ISSN 1180-4327

Legislative Assembly
of Ontario

Second Session, 37th Parliament

Assemblée législative
de l'Ontario

Deuxième session, 37e législature

Official Report of Debates (Hansard)

Thursday 22 November 2001

Journal des débats (Hansard)

Jeudi 22 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
Clerk: Tonia Grannum

Président : John Gerretsen
Greffière : Tonia Grannum

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Copies of Hansard

Information regarding purchase of copies of Hansard may be obtained from Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

Exemplaires du Journal

Pour des exemplaires, veuillez prendre contact avec Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311, ou sans frais : 1-800-668-9938.

Hansard Reporting and Interpretation Services
3330 Whitney Block, 99 Wellesley St W
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
3330 Édifice Whitney ; 99, rue Wellesley ouest
Toronto ON M7A 1A2
Téléphone, 416-325-7400 ; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON PUBLIC ACCOUNTS

COMITÉ PERMANENT DES COMPTES PUBLICS

Thursday 22 November 2001

Jeudi 22 novembre 2001

The committee met at 1006 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'd like to call to order the meeting of the standing committee on public accounts to deal with Bill 95, An Act to require open meetings and more stringent conflict rules for provincial and municipal boards, commissions and other public bodies.

Maybe I could just verbally report that we had a subcommittee meeting earlier this week, at which time it was decided that all those organizations and individuals who wanted to make presentations would be heard. Since then, one or two of the organizations have withdrawn their request to be heard. We decided to limit each delegation to about 10 minutes. We have a little bit of extra time this morning, because the last delegation is here at 11:20. So I seek your indulgence to allow a leeway of maybe one or two minutes per delegation in the event they want to use it.

We will start off with an opening statement by the sponsor of the bill, Ms Caroline Di Cocco, MPP for Sarnia-Lambton.

Ms Caroline Di Cocco (Sarnia-Lambton): This bill has evolved, from my perspective, from my own experiences from 1991 until, actually, the reason I'm here as an MPP. In our area, it was found that in a number of cases a number of decisions that were made by public bodies, the school board as well as the municipal council specific to the area, were found by a judicial inquiry report that came out of the issue in 1998—the quest of which I spearheaded, by the way, because I found that the public in those instances didn't have the scrutiny or wasn't allowed to scrutinize the decision-making. As a matter of fact, they were not apprised of the decision-making or the decision-making process. Because of that, I learned, over the seven years, that there were no real penalties for holding in camera meetings when in fact those in camera meetings, as found by that inquiry, were being held inappropriately. That's a bit of history of why I sponsored the bill.

The report by Justice Killeen in those instances indicated numerous times the cloak of secrecy with which the decisions were made. Because of that cloak of secrecy, the public interest was not served. According to his report, about $6 million of taxpayers' dollars were expended inappropriately and conflict of interest was rampant in all the decisions—again, it had to do with property matters etc. Nonetheless, the report is the reason that I evolved the bill specifically. In my research I also noticed just lately that there are some issues in Hamilton that I have been apprised of regarding council and meetings, etc, that are held in camera, and it is believed they should not be held in camera.

I looked at other jurisdictions and found that in Michigan, since 1976, they have had an Open Meetings Act. That Open Meetings Act requires that people who serve on public bodies or city councils must conduct their business in the open, except under the specific criteria that we already understand are required for in camera. The difference between their act and ours is that they have provide for a penalty. None of our acts that require open meetings have penalties for contravening these provisions. So there's no incentive, if you want, to ensure that meetings are conducted in the open.

The other aspect of my bill deals with conflict of interest. There's a penalty of up to $1,000 for members on these bodies if they're found guilty of having conflicts of interest, the same fine imposed if they hold meetings in camera. This isn't because I'm making an assumption that people conduct meetings inappropriately. It is because it serves the public interest. I think public scrutiny is the check and balance to ensure good decision-making. That is my view.

I have a letter from the Southwestern Ontario Pediatric Parents Organization. This group of parent's comments are another relevant reason the public requires this kind of bill. I think it's better government, it's better decision-making. This is what they say:

"We support this bill because our organization was founded as a result of closed-door meetings that took place at the London Health Sciences Centre during a

'sizing and scoping' process. This process was mandated from the health ministry. Closed-door meetings took place between the LHSC administration, LHSC board members and the health ministry. Public input was not solicited. As a result, 18 proposed cuts were announced and these cuts will have dire effects on the population of southwestern Ontario." They go on to say, "The loss of pediatric heart surgery will create a domino effect with many pediatric specialized services."

I think more important is: "If there had been more consultation with the public, including patients, their families and front-line medical staff, perhaps the more controversial cuts could have been avoided and our organization would never have been formed.

"We would like the decision-makers to understand the concerns of the public. If legislation such as Bill 95 had been in existence prior to the recommendations of the 'sizing and scoping' exercise, a more effective checks and balance system may have been in place before a public announcement."

There are too many cases where I believe the public is consistently frustrated at decisions that are made. As you know, hospital boards, for instance, are boards that do not come under any statutory requirement that they conduct their business in public. When you think of the budgetary consequences, it's a huge, huge amount of money that they expend. So it is my view that the business of public bodies that are expending public dollars and that make decisions that affect the public interest should be conducted in public debate.

There are a couple of instances where my bill caught—and I'd like to bring amendments forward when the occasion arises. It has to do particularly with the agricultural industry. It got caught in that web, if you want, in that net. I gave sort of the concept of what I wanted to legislative counsel, and then legislative counsel put my concept into legalese. In deciding what constitutes "public bodies," they caught the agricultural marketing boards. It came to my attention—and I am certainly very open to suggestions; that's what the public process is about—that the main object of the marketing boards is to set prices, and of course most of the people who sit on those marketing boards happen to be farmers. They would benefit or lose, however you want to put it, from the decisions of that board. So by the nature of their makeup they should not be in my bill, and that is something I will certainly remove, because I believe it is not correct.

I know there are going to be some bodies that feel they shouldn't be under this bill, and I look forward to hearing their submissions. I believe some of them will be coming forward. I hope this committee understands that there may be a couple of bodies, such as the agricultural marketing boards, that should not have been caught inadvertently in this net of public bodies.

I want to thank the committee for allowing this to come to public hearings, so that we can hear from organizations on this topic.

