than that, there may be some questions from the different members of the caucuses.

Mr David Hodgson: Good morning. Possibly I could wind this up in about 15 seconds and say thank you for the proposed amendments to exclude regulatory health colleges like our own. At the end, I might ask for confirmation of what you had in mind in terms of amendment.

I'm not going to follow any written notes, but the letter I sent in to the committee said essentially two things: the regulated health professions, 23 of them regulated by 21 health colleges, 220 health professionals and all of the people they serve, could potentially be affected by this.

The RHPA scheme is really a delicate balance of the rights and needs of the members and of the public to protect their privacy and the rights and needs of the public to understand what happens at the end of that. So the complaints process, for example, is an opportunity for the complaints committee, which is made up of public members and professional members, to see whether or not there is an allegation of professional misconduct. Now, maybe there isn't, and if there isn't, think about a small-town practitioner—I don't know who it would be—any one of the 23 regulated health professions that are in a community of 1,000, and someone lays a complaint about their practice. If that were suddenly made public, and all of the machinations around reviewing that, without any determination of whether or not that complaint was valid, it might be inappropriate. We suggest it is, and that's why the RHPA is written that way. However, at the end of the day, the complaints committee then recommends to the discipline committee that there be an open public hearing, and that's the way the ball bounces. That's how you protect the public in that instance.

I'll just give you another example. I doubt that a man, woman or child who wants to complain about a sexual abuse incident would want that complaint to be made in the public. We take very, very extreme measures to protect the privacy and dignity of these individuals when they come to the college. I just want to emphasize that, and I'm glad to see you're doing that.

The other thing I might suggest and recommend to you, though, is in terms of the openness of the whole process. You've heard before about the RHPA review. There was a document called Weighing the Balance. That was done over a two-year period. The Health Professions Regulatory Advisory Council produced this document and said, "Think about these questions," in terms of fairness, flexibility, openness, a variety of things. They have just produced this document, called Adjusting the Balance, which contains about 70 recommendations by the Health Professions Regulatory Advisory Council, which is made up of public appointees to advise the Minister of Health on various things. They've made a number of recommendations, and some of them deal with openness.

You were asking before about what kinds of things perhaps the College of Physicians and Surgeons was talking about. At the moment, for example, an undertaking—if a member has been found not guilty of some misconduct but his or her conduct has been called into question and the college says, "We want you to undertake that you're going to live up to these regulations," at the moment there's no public access to that necessarily. So there's a proposal in here that those kinds of undertakings would now become public. There are other recommendations with respect to opening up the kinds of things that are on the public register with respect to decisions—not allegations, but actual decisions. When a decision has been made by the public regulatory body, it would then become public. Those are good recommendations and, as I said, I would recommend this to your consideration, Adjusting the Balance. We are expecting some draft legislation in the not too distant future based on that.

Essentially, I will end my comments there. If you want to ask any specific questions—and I would love to hear a specific commitment that we will be excluded.

1040

The Chair: We have a couple of minutes for each caucus. Ms Di Cocco, you're first this time.

Ms Di Cocco: Yes, as I said, when the agricultural community saw the impacts of the bill and took a look at it, they gave me a call and they talked about it. Sometimes it's really good to have some dialogue. I didn't receive any calls. As I said, I'm glad you made the submission, but we looked at the regulatory body as a body that should be exempt from this bill. It was a little more complex than it should have been and it got caught because of the definition that was applied. I did speak to legislative counsel and we will be bringing amendments that will deal with excluding the regulatory body.

The intent of my bill is better decision-making, not how to make it onerous, but to make decision-making as transparent as possible and, again, to ensure that the public interest is being served. I appreciate the input about the document you had in hand and look forward to taking a look at the recommendations. So thank you.

Mr Hodgson: If I just might point out, in terms of the discipline committee proceedings, there could be nothing more public than a member of the profession who potentially faces corporate capital punishment. The outcome of a discipline hearing could be to take away that person's profession, and to have that out in the public I think is a good example.