MINISTRY OF MUNICIPAL AFFAIRS AND HOUSING

The Chair: Next we have the Ministry of Municipal Affairs and Housing and Mr Morley Kells. The way I understand it, you're not here as a committee member, but you wanted to make a presentation to the committee.

Mr Morley Kells (Etobicoke-Lakeshore): That's my understanding.

The Chair: Go ahead.

Mr Kells: Before I begin, I would like to commend the member for her bill. Obviously it's a very personal thing in many ways because of the experiences you've been through in your home city.

I'm a great believer in the private member's bill process. It allows members like you and myself to express ourselves on issues that concern us in many ways, and in fact we try to address these things to protect the public. I think that's admirable, and that's what we're here for. However—there's always a "however" to these things—sometimes they don't unfold as perfectly as they might. I think we have a situation here, and my job today is to address some of the concerns we have in that regard.

I think everybody here knows what the bill set out to do. The ministry has looked at it from that point of view, and these are the kinds of concerns we have.

What the bill proposes to do is important. As you may appreciate, in any democratic system of government, being accountable in the decision-making process is part of that democratic process, and that is why it's already being done in Ontario through existing legislation. Much of what is in Bill 95 parallels, and at points conflicts with, what is in the Municipal Act in regard to open meetings and what is in the Municipal Conflict of Interest Act in regard to conflicts of interest. If those responsible for this bill—I think you referred to your legislative counsel help—took the appropriate time to read the existing legislation on these matters, they would clearly have seen that this bill has a number of problems.

I think you referred to a case of being caught in the web. I think it's an appropriate comment. For example, as you have mentioned, agricultural marketing boards have expressed concern over the onerous requirements of making meetings open to the public. Specifically, the bill's requirements present significant administrative challenge for the operation of marketing board meetings. I understand the honourable member has given consideration to these concerns and has provided exemption to these agricultural marketing boards. If the honourable member recognizes, and I think she does, the administrative challenges to the marketing boards, would she not consider that the same onerous requirements could be or would be placed on similar bodies?

1020

One of the more serious problems I see is that section 13 of Bill 95 states that if there is a conflict between what's in Bill 95 and what's in existing legislation, the stricter of the two would prevail, which she may appreciate has far-reaching impacts. At times, it's not going to

be a clear-cut case which provision is stricter. If the matter were to be pursued, the ultimate decision could very well have to come through the courts. We all know this could use up valuable court resources, be expensive and possibly a time-consuming exercise, and I hope not frivolous at times.

What the drafters of this bill might better have done is amend existing legislation on this topic, but they didn't, and what is left is conflicting rules with vague resolutions on how to overcome the problems.

Let me say a few words on open meetings. Under section 55 of the Municipal Act, open-meeting provisions affect municipal councils, advisory boards and boards found in the Municipal Affairs Act, but these rules, for instance, do not apply to municipal police services boards or school boards. The provisions of Bill 95 would include the boards exempted from Municipal Act provisions. These boards are not included in section 55 of the Municipal Act because they have their own rules regarding open meetings and conflict of interest. Obviously, there is no need for duplication in that regard.

With respect to notice provisions in the bill, the bill requires that adequate notification of the meetings be made to the public. The bill, however, does not mention how the meeting or its subsequent minutes are to be made public. Should they be published, put on the Internet, mailed and, if so, how widely? Or is it enough that the minutes are not secret and let's leave it at that?

The bill also fails to differentiate between what is public and what is accessible. Is it sufficient, in this bill, that the door be kept open, or does there need to be public seating? And how much seating should there be?

Perhaps the intent of the bill is to be vague enough as to provide some flexibility for each body to establish its own rules, but it only hints as to what's acceptable. Such vagueness appears entirely arbitrary and will only serve to create unequal practices by failing to establish minimum standards or best practices.

We all know it's necessary to close meetings at times. This legislation would lead to boards and councils second-guessing their decisions.

I turn, if I may, to the current Municipal Act, and I point out that what I'm going to read into the record here under the old Municipal Act is being transferred into the new Municipal Act. We're currently reading from the Municipal Act, subsection 55(5), which says this—this is the reason for closing meetings, of course:

"the security of the property of the municipality or local board" that's being discussed.

"personal matters about an identifiable individual, including municipal or local board employees;

"a proposed or pending acquisition of land for municipal or local board purposes;

"labour relations or employee negotiations;

"litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board;

"the receiving of advice that is subject to solicitor-client privilege, including communications necessary for that purpose;

"a matter in respect of which a council, board, committee or other body has authorized a meeting to be closed under another act."

"A meeting shall be closed to the public if the subject matter relates to the consideration of a request under the Municipal Freedom of Information and Protection of Privacy Act if the council, board, commission or other body is designated as head of the institution for the purposes of that act." Then we skip a couple here.

Finally, "if the vote is for a procedural matter or for giving directions or instructions to officers, employees or agents of the municipality or a local board or persons retained by or under contract with the municipality or local board."

I suspect that would have caught what took place in Sarnia. I guess that's why you had to have a judge's report on what took place.

What we would like to point out is that currently there are checks in place. If any person believes a council has contravened the open-meeting provisions of the new Municipal Act, then he or she can make an application to the courts to review the actions of the council to determine whether a contravention has occurred. If the courts make a determination that a contravention has occurred, it could take actions necessary to penalize the council, including overturning any bylaw that may have resulted.

The government believes that this enforcement mechanism is more in keeping with the overall intent of the legislation in that it is the actions of the council collectively, and not the actions of the individual members of council, that should be subject to review.

With respect to penalties, there is a provision in this bill that would fine individual members up to $1,000—I didn't quite get the amount. We have $1,000 here, but did I hear you say a larger amount than that?

Ms Di Cocco: No, $1,000.

Mr Richard Patten (Ottawa Centre): That's Canadian.

Ms Di Cocco: Michigan is worse; they go to jail.

Mr Kells: We won't fine in American dollars.

Anyway, that's for closing a meeting that this bill says should be open. This could lead to councils opening portions of meetings that should in fact be closed, out of fear of being fined. I don't know how big a $1,000 fine is in relation to fear, but for some it might be quite a bit.

If individual fines are a reality, they could have the effect of discouraging people from serving on council for fear that a meeting they agreed to participate in, in good faith, might at a future debate be deemed illegal, subjecting the member to both fines and legal costs. I suspect the legal costs would be greater than the fine.