Ms Di Cocco: Yes, and I certainly appreciate that.

Ms Martel: Can I move to the stage before the discipline committee, which would be the complaints, so I can understand the process. The complaints portion of it itself—how does that normally operate? It's obviously closed to the public. Is the complainant allowed to participate and hear what is said?

Mr Hodgson: Exactly. As a matter of fact, this afternoon I'm talking with someone who may potentially want to complain against one of our members. Normally, the member of the public will come in and talk to someone who, at a college, will intake the complaint. We'll talk about the conduct of the member, and then it must be made in writing. The member of the public will say, "On this day, I was treated in this fashion and this is what I didn't like." That allegation of misconduct or of a transgression of a standard of practice is sent to the member. The member then has 30 days to reply. That reply is then sent to the complainant. They have that opportunity to reply. Then that material is given to the complaints committee.

So you have the complainant making the complaint, the member responding, the member's response going back to the complainant and then all of that going to the complaints committee. The complaints committee has the option of bringing people in to elaborate, if you will, on the complaints made, if necessary.

Ms Martel: Do you ever run into scenarios where a complaint does not proceed to the discipline committee and you have a complainant who comes back and says, "The process was not open. Other people were involved in providing points of view that I didn't have a chance to respond to"? I recognize the openness of the discipline committee, but do you run into circumstances where, if it doesn't proceed at the complaints committee, you have an argument from a complainant who says, "This process wasn't open. I don't know everything that was said and I don't feel like my complaint was legitimately or openly dealt with"?

Mr Hodgson: There must be a written decision of the complaints committee that gives the reasons for their decision. That decision can then be appealed to the Health Professions Appeal and Review Board.

Ms Martel: OK. So there is another option.

Mr Hodgson: Yes.

Ms Martel: You were referring to undertakings. Should I assume that those would be essentially conditions on a licence to practise?

Mr Hodgson: Yes.

Ms Martel: Can you give us some examples? I recognize there's a broad range of health care providers that are going to be brought under this but—

Mr Hodgson: There might be a profession—ours, for example—where people practise in hospitals, they practise in private clinics, they practise in a variety of settings. There could be a restriction placed on someone's licence that we don't want them to practise independently for a period of time until they correct maybe their record-keeping or something like that.

In the event that we find they are incapacitated or they're a threat to the public, we have powers to restrict their licence and suspend their licence until such time as they comply. We wouldn't allow someone to practise when there's a threat to the public. Undertakings are used more in the compliance with the record-keeping type of regulatory process.

Ms Martel: If I'm clear, that would—

The Chair: I'm afraid we'll have to leave it at that, Ms Martel. Government members?

Mrs Munro: I don't think we have any questions. Just thank you for coming and particularly for bringing to our attention the real issue for you in terms of that balance between understanding the privacy of the individuals involved in the process and the need, obviously, for the public to know. I think of particular importance is the notion that you gave at the beginning about the individual who may be identified and then he can't be judged by the court of public opinion.

The Chair: Thank you very much, sir, for your attendance this morning.

ONTARIO HOSPITAL ASSOCIATION

The Chair: Next we have from the Ontario Hospital Association David MacKinnon, president and CEO, and Hilary Short, vice-president of policy and public affairs. Good morning and welcome.

Mr David MacKinnon: Thank you very much. We really appreciate the opportunity to talk about Bill 95. Since time is very limited, I'll make just a couple of introductory comments and then Hilary will go over our detailed concerns. Of course, we will leave a more detailed written submission with you. I don't think we need to cover its content in the opening remarks.

The first comment I'd like to make is that for the last several years in Ontario's hospitals we have been really focused on the issue of accountability. We are the only hospital system in Canada that makes available public reports by hospital on clinical outcomes, consumer satisfaction, financial performance and management of change. We also believe in the leading edge of practice in relation to this form of accountability, which is in some ways the ultimate form of accountability in terms of the continent. We are currently expanding this system and will be developing it over the next several years. We have had very positive and extremely helpful support from the Ontario government in this important initiative over the last year or so. So I hope we have demonstrated that we not only preach accountability, we practise it.