As for Bill 95's treatment of conflict of interest, I must first note that the bill duplicates the provisions, and at times even the wording, of the Municipal Conflict of Interest Act.

Secondly, this bill does not define what a conflict of interest is. Exemptions are listed, but they are not as comprehensive as what currently exists.

Mr Gilles Bisson (Timmins-James Bay): So are you bringing in an amendment?

Mr Kells: Bear with me.

This bill also sets a $1,000 fine for not declaring a conflict of interest, but no process is established for how an individual is charged, which court may try the matter, and how an appeal would work. Existing legislation, on the other hand, is very specific on these matters. If I may, I would like to quote from a letter to the honourable member from AMO dated October 9, 2001. There are a couple of paragraphs that are certainly pertinent to what we are discussing today. The letter comes from Ann Mulvale, president of AMO.

Mr Bisson: Excuse me, Chair, are we going to have enough time to hear the deputants?

The Chair: Yes. Mr Kells has one more minute left. We will be hearing from the deputants.

Mr Kells: I only have about one minutes' worth of reading here, if I may.

Mr Bisson: I know we have people here.

Mr Bart Maves (Niagara Falls): He is on the agenda.

Mr Bisson: Oh, he is? My humble apologies.

The Chair: Go ahead, Mr Kells.

Mr Kells: I hope they're not cutting into my time.

The Chair: No, you'll get your full minute.

Mr Kells: Thank you. I'll just use this paragraph from Ms Mulvale's letter.

"There are also some technical concerns with the bill. For example, there is no substantive guidance on what is a 'personal interest,' which could lead to debate of what is a personal interest versus a perception of bias. In fact, the bill's description of when a public meeting can be closed could be open to significant debate because it lacks clarity. The bill is also vague on the basis on which the Attorney General would act where there is a complaint around compliance with rules. As well, the provision concerning conflicting legislation and which statute would take precedence will generate confusion and debate in the municipal sector, resulting no doubt in the courts making determinations. Given the plethora of legislation affecting municipal government, this provision could become very unwieldy. The bill as constructed will generate duplication."

Finally, "As you know, the Minister of Municipal Affairs and Housing, the Honourable Chris Hodgson, is intending to proceed with a new Municipal Act, which we understand"—Ms Mulvale, that is—"will deal with open meetings, among many other matters. At the same time, there is Bill 46, the Public Sector Accountability Act, which also has significant impact on municipal government and for which this association has similar concerns. In addition, the ministry has established a new and much more detailed set of financial information that must be submitted. This is on top of the existing requirement to publish annual financial statements and the preparation of independent audit requirements."

1030

The Chair: OK. Thank you very much.

Mr Bisson: I just have one question.

The Chair: Well, we really don't have any time for questions, but I'll allow you a question because I just want a clarification. Is it that you're concerned about how this act will affect the Municipal Act? Is that the main concern?

Mr Kells: No. Our concern is that the Municipal Act covers many parts of this bill, and if you recall, the honourable member's bill refers to the fact that if there is any duplication, the stricter of the bills—

The Chair: I understand.

Mr Kells: We feel that's a bit too prescriptive.

Mr Bisson: My simple question is that we are now reading the new Municipal Act and there are no provisions proposed by Minister Hodgson that deal with some of the issues you read in that letter. Are you bringing amendments to the Municipal Act? Is that what I understand?

Mr Kells: I don't know what your question is. Do you want to say that again?

The Chair: Well, that's for another committee to decide.

COLLEGE OF MEDICAL RADIATION TECHNOLOGISTS OF ONTARIO

The Chair: We will now hear from the delegations that are here. I'd like to call first of all on the College of Medical Radiation Technologists of Ontario, Sharon Saberton and Debbie Tarshis. Welcome to our committee. You'll have 10 minutes to make your presentation, and if there's any time left over—in other words, if you don't use the entire 10 minutes—there may be questions from the various members here. Good morning. Please identify yourselves for the purposes of Hansard.

Ms Sharon Saberton: Mr Chair and members of the standing committee, my name is Sharon Saberton, and I'm the registrar of the College of Medical Radiation Technologists of Ontario. With me today is Debbie Tarshis of WeirFoulds LLP, and she is a legal counsel to the college.

The College of Medical Radiation Technologists of Ontario, CMRTO, is the regulatory body for medical radiation technologists in Ontario. We have approximately 5,500 members. Our regulatory authority comes from the Regulated Health Professions Act—RHPA—and the Medical Radiation Technology Act, l991. Our mandate is to serve and protect the public interest through self-regulation of the profession of medical radiation technology. The operations of the CMRTO are funded from the fees paid by our members.

CMRTO understands that the purpose of Bill 95 is twofold. First, it is to require specified provincial and municipal councils, boards, commissions and other public bodies, as listed in the schedule to the bill, and their committees to hold meetings which are open to the

public, to make available minutes of meetings that are open to the public and to set rules respecting public notice of its meetings and meetings of its committees. Secondly, the bill imposes conflict-of-interest rules on members of these bodies and their committees. It is provided that this bill and any regulation made under it will prevail over any other act or regulations. The general purpose of the bill is to ensure that these bodies are accountable to the public.

What follows is a summary of our main conclusions and recommendations.

(1) The CMRTO supports the principle of openness in order to achieve accountability. But this principle must be applied in the context of the statutory duties of the relevant body and balanced with other applicable principles so that such body can meet its statutory obligations. For health regulatory colleges, this balance has been struck in the existing legislation governing the colleges—that is, the RHPA—by having the council meetings of a college open to the public and by having its committee meetings, other than hearings of its discipline committee, closed to the public. CMRTO and the other health regulatory colleges should not be governed by Bill 95, because openness of its council meetings is already required by RHPA and to extend the principle to committees would impair the colleges' ability to carry out their specific statutory obligations.

(2) An independent review of the RHPA, the legislation governing the health regulatory colleges, including an extensive consultation process, has recently been completed by the Health Professions Regulatory Advisory Council. HPRAC's recommendations to the Minister of Health and Long-Term Care have just recently been released to the health regulatory colleges and the public. In its report to the Minister of Health and Long-Term Care, HPRAC carefully considered the principle of accountability and the legislative objective of making health regulatory colleges accountable to the public. By making certain piecemeal amendments to RHPA, the enactment of Bill 95 would undermine the review process that has just been completed by HPRAC.