The second comment I'd like to make, and then I want to dispense with much of my formal presentation, is to just second the motion in terms of the content and the comments made by the Ontario Medical Association. In particular, just to focus on one issue, the MAC committee in hospitals is where medicine and community intersect. The one thing about medical error that everyone who has studied it agrees on is that if there is a safe forum where it can be openly discussed, it can be dealt with, but if there is no safe forum, it goes underground.

The procedures attached to the way in which hospital boards deal with MACs and their activities are intended to provide that safe forum and to avoid the obvious risks that happen. If error and risk and near misses and triumphs and tragedies don't get discussed, to us, in the long run, the lack of a safe forum where people can deal with those very difficult issues with sensitivity and rectitude is a real problem in terms of ultimately forcing those problems underground and they don't get addressed.

So really, with those two comments, we believe we are practising a very advanced form of accountability and we are very concerned, and we second the comments made by the Ontario Medical Association. Perhaps I'll turn to my colleague Hilary for a couple of detailed comments on our specific problems with this legislation.

Ms Hilary Short: I'd just like to add a few thoughts to David's comments. The OHA and the hospitals support the intent of this bill. The OHA has advocated for some years—at least 10 years—for hospital board meetings to be open. In fact, the majority of hospital board meetings are now open. We do have very serious concerns with the prospect of the medical advisory committees being designated as public bodies, as David has said. It would jeopardize patient confidentiality and the moves toward quality and peer review.

The other concern we have is designating board committees as public bodies. Opening hospital board committee meetings to the public we view as somewhat inappropriate, given their roles and the nature of their business. We believe that the role of board committees is really to provide advice to the board. We feel that the deliberations of those committees should be able to be full and frank and touch on a range of issues in advance of board meetings. So we feel that it would in some ways undermine the board's process of open discussion and decision-making.

1050

We would argue that the committees themselves as well as the medical advisory committee should not be designated as public bodies.

With respect to the openness of hospital boards, we would submit that the exemptions under Bill 95 don't provide adequate protection for confidential issues. Matters such as collective bargaining, property and matters of a contractual nature are currently protected under other legislation but they are not in fact protected under Bill 95.

Finally, we are somewhat concerned with the bill's offence provisions. OHA believes that the bill discourages public involvement in hospital governance. As you know, hospital boards are composed of volunteer trustee members of the community. We are somewhat concerned about creating offences and fines that could be excessively punitive and may deter qualified individuals from serving on hospital boards. We would therefore submit that public hospitals be exempt, which is currently the case under the Regulated Health Professions Act.

In closing, as David MacKinnon has said, the OHA certainly supports the intent to make public institutions accountable. Ontario hospitals we believe are recognized leaders in accountability and continue to strive for openness in governance. We're currently conducting a survey of our members in terms of the current status of open board meetings, and the vast majority of surveys that we have had returned demonstrate that board meetings are open.

But we cannot support the bill as it is written for the reasons I have outlined. We look forward to answering your questions.

The Chair: Thank you very much. Ms Martel.

Ms Martel: Let me begin in this way. I guess I'm concerned that you come before us and make a request that says that other committees of the board should not be part of this bill and that only the full-board discussion should be open.

The reason I say that is that we heard an earlier presentation which provided me with some compelling reasons as to why especially finance committee meetings should be much more open and transparent than they appear to be. I regret that you were probably not here for that.

A gentleman from Sarnia came to talk to us about some very significant problems they continue to have in getting information about land acquisition; nothing to do with patient care, nothing to do with confidentiality, nothing to do with important issues that might come

forward perhaps from the MAC but something that's clearly very important to the community in terms of where money is coming from to fund land acquisition when the hospital also has a $2-million operating.

I wonder if you can respond to why you think that important deliberations that have nothing to do with patient care should not be clearly more open to public review.

Ms Short: I can certainly start on that in the sense that the argument would be made that in a normally functioning situation you would see the proceedings of a committee come before the full board; the actual recommendations of significant decisions would come before the full board.

Ms Martel: It might be the recommendations, but the financial analysis that led to those decisions, not all of that information might come before a full board and then be open to public review.

Mr MacKinnon: The potential acquisition and issues relating to land acquisition are of great commercial sensitivity in terms of cost and in terms of other issues and they've always been among the most difficult decisions that certain types of public bodies have to do outside their core business. I can see many reasons why people would be very sensitive about those, provided of course that in the end the decision is noted. But there are lots of good reasons why, including cost. One would want to be pretty careful about when those sorts of decisions and discussions become public and, ideally, from our point of view, in terms of the cost and other risks attached to them, that would be when the board makes a decision on them.

Ms Martel: Mr MacKinnon, if I might, what does the public do then when they believe that some of those decisions are not in the best interests of communities, as was the argument we heard this morning, but the same members of the public can't get access from the board with respect to why decisions are being made and where the money is coming from? And if those acquisitions continue, why is it that the board would run, then, an operating deficit at the same time?

You're in a difficult position, and I grant that because you didn't hear the presentation, but it sure had to leave a question in my mind: was the public interest and were taxpayers' dollars being best served and being used in the most appropriate way?

Mr MacKinnon: I could imagine that a hospital might want to build a new facility or make an extension to a new facility in order to operate more efficiently to save money, and in the short term it may well be in its interests to borrow in order to reduce operating expenses in the future. Again, without knowing the details of the specific case, I would submit that the acquisition of the land in the current operating deficit or surplus of the hospital is only indirectly related. It would be entirely reasonable for the hospital to borrow or to go into a deficit if it was in funding investments needed to improve and to save costs in the future.

The Chair: OK. We'll have to leave it at that. Government members?

Mrs Munro: Thank you for coming here today to give us some insight on this.

I want to just ask you to comment on this issue that Ms Martel raised in that we did have this earlier presentation. But it seems to me that in your comments this whole issue of acquisition of land obviously is something where there would be sensitivity around timing as to when it became public. If we were to look at municipal legislation, I think there are similar issues around the appropriateness of making these decisions public. So I think there's certainly a recognition that there is some sensitivity around what you do.

The issue, though, that was brought to our attention was the question of accountability in such circumstances. This committee has actually passed a resolution supporting a notion of providing the auditor with powers that would allow him to look at value-for-money audits with regard to transfer partners. I'm just wondering if you would foresee such an action as having the potential to deal with the kinds of issues we've heard and that have been raised here.

Ms Short: Hospitals absolutely have had concerns for some time about the notion of value-for-money audits. We need to know more, to study the impact. The OHA is fully supportive of accountability and the examination of all hospital books and examination of financial transactions. All we're saying is that designating committees as public bodies is not necessarily the best way to do that. You might go the value-for-money audit route, which we all see. There are various other ways you can do that. We're just suggesting that this might not be the best way. We certainly think that not making committees open does not mean to suggest that we don't think there should be transparency and accountability in hospital financing. That's not what we're saying. We're just saying that maybe there are other approaches than designating the committees themselves as open.

Mr Bart Maves (Niagara Falls): I just wanted to add to the question about purchasing a property. I would think that some of the commercial aspects you referred to, if someone is going to look at two or three pieces of property in a community that they might be interested in to build on, whether it be a municipality or a hospital or some other body, as soon as in a public meeting it becomes known that they're interested, or more interested in one piece of land than another, then obviously the price of the property goes up, therefore putting that entity at a disadvantage when trying to acquire that property. I think that was the type of example you were hinting at. Thank you.