(3) The CMRTO supports the adoption of conflict-of-interest principles for its council and committee members. However, the drafting of Bill 95, in particular the lack of definition of the term "personal interest," is too vague and would not be capable of being administered.

Our recommendations are (a) that the health regulatory colleges should not be defined as designated public bodies under Bill 95; and (b) that the conflict of interest provisions be redrafted to provide a clear definition of what constitutes a conflict of interest.

Next, I'd like to speak to why health regulatory colleges should not be defined as a designated public body under Bill 95.

The CMRTO has been established under the Regulated Health Professions Act—RHPA—and the Medical Radiation Technology Act to regulate the practice of medical radiation technology and to govern medical radiation technologists with the duty to serve and protect the public interest. In accordance with the provisions of the RHPA and the MRT Act, the statutory duties of CMRTO include the assessment of qualifications for persons to be registered as members of the CMRTO, the investigation of complaints about its members, the conducting of investigations to gather information about a member's professional conduct or capacity, the holding of discipline hearings and fitness-to-practise hearings to determine whether a member has committed an act of professional misconduct or is incompetent or incapacitated, and the implementation of a quality assurance program.

In accordance with the code, the CMRTO, like all other health regulatory colleges, must establish seven committees: executive committee, registration committee, complaints committee, discipline committee, fitness-to-practise committee, quality assurance committee and patient relations committee. Each of these committees of the CMRTO has public members. In fact, most of these committees cannot perform their statutory functions without at least one public member. Other than discipline hearings, which, in accordance with the requirements of the code, are generally open to the public, the meetings of the committees of the CMRTO are closed to the public. The exclusion of the public from the meetings of these committees reflects the statutory roles that these committees carry out.

In order to understand why the public should be excluded from meetings of committees of the health regulatory colleges, it is necessary to understand the statutory functions that these committees carry out. For example, the complaints committee considers and investigates complaints about the conduct or actions of members of the college. The committee performs a screening function and decides on the appropriate disposition of a complaint, such as whether to refer an allegation to a discipline committee for a hearing, to issue a caution or to dismiss the complaint. Both for the member of the college and the individual filing the complaint, it would not be appropriate for these deliberations to be open to the public. For the individual filing the complaint, confidential patient information is usually involved in the investigation and consideration of a complaint by the complaints committee. For the member, the member is entitled to a non-public process to determine whether there is a basis to the complaint and whether the complaint warrants referral to a hearing.

The registration committee considers applications for registration for membership in the college that are referred to it by the registrar. Generally, an application for registration is referred because the registrar has doubts about whether the applicant meets the registration requirements. The registration committee makes decisions about whether these applicants should be issued or refused registration in the college. Under the registration regulations of the CMRTO, applicants are required to disclose very detailed information about their qualifications, their work experience and their past professional conduct in order for the registration committee to

assess whether they are qualified to be registered as members. There is a reasonable expectation on the part of applicants that this information will be treated by the CMRTO in a confidential manner. To make the committee meetings open to the public would run counter to this reasonable expectation.

The written submission provides further examples why statutory committees established under the RHPA should not be open to the public, as it would impair the college's ability to carry out their specific statutory obligations.

1040

I thank you on behalf of the College of Medical Radiation Technologists of Ontario for providing this opportunity to address these important issues with respect to Bill 95.

The Chair: We have time for one short question from each caucus. I'll start with the opposition caucus first.

Ms Di Cocco: There are a number of matters of which you speak that are already exempt from public purview in the bill anyway. I don't know if you have seen that, but there are a number of those. I'm just curious here. If there are areas whereby either you have your rules and there are public meetings that, let's say, you decide to hold in camera—you said a number of them are open to the public—is there a penalty to the board members for deciding to go in camera when maybe the rules say to hold it publicly?

Ms Debbie Tarshis: There is not a specific penalty for individual council members. However, as the registrar mentioned, the legislation has been reviewed recently through a public consultation process, and there are many recommendations with respect to how to achieve accountability to the public that one has to address in an overall sense in the context of this legislation, as opposed to whether imposing a specific penalty for one specific aspect of it achieves the accountability that is desired.

I would think the other issue, which is more a policy issue, is that the responsibility and the decision rests with the council as opposed to individual committee members.

Mr John Hastings (Etobicoke North): Thank you for coming in today. I have a couple of questions for you regarding the section under "Personal interest." If this bill were law right now, if this applied to your organization, how would section 11(1)(d) improve public decision-making regarding discipline of members or public complaints brought to your attention by a customer or consumer of health care in your area?

Ms Tarshis: I'm sorry, I'm not understanding the question.

Mr Hastings: Section 11 of Bill 95 deals with conflict of interest, and under (1)(d) it says, as one of the exhibitors of this, "that is so remote or insignificant in its nature that it cannot reasonably be regarded as likely to influence the member" thereof, which I read as saying that if you have any personal interest in anything—even own a house—you might have to declare a conflict of interest. My point is, if this were law right now, how do you see section 11 impacting your organization in the disposition of its responsibilities, both from a discipline viewpoint of members and from a public complaints exercise? Would it bog it down or improve it?

Ms Tarshis: As I think the registrar mentioned, we are very concerned about the vagueness of the definition of "personal interest." By way of example, the council has authority to pass bylaws respecting the election process. Seven out of the 13 members of council are elected. Six of the members of council are members appointed by the Lieutenant Governor in Council. Such a broad definition of "personal interest" to mean conflict of interest could arguably mean that every elected member of council could not be involved in a discussion about an election bylaw, even though no one particular elected member had a specific interest at stake. So this is one example of why, in our view, a vague definition of "personal interest" would make it very difficult for the council to function.

Mr Hastings: Make it functional or more dysfunctional?

Ms Tarshis: Make it difficult for it to function.

The Chair: Thank you very much for your presentation. We appreciate it.

AD IDEM

The Chair: Next we have the Advocates in Defence of Expression in the Media, Brian Rogers. Sir, you have 10 minutes for your presentation. If there is any time left over, we'll have some questions, undoubtedly. Welcome.