Ms Di Cocco: I believe that the issue is about process, process about how the decisions are made, for instance, at acquisitions, or how the decisions are made with regard to very significant expenditures. I believe that hospital boards approve huge amounts, more than municipalities in some instances, huge amounts of dollars, because of the services they provide. It is one body that's

exempt from freedom of information. It's one body that expends a great deal of public dollars that doesn't have the oversight of the auditor who takes an independent look at value for money. It's also one of the boards that can arbitrarily—they don't have to conduct anything in public. And, as has been said by the very first speaker, even when the decisions have been made and how that process has evolved, it doesn't compel the board to give the information to the public. This is what I am getting at. I understand that you say it's important to have accountability—and we use that word ad nauseam, all the time. But it's conduct, and it's process. As Ms Martel said, going out of patient care but into other management of the facilities and all this, why do you feel that this bill should exempt hospital boards from that kind of scrutiny?

1100

Ms Short: Just to be clear, we're not arguing that hospital boards should be exempt. We're saying medical advisory committees, other committees. Most hospital boards are already open to the public. I just wanted to be clear on that point.

Ms Di Cocco: They're open to the public by their own, if you want to call it, voluntary—there is no legislation that requires hospital boards to conduct their business in the open. I understand the regulatory bodies; I understand that. What I'm suggesting is, don't you believe that if we have legislation that requires an open, transparent process, and also a penalty when decisions or business are conducted behind closed doors—as Mr Maves has said, I understand the negotiating aspect, and my bill does exempt when you're acquiring land, etc.

I guess I'm trying to understand why you believe that hospital boards—as you said, they're already open, according to your comments, which I don't think is the case, by the way. I don't agree with you; I think that's arbitrary. It depends on the board and if they're willing to do that. Have legislation that would ensure that all boards conduct their business in the open, and again have a mechanism so that they're encouraged to conduct their business in the open.

The Chair: OK, can we have final comments?

Mr MacKinnon: Hospitals are among the most regulated of enterprises. There is virtually nothing hospitals do that doesn't require extensive regulatory approval by one regulatory body or another. So the notion that hospital boards are sort of closeted off and doing their own thing, I don't think anyone who reads the Public Hospitals Act closely—they're very closely regulated and supervised by any number of bodies. That, in addition to the report card system and others, is a major protection against some of the issues.

The Chair: OK, we'll have to leave it there. Mr Peters wanted to make a comment.

Mr Erik Peters: I think I would like to put on the table that we had a very compelling argument made this morning, in a presentation where a hospital created a deficit by making gifts to its own foundation, that value-for-money audits would appear to be in order for these kinds of actions. This is not unsupervised. These sorts of actions, I think, are compelling reasons why there should be some sort of public scrutiny of what decisions have been made by hospital boards.

The Chair: Mr MacKinnon, the last word is yours.

Mr MacKinnon: I pretty much agree with that. There is all kinds of public scrutiny of what goes on in hospitals: public bodies, regulatory agencies, comments in report cards. We get up every year and talk about it in each community. It would be a subject perhaps for another day, but I would very much disagree with the Provincial Auditor's comments.

The Chair: Thank you very much for your comments, and thanks to both of you for coming.

MIKE BRADLEY

The Chair: I understand that mayor Mike Bradley is here now from Sarnia as our last presenter. You made it in with a minute to spare, Mayor. But I know that's the life of a mayor.

Mr Mike Bradley: It's also the life of a bad driver. I apologize. A three-hour trip took five hours, thanks to the weather and the congestion.

The Chair: Oh, wow. Well, welcome. You have exactly 10 minutes for your presentation. That will include any questions and answers. We look forward to it.

Mr Bradley: First of all, I'm speaking to you on an issue that's really important to me personally: open government and accountability. I think I bring a good perspective to this issue—it's been formulated since 1988—as mayor of the city of Sarnia, as a member of AMO, as a member of the large urban cities of Ontario and chairman of that group.

I do want to make it clear to you that I'm not here on behalf of my council. They did not, to my disappointment, support the bill. They made a number of very positive suggestions, which I've incorporated to some degree in my comments. In fact, it was almost a backhanded compliment from some of the councillors saying, "You run such a strong meeting in the sense of even allowing in camera that we don't need to support the bill." That may be a compliment, but it doesn't safeguard the public interest. The reality is it's the system that should safeguard the public interest, not individuals.