Mr Brian Rogers: Ad IDEM, Advocates in Defence of Expression in the Media, really appreciates the opportunity to speak here today. It's the first time we've made an appearance in the legislative buildings here. We've appeared on other federal matters, because we are a national association. We are a national association of lawyers who represent the media and deal on a day-to-day basis with freedom-of-expression concerns in the courts and in advising clients. Newspapers and broadcasters of all nature right across Canada, of all partisan stripe and opinion, are involved in our organization. I think the committee clerk has distributed to you a copy of a short account of who we are, and I won't go further into it.

On a personal basis, I'm the past president of Ad IDEM and I've been involved as a lawyer in cases, some of which have gone all the way to the leave application at the Supreme Court of Canada on the very issues being addressed by this bill. I can tell you from that experience that there is a real problem that this bill is addressing.

For example, I was involved in a case where the Health Disciplines Board, for the first time in its history, decided to have open hearings on a matter. It involved Steven Yuz, a young fellow who died tragically at the Hospital for Sick Children. That was within two weeks of the charter being adopted. We were able to use the new freedom-of-expression protection in the charter to persuade both the board and then subsequently the various courts—the Divisional Court, the Court of

Appeal, and on the leave application, the Supreme Court of Canada—that it should be able to have open hearings.

Similarly, the economic development committee of the regional municipality of Hamilton-Wentworth decided that they would hold a workshop and would have that workshop in camera. On behalf of the Hamilton Spectator, we were able to persuade the courts that that should be ruled as a meeting and should be governed by the normal requirements of municipalities, and of the municipality's own bylaw, to hold this session, which was really a meeting in disguise, in public rather than behind closed doors.

I use those as illustrations because they are familiar to me. They are in the casebooks. You can look at them in the law reports. Can you imagine the amount of time and money it took to fight those cases all that way? On the one side, every penny was being paid by the taxpayers; on the other side, the funding had to come out of the pockets of, in my case, the Hamilton Spectator and the Toronto Star. It shows the imbalance that exists in the present system. It relies too much on the ability of individual citizens and in particular on the media, because of its passionate interest in this issue, to fight the good fight and to force these things to be open. But we can't afford this. My clients can't afford this on a day-to-day basis.

Every year, I get countless calls from clients inquiring whether a certain council or board or whatever can go in camera, as they have done. I explain to them the process and, once again, that board or council or committee can get away with it because there is impunity there. The odds are stacked, financially and otherwise, against those who wish to attack those who want to go into secret session.

1050

I'm not saying by any means that this province is dominated by unruly public officials who always want to go in camera, but I am saying that although the bulk of these institutions may respect the rights of the public to hear and watch and listen to what's going on, inevitably there are going to be some that don't. That's in the law reports; you can read it, countless times taking these matters to the courts at great expense. That is the only means of enforcement at present.

That's what attracts me about the bill. It introduces a different means of ensuring compliance with the law than putting the onus on private citizens, at their own expense, to challenge the public authority's actions. That is a real step forward.

I do see some problems with the bill. Mr Kells has addressed some of them. There needs to be consistency between the provisions of this legislation and existing legislation. In particular, I focused on the exemptions which are drafted in a particular way in Bill 95 that are consistent with some aspects of the Statutory Powers Procedure Act, but not with the Municipal Act or the Education Act, each of which has particular exemptions set out in the legislation.

I won't attempt to go through all of these various exemptions in the time I have. I do have the relevant pieces of legislation with me, or some of them. I think it's something that can be addressed and should be addressed. We can tighten up these exemptions and we can achieve a consistency between the various pieces of legislation that doesn't exist now. One of the problems I have with Mr Kells' point of view is that although it addresses the Municipal Act or what is there, that is different from what's in the Education Act, which is different from what's in the Statutory Powers Procedure Act. There is no consistency at present and it's not effective.

Our organization got involved in this late in the day. I don't have a proposed draft set of amendments for you. But I bring to the table an expertise and availability of expertise by a voluntary organization. I don't get paid; nobody in our organization gets paid. We do it on a voluntary basis because we care passionately about the issues that affect freedom of expression. I can tell you, since September 11, it's never seemed more important.

I'm open to any questions that you may have.

The Chair: Thank you very much. We have time for a few short questions from each caucus.

Ms Shelley Martel (Nickel Belt): Thank you for coming today. You mentioned that you represent a number of clients. Is there a general pattern with respect to the kinds of or sets of public bodies that your clients find reluctant to have meetings or are consistently holding meetings in camera? Are there particular sets or is it right across the—

Mr Rogers: It's actually, Ms Martel, more a geographic phenomenon that varies in time. Right now, I seem to be getting a lot of calls about southwestern Ontario, which is where the honourable member Ms Di Cocco is from, not just Sarnia but rather outside, in other areas in southwestern Ontario. But it extends to boards of education, council, council committees. Those are the kinds of things that obviously the media are most concerned in covering. That's not to say that there aren't a number of other bodies that may have the same kinds of problems, but I may not get calls on them.

Ms Martel: With the regulated health professions, you mentioned that one of the cases you were directly involved in was the health discipline board. You heard the presentation just before yours.

Mr Rogers: Yes.

Ms Martel: What about media or the public who are interested in those proceedings of the various committees of the health professions?

Mr Rogers: I was involved with a number of others in fighting to get disciplinary hearings open to the public. The Law Society of Upper Canada never opened its disciplinary hearings. The medical profession never opened its disciplinary hearings. With the charter, we've been able to persuade them, and through a change in the legislation as well, to force those hearings to be open to the public, absent certain particular kinds of circumstances which are quite narrowly drafted.

They have moved in the right direction and we don't have as much difficulty with them, but it has been

because we've spent the money, gone to court, fought these battles with the law society, with the college, and have brought about, through our own efforts—I'm speaking on behalf of clients—changes in the legislation that have brought us to where we are today. I think we're in a much better position than we were.

Mr Steve Gilchrist (Scarborough East): I appreciate your presentation. I certainly can't disagree with a lot of your comments in here. I take you at your word that you care about accountability and openness, candour and honesty and that you've served to do that.

I'm intrigued, though, that you're doing it on behalf of people who don't seem to share those values. I'm looking through yesterday's clippings. "According to sources"? Is there a requirement on the part of newspapers to identify the people they're supposedly quoting?

Mr Rogers: Mr Gilchrist, I'd be happy to engage in a debate with you on the requirement of confidential sources—

Mr Gilchrist: It doesn't say "confidential sources."

Mr Rogers: I think that is in fact a very important issue that needs to be addressed and is being addressed on a day-to-day basis by reporters and editors. But to return to why we are here today, it's about Bill 95, sir.

Mr Gilchrist: No, no. We're turning to the credibility of a presenter who's making a point before us.

Let's deal with something a little simpler. Is there any dispute about who is employed on the editorial board of a particular newspaper? Should it be, as many newspapers do but certainly not all, in fact none of the Toronto papers that I'm aware of, that the name of the actual editorial writer accompanies an editorial so that people can understand the bias behind a particular article?

Mr Rogers: Mr Gilchrist, there's one very significant difference. What we're talking about here are public bodies created by statute and paid for by the taxpayers. I submit to you that unless we treat those kinds of bodies and institutions differently and carefully, requiring public accountability instead of trying to open up private corporations—does Bombardier? What we're talking about is something—

Mr Gilchrist: Nice tangent, but I'm taking from your own presentation, "The media act as their presence, serving as their eyes and ears."

Mr Rogers: That's a quote from the Supreme Court of Canada.

Mr Gilchrist: You're obviously comfortable with them also serving as their brain, because by not giving an honest accounting, I submit to you that the media really don't add a lot to this whole issue. I'm intrigued that you don't seem to share the belief that the media should have that same openness and accountability.

The Chair: Do you have a final comment on that, sir?

Mr Rogers: If I can just respond to that, I beg to differ, obviously, with Mr Gilchrist, but I think it's utterly irrelevant and I hope that the points I have to make will be taken on their own merit for the rationale that they offer.

Ms Di Cocco: I am interested in the consistency with which the rules would apply across the board. One of the items, that this act would overrule other acts—that was the intent. The intent was to make this, "We know what the rules are. Let's set them out, and this is how we conduct ourselves. If we choose not to, there is a fine." I'd certainly appreciate and welcome, if you have the opportunity when you look at it more in-depth, to provide suggestions in that regard, if you wanted to qualify that at all.

Mr Rogers: Thank you. I will take that opportunity subsequently.

Ms Di Cocco: I have to say that I am a little bit distressed at the bringing in of something other than what this bill is intended to do to these debates today. I do regret that that has happened.

Mr Gilchrist: Something that's never been done by the Liberals.

The Chair: Thank you very much, Mr Rogers, for your presentation. We appreciate it.

1100

INFORMATION AND PRIVACY COMMISSIONER OF ONTARIO

The Chair: Next we have the Information and Privacy Commissioner of Ontario, Mr Tom Mitchinson, the assistant commissioner. Mr Mitchinson, welcome.

Mr Tom Mitchinson: I have some brief remarks, and then I'm certainly agreeable to taking any questions the committee may have.

The office of the Information and Privacy Commissioner is, in general, supportive of the underlying thrust of an open-meetings scheme. Open-meetings laws have been adopted in a number of jurisdictions and are an important component of a broad public accountability framework. Our office has in the past supported amendments to the Municipal Act requiring municipal council meetings to be open to the public. We also have direct experience in dealing with appeals involving the application of an exemption claim, provided in the Municipal Freedom of Information and Protection of Privacy Act, that permits public bodies to deny access to records on the basis that their disclosure would reveal the substance of deliberations of properly constituted in camera meetings of municipal councils, police commissions, school boards, and other public entities covered by the municipal freedom of information act.

Although we are supportive of the policy objectives in Bill 95, we do have concerns with the implementation scheme set forth in the bill. I'll briefly identify our concerns here.

Many of the public bodies scheduled under the bill are also scheduled institutions, which is the word used under the provincial and municipal FOI laws. The access and privacy rules applying to open meetings and open-meeting records under Bill 95 are different from those that exist in the two FOI acts. This could cause unnecessary confusion. In our view, extending the current

public sector FOI and privacy laws to cover the access and privacy rights and obligations associated with open meetings could achieve the policy objectives of Bill 95 more effectively and appropriately.

If an open-meetings law is to apply to public bodies not currently covered by FOI legislation—I think you heard from one of those bodies this morning, the self-regulating professional organizations—we suggest that these bodies be scheduled as institutions under the provincial and municipal FOI legislation solely for the purposes of regulating open meetings and open-meeting records.

Some of the exemptions from rights and obligations concerning open meetings appear to address the same considerations as exemptions under current FOI laws, but use different language. I think one example of that would be your section 3(2)(b) of Bill 95, as compared to 8(1)(a) and (b) of the municipal freedom of information laws, all of which address law enforcement consideration but use different words. In our view, unnecessary confusion and inconsistent treatment of similar fact situations would be eliminated through the adoption of the same language used in the current FOI laws, which have been interpreted and applied by both our commission and the courts over many years. If any exemptions currently available to institutions under FOI laws are felt to be inappropriate in the context of open-meetings legislation, provisions that specifically remove specific exemptions from open-meeting records can address this concern.

Finally, as it relates to exemptions, we have serious concerns with section 3(2)(f) of Bill 95, which permits new exemptions to be added by cabinet through regulation. This power does not exist in other public access statutes and, in our view, an exemption to any right of access should be included by statute and not through regulation.

The bill does not provide for a dispute resolution system to deal with a request for records that has been denied by a public body, or where an individual has concerns regarding the proper collection, use and disclosure of personal information. Independent oversight is an important component of any open-meetings scheme, and the Information and Privacy Commissioner is the appropriate organization to handle appeals and complaints of this nature, given its existing structure and recognized expertise in the area.

Section 13 of Bill 95 provides that it would take precedence over other statutes, including the provincial and municipal FOI laws. This is inherently problematic to our office in the context of access to records and privacy, and unnecessary if the policy objectives of the bill are addressed through the existing legislative framework of our two FOI laws.

Finally, some public bodies scheduled under Bill 95 are adjudicative tribunals. Adjudicators need to meet following the completion of a hearing in order to decide how to deal with evidence and other issues leading to the formulation of a decision. Therefore, the bill should make provision for an adjudicator or panel of adjudicators to be able to meet in private to ensure the deliberative confidence necessary for the adjudicative process.

The Chair: We've got some time left for questions.