Living in a border community, I've also had the experience of witnessing and working with my colleagues across the river in Michigan and understanding fully how the Open Meetings Act works there and why it should be beneficial to Ontario.

I've witnessed abuse at the local level. I've had boards and commissions that I'm a member of meet without my knowledge on the basis that no one would ever know. In point of fact, if it weren't for the media, on occasion I wouldn't have known.

I'm a member of Lambton county council, which repeatedly meets in camera on issues that are in the public domain. Even this year they were holding in camera meetings and not giving notice to anyone in the media or

the public. Our practice in the city of Sarnia, which isn't legislated, is that we do give public notice of any in camera meeting. If you don't know the meeting has taken place, how do you know what was discussed and how do you know that the public interest was protected?

I first raised this issue in September 1996 with Mr Tom Wright, who was then the privacy commissioner, and I've attached correspondence related to that. I wrote to Al Leach in 1999, and I wrote again to Chris Hodgson in 2000. Both ministers said they would review the issue for the Municipal Act.

Now, the old Municipal Act and the new Municipal Act don't reflect the recommended changes. They deal with some changes to in camera issues, but they don't deal with any penalties. Public embarrassment or media attention is not sufficient, in my view, to protect the public interest and public business.

I do support Ms Di Cocco's bill, and I've had numerous discussions with her on the legislation. I think it fits into the present government's agenda about accountability and responsibility and would cost very little to bring about.

The number of actual situations that develop in Michigan with the Open Meetings Act is quite small, actually, because the preventive factor is there. The fact is it's self-policing. When people are aware they may be fined and there may be public embarrassment, they think twice about violating the act.

I do believe that there should be some changes to the bill, and I'd like to make some specific suggestions to you. I think there are far too many boards, commissions and committees in the bill at the outset. I think it should focus on the primary controllers of tax dollars at that local level: city councils, county councils, regional councils, hospital boards, college boards and school boards. After a period of time, look at those other boards and commissions, but let's at least have the intent of the bill move forward and see if it's practical and feasible.

I think there has to be a better definition of what a committee is, if the bill does proceed as is.

I don't believe the responsibility should be delegated, at least at the council level, to another member of the council. It is the responsibility of the chairman, and it should not be delegated.

The fine schedule needs to be different. In my view, the fine should be twice as high for the chairman of a body. That's where the responsibility lies, and that's where the onus should be if they're properly discharging their duties. And the fine should be more fluid. It should depend on the nature of the offence and the harm to the public interest. It would be like having the same fine for jaywalking as for a major Criminal Code offence. It needs to reflect the damage done to the public interest.

There is also a need, in the other act that's being generated in this Legislature, for a requirement for public notice of a meeting in camera. There's no requirement at the present time, nor is there a requirement to report out in a timely manner. I have known councils that have passed motions and never reported out a motion. No one will ever know, and there's no protection for the public interest. So there needs to be accountability, responsibility and a tight time frame on doing that.

I believe that all of us want those goals of accountability, and this can be done in a low-cost, effective manner that works in many other jurisdictions, particularly in the United States.

Mr Chairman, those are my comments to you. Once again I thank you for juggling your schedule and apologize for my lateness.

1110

The Chair: Thank you very much for your presentation and for the suggestions you've made. We'll start with the government caucus this time. Mr Maves.

Mr Maves: Thank you for your presentation and for coming in from Sarnia. When it rains in the GTA, traffic backs up for a long time. I was late this morning myself coming from Niagara Falls.

On page 5 you talk about the new Municipal Act reflecting some changes with regard to in camera issues but that it has no penalties. Do you believe that the Municipal Act could deal with this on a municipal level if it was amended to add some penalties?

Mr Bradley: You'll see later in the presentation that I corresponded twice with ministers on this issue. I prefer to see a separate act like this act. Notwithstanding that, I just want to see the penalties in place. I think you might find it interesting that here I am at the local level saying, "Bring on the penalties," because I think it's important. But I do think a stand-alone act would be a lot better than, for example, using the Freedom of Information and Protection of Privacy Act—a stand-alone act that specifically deals with certain issues, versus putting it into that hodgepodge by nature which is the Municipal Act.

Mr Maves: Two things then: you mention the Michigan act. I understand the Michigan is actually a lot more detailed than this act. Would you suggest that if we're going to have a separate piece of legislation, it be more along the lines of the Michigan model?

Mr Bradley: My understanding is that this act used that as the premise. As I've said to you, I think the intent of this act is very good. I think it fits the government's agenda and, I would hope, all parties' agendas on accountability and transparency. It does need refinement, and I think that's what you're doing today. I compliment you on the fact this is even at committee. I would look to see changes that perhaps could reflect some of the Michigan act, but I think the premise of a fine structure and accountability and rules is something that is there. It just needs to be polished up somewhat.

Mr Maves: On page 10 you talk about the fine being more fluid than it presently stands. I understand there are more serious offences than others. Do you have any suggestions on that?

Mr Bradley: One suggestion is that the chairman of the group should be subject to twice the fine of a regular member, because I think that's self-policing. If you're a chairman or a mayor or a warden or a regional chairman, and you know the responsibility is twice as much on you,

I think that's a big step forward. I'm not a lawyer; I would leave that to the experts.

It was actually one of my councillors who made the suggestion: if you were a developer and you wanted to play fast and loose with the interests of the public, and a councillor was concerned about that, a $1,000 fine wouldn't bother the councillor if the developer was backing him. I think there's a need to be more reflective of what the damage is to the public interest. There may be times when it's just a dollar; it's just one of those inadvertent things that happen when someone makes a mistake. I think there just has to be more flexibility.

Mr Maves: OK. Thank you.

Ms Marilyn Mushinski (Scarborough Centre): Hello, Mayor Bradley. Nice to see you again.

The concern I have relates perhaps not so much to a local council as to a regional council, which usually meets far more rarely than sort of regular council meetings. You yourself have indicated that you are a member of Lambton county council, which has repeatedly met in camera on issues that are in the public domain. I can recall my council having a very strict and rigid procedure bylaw that clearly dictated what the public realm issues would be and what the in camera issues would be. Does your particular regional council have such an animal to govern the behaviour of local councillors? If it does, does it not stipulate certain penalties if those particular procedures are broken?

Mr Bradley: First of all, yes, they do. I think most councils at most levels these days do have some sort of procedural bylaw. The problem is that a simple majority can overrule if someone simply says they want this in camera. I've always added a fifth category to in camera, which is "embarrassing." That is one of the categories that seems to be—you can make it legal, you can make it property, but "embarrassing" is the way you get it in camera, and a simple majority can do that. And I don't believe you could put in a fine structure through a procedural bylaw.

The other thing I'd like to see, obviously, is uniformity across the province: one set of rules for municipal councils, just like the Municipal Act. That would make a lot more sense, because there are lots of councils that work in a very co-operative manner and stick by the rules—I want to make that clear—but it's the aberrations and the rogue councils that are the problem. One of the other issues that's actually very interesting to me, and I've watched it in the last 12 or 13 years, is that with the shrinking of the media and the media becoming conglomerates, media scrutiny at the local level now is extremely limited. I just think you need a provincial law that covers all the bases and covers all councils equally.

Ms Di Cocco: Thank you, Mayor Bradley, for the five-hour drive to get here for your 10-minute presentation.

The Chair: Well, he's already had 12 minutes.

Ms Di Cocco: OK. The Municipal Act has an extra criterion—I don't know how closely the government members have seen it—with regard to the open-meeting aspect of it. They've added, actually, one other dimension to go in camera; that is, the disposition of land now. Before it was just acquisition. I had research take a look at it. They've added that as another rationale to go in camera, along with that other list, rather than make it more open. As a mayor, can you give me an opinion on that, about this extra aspect of going in camera for disposition of land?