Mr Hastings: Thank you for coming in today, sir. I have an intriguing question for you that applies directly to the office of privacy and information.

I have seen a news report recently that your office—Ms Cavoukian—is involved with the development of privacy provisions under the freedom of information act regarding technology with IBM; at least she's in a consulting or advisory role in some regard to the nature of privacy. My question would be, sir, how would Ms Di Cocco's bill apply to this kind of situation? Because you now have an office that's independent working on an issue the primary focus of which is privacy, but which is working with a corporate private interest. Would this bill apply in terms of that particular activity?

Mr Mitchinson: Others would probably be better able to answer that question, but I don't believe the Information and Privacy Commission is a scheduled institution under Bill 95, so I don't think it has any technical application in that context.

Mr Hastings: How about in the spirit of disclosure under this bill, even if you're not a listed agency of an adjudicative or any other nature that's listed in there?

Mr Mitchinson: Disclosure of the existence of the participation on the advisory body?

Mr Hastings: Yes.

Mr Mitchinson: I think Ms Cavoukian has fully disclosed that in the context of any involvement she will have in an advisory capacity. I think that's generally what's required in a conflict-of-interest situation, in any event, and then to govern herself accordingly as it relates to her ongoing involvement in any initiative that—

Mr Hastings: Do you still think so when you look at the section under conflict of interest, personal interest or public interest, subsection 11(d)?

Mr Mitchinson: Well, there's no personal interest involved at all that I can see in this context.

Mr Hastings: I see.

Mr Mitchinson: Any representation that Ann Cavoukian has on any body is in her public capacity as Information and Privacy Commissioner, not in any private capacity.

Mr Hastings: Very interesting. OK.

Mr Maves: Should your office, in your view, be under the schedule for this bill, and the Ombudsman's office and others?

Mr Mitchinson: I don't think our office operates in any different aspect than any other public body as it relates to the policy decisions around conflict of interest, so it's not something that would concern us in any conflict of interest regulatory scheme.

Mr Maves: Section 9 of the bill asks the Attorney General to be the body that oversees complaints under the bill. Do you think that should be your office rather than the Attorney General's office?

Mr Mitchinson: Yes, and I was surprised to see the Attorney General's office. The only explanation I can

come up with for that is that it may have been modelled on some US schemes for open-meetings laws that do not have an independent information and privacy commissioner. But if you look at schemes—maybe the state of Connecticut might be the best example of that—where they have full oversight functions for both records laws and open-meetings laws and they do have a commission, the commission is the complaint resolution or dispute resolution body in those contexts. Sometimes when there isn't a commission, they have an office holder within the Attorney General's ministry who provides an advisory role. But that would not exist in any scheme where there was an independent oversight body.

Ms Di Cocco: I have met with a representative from the privacy commissioner as well as with the integrity commissioner and spoken to them, because I believe that in the drafting up of the bill—and as you know, with private member's bills it's always a surprise when they get to second reading and pass, and also to be scrutinized. That's what this process is about. It's to be scrutinized so that it can be improved, and therefore you can end up tweaking it if you want, and fine-tuning it. That's what the committee process is about.

I have spoken to the fact that maybe there is that aspect that should be overseen by the bodies that are in place now, one being the integrity commissioner that may deal with the conflict of interest because that's their specialty, and the process of openness, if you want, or in camera, maybe comes under that.

I spoke to dealing with possibly putting in a better way of facilitating the actual overseeing, if you want to call it that, of whether or not this law is complied with. I have done that background work prior to this. But again, the bill was drafted, and those parts that can be tweaked to make it better and not add, as you said, another area of bureaucracy—I'm hoping that will be there with the amendment.

1110

The Chair: Thank you. Ms Martel.

Ms Martel: Thank you for coming today. Sorry if I misunderstood this. You said it would be more effective and appropriate to apply FOI language to the references to public meetings, or to conflict of interest?

Mr Mitchinson: To exemption claims, because I think the exemption claims that exist under Bill 95 are similar in topic to a number of the exemption claims that are under existing laws, and I just think it's better for any legislation that's dealing with common things to use common words. It's problematic if it doesn't.

Ms Martel: And the dispute mechanism that is now lacking could be incorporated by having your office deal with referrals with respect to public records, meetings that were not open, for you to act as a referee?

Mr Mitchinson: I think traditionally, as I was mentioning earlier, if there is such a thing as an Information and Privacy Commission in existence, that's the body that would be appropriate to be the dispute resolution body, yes.

The Chair: Thank you very much, Mr Mitchinson, for your presentation.

SUZANNE STANLEY

The Chair: Next we have the community representative for Toronto-Davenport, Ms Suzanne Stanley. Would you like to come forward, please? Welcome. You have 10 minutes for your presentation, and if there's any time left over, there may be some questions from some of the committee members.

Ms Suzanne Stanley: Good morning. I would like to aid in the support for Bill 95, which is before the committee this morning. Had this bill been in place in September 2000, I am quite sure that the highly questionable decision made regarding our small local school would never have occurred. What happened was, in the minds of our community, of questionable legality, immoral and redolent of backroom dealing.

Last year, Hughes Public School, which had been in operation since 1912, was closed and the building was leased to the private organization Beatrice House. We were puzzled and angered by the decision, as there definitely seemed to be a need for a school in our area, if not for the public school children, then for the Catholic school board.

A demographic review was to be done by law before any school was closed. In our case, it was a mere head count. The TDSB stated that we were a low-growth, aging community with very low growth probability. According to Statistics Canada in their 1996 survey, there were 120 new children between the ages of 0 and 12 on two streets surrounding Hughes, and a 5% increase is likely. There are also three new housing developments in the area. The host school, F.H. Miller, is now at full capacity. There are only 27,845 square feet there, but there are 52,984 square feet at Hughes. The StatsCan data would refute TDSB's finding that we are an aging, low-growth community.

Through our own research and due diligence, we discovered that a Toronto District School Board trustee also sits on the board of directors for the shelter that was awarded the lease to this 2.2-acre property sitting in the middle of a quiet residential area. We also discovered that shortly before the school was closed, the trustee for our area quit, only to re-emerge as the executive director of the shelter that was awarded the lease.