Mr Bradley: I don't know where that came from. I don't believe it's necessary, because we're dealing with the public interest. Appraisals in camera I understand, because you need to protect the public interest on the disposal of lands. Our procedural bylaw does not allow that to happen. It has to happen through a public process: you declare it surplus and then the public's notified and there's a public meeting. This would seem to me to be taking us backwards. I cannot find the rationale for doing that, because the public interest isn't going to be served. By allowing the disposal plans, you can make a straight deal with the developer without anyone else knowing they could have a shot at that property, and that's not right.

Ms Di Cocco: Just one other aspect I will attempt to put on the record, to bring some more clarity. I do appreciate your suggestions from the years of experience on this, and in the amendments I will bring some simplification of this process so it doesn't become onerous and there is a clear direction. I do want the provincial continuity. That's what the aim is, because, as you said, it depends on who is running the show, at what local council or what local public body. My thanks.

Ms Martel: One quick question. Thank you for driving in here this morning to make this presentation. I was interested in you telling the committee that you felt there should be a separate act, and I'm going to assume that part of the reason for that is that even if you made the changes to the Municipal Act envisioned in Bill 95, it doesn't go forward and capture college boards, university boards, hospital boards and all of those other transfer agencies that get huge amounts of dollars, in some cases, from the province. Would that be another reason why just having some amendments to the Municipal Act does not guarantee openness and why you would support a separate act that covers those institutions as well?

Mr Bradley: That's a very astute point. That's exactly why you need the separate act. I am suggesting, though, that you scope down at the beginning and go with the principal boards and commissions that control a community and then expand it after you've had some time testing it. But you're quite right. That's exactly why you need a separate act. I'm sure hospital boards and other groups do not want to be part of legislation that primarily, 99%, would be dealing with municipalities.

The Chair: Thank you once again for coming and for making your presentation.

Before we adjourn, I think for the record we should just indicate that we've received letters from—

Mr Maves: Can I say one quick thing? I think Ms Di Cocco at least owes the mayor lunch for coming all the way down here.

The Chair: I think that will happen. She will buy him lunch, I'm sure.

For the record, I think we should state that we've received letters from the Association of Municipalities of Ontario, dated November 28; from the Ontario Dental Association, dated November 26; from the chief administrative officer of the city of Toronto, dated November 28; and finally, from the College of Occupational Therapists of Ontario, dated November 27. Those have all been distributed to the committee and will be taken into account by our legislative researcher in coming up with the report.

Also, I'd like to ask the members of the subcommittee if we can have a subcommittee meeting next Wednesday right after question period, in the opposition lobby, to deal with a number of different issues, including the disposition of this bill, the auditor's report and the outstanding reports of the committee at that time. OK?

Thank you very much. With that, we're adjourned.

The committee adjourned at 1120.

CONTENTS

Thursday 29 November 2001

STANDING COMMITTEE ON PUBLIC ACCOUNTS

Chair / Président
Mr John Gerretsen (Kingston and the Islands / Kingston et les îles L)

Vice-Chair / Vice-Président
Mr Bruce Crozier (Essex L)

Mr Bruce Crozier (Essex L)
Mr John Gerretsen (Kingston and the Islands / Kingston et les îles L)
Mr Raminder Gill (Bramalea-Gore-Malton-Springdale PC)
Mr John Hastings (Etobicoke North / -Nord PC)
Ms Shelley Martel (Nickel Belt ND)
Mr Bart Maves (Niagara Falls PC)
Mrs Julia Munro (York North / -Nord PC)
Mr Richard Patten (Ottawa Centre / -Centre L)

Substitutions / Membres remplaçants
Mr Ted Arnott (Waterloo-Wellington PC)
Ms Caroline Di Cocco (Sarnia-Lambton L)
Mr Doug Galt (Northumberland PC)
Ms Marilyn Mushinski (Scarborough Centre / -Centre PC)

Also taking part / Autres participants et participantes
Mr Erik Peters, Provincial Auditor

Clerk / Greffière
Ms Tonia Grannum

Staff / Personnel
Ms Margaret Drest, research officer,
Research and Information Services