Beatrice House was considered superior to another prospective tenant on the basis of a number of assertions that later turned out to be completely false. What disturbed us so greatly, though, was the fact that a coterminous board had requested the lease, as 250 children from our own community were being shipped out due to lack of space, and were denied as they hadn't responded in the time set by regulation 444/98, even though at that time no lease had been signed, the building had not been altered, and the Catholic board made their appeal for the school before the final vote of approval for the shelter was given.

Our many attempts at raising questions regarding any of these issues were of course completely ignored, as we soon found that, unbelievably, the members of the Toronto District School Board seem to have the power to

pursue whatever agendas they please with a complete lack of public accountability. The shelter not once or twice but many times misrepresented themselves to us as to whom they served, what they offered, their financial viability, and what programs would be in place. We, our city councillor, Betty Disero, offered more than once our support for the shelter and alternative buildings within our community that would actually better serve the needs of the women and their children, and the needs of the children who already reside in our community. Not once did anyone from the shelter agree to look at other buildings or to hold an open discussion with us or the women who would be moving into the community.

We fought a long and difficult fight to see the glare of public light shone on both boards of directors. In response, we were quickly and conveniently branded NIMBY, intolerant and ignorant. The board of Beatrice House is very powerful. Fraser Mustard is a well-known and highly esteemed name throughout many sectors, and his supporters are many. We, on the other hand, are a working-class neighbourhood that watched dumbfounded as our own children were shipped to a small school located at an incredibly busy intersection. It's a paved-over lot—no playscape, no proper bathrooms or ventilation, no gymnasium, and one crossing guard, who paces like a caged tiger. We also discovered that an architect had been inside Hughes to evaluate it for Beatrice House before our school had even closed.

Fraser Mustard himself admitted to the National Post that there were some disgraceful goings-on at Beatrice House, in an article dated October 26 of this year. I would ask you to please read through the folders I have given you carefully, as 10 minutes to speak is not nearly enough time to let you know how deep and murky the deception truly is. We would not have had all the covering up, the hidden agendas, had this most important bill been in place. As of today, even after filing under the freedom of information act, we still haven't seen a copy of the lease. Our trustee, Nellie Pedro, has requested many documents and information. Nothing has been produced.

It is in the interest of all concerned citizens that Bill 95 be in place to protect everyone under the same umbrellas so that we can all be treated fairly and with absolute honesty.

The Chair: Thank you very much. We have a few minutes for questioning. Any questions?

Mr Patten: Thank you for coming. I just want to make a comment on your experience, because in my riding in Ottawa we have many parents struggling and fighting for the same thing: schools in the inner city, with no regard for the community or the families that were there. The problem is really the accommodations formula to maximize the use of space so that before you can apply for new schools in, say, big-growth areas, you're literally forced to close, sometimes, full schools. In some instances, schools with portables were being requested to close, which is absolutely asinine. So my comment to you is entirely in an empathetic manner to appreciate people like yourself who fight for their schools and for their neighbourhoods.

Ms Stanley: My concern was the fact that the trustee did not stand up and declare a conflict of interest when she really should have totally backed away.

Mr Patten: Right, and this would address that.

Ms Stanley: Right. Our former trustee has a very high-salaried position with this shelter now. Because of our upset in the community, they've decided to call themselves a private school to get around the zoning. There are so many things that have gone wrong and, as I say, all these children who are being bused out of our community, this tiny little school that's now at full capacity, and people moving in. There are three new housing developments. There are tons of children moving in, and there's no room. They said by law they had to do a demographic review, and they did not. They walked in and they counted heads and said, "That's it."

Ms Di Cocco: My understanding too from your submission is the fact that you couldn't get the information as to how this process took place.

Ms Stanley: We have no information. We have nothing. We still have nothing. We've been asking for over a year. Through lawyers, we've asked.

Ms Di Cocco: For instance, how the decision was arrived at: what was the debate around it, how did they arrive at these things?

Ms Stanley: It was all behind closed doors. At one point, we were told they wouldn't be getting the lease because they didn't have the money, so then the board put it back for two weeks and scrambled and then they came back and said they did have the monies. Then it was saying $4 a square foot, and by law it has to be $6.96. They don't want to show us the lease, because that will be in the lease. That's when we could get Ms Ecker involved, because they've obviously broken a law. By law they have to get fair market value. It's a mare's nest really.

1120

Ms Martel: Was there any kind of public meeting that was open?

Ms Stanley: Yes, there was, actually.

Ms Martel: What kind of decisions were spoken about at that meeting?

Ms Stanley: At that meeting in particular—that was actually November 7 of last year—we were debating regarding another tenant who wanted to lease the building. For our community that tenant would have made more sense, financially and otherwise. Then our city councillor came in, she stood up and she said, "By the way, the Catholic board really needs this school. They're spending hundreds of thousands of dollars to ship their children out of the community," and the TDSB said no, and of course we all went crazy. There was a huge uproar. We said, "How dare you deny children who live in a community the use of a school before a lease has"—the school was in the same condition it was when the doors closed, and they said no.

We've got everything in your files in the folders there.

Ms Martel: So the folders would explain, if there were public meetings, what the nature of those were—

Ms Stanley: Everything, yes, and the answers and non-answers that came out.

Ms Martel: —and things that happened clearly that do not involve public meetings or public disclosure.

Ms Stanley: Letters from lawyers, our MP, our MPP and our city councillor, and still no answer is forthcoming. It's rather disturbing, to say the least.

The Chair: Any of the government members for questions?

Mrs Julia Munro (York North): I realize that you have provided us with an in-depth chronology of this, and so obviously on the basis of that, I can't ask you a specific question on that. But certainly hearing what you have told us indicates the kind of real difficulty that you have.

Ms Stanley: We have a need for these people to be open.

Mrs Munro: Absolutely, and that is perhaps for us the lesson that you've been able to bring forward to us today, with an example that certainly is a demonstration in the most glaring way of someone who was clearly in a compromised or conflict-of-interest situation.

Ms Stanley: Absolutely, yes.

Mrs Munro: From my perspective, I would say that this is indeed unfortunate that it's possible for it to happen.

Ms Stanley: Well, it happened.

Mrs Munro: Yes, exactly.

Ms Stanley: And we're still fighting it, believe me. We're not going away, because this is so wrong.

Mrs Munro: I would certainly understand that. I just want to make sure that you appreciate that we are sympathetic and will make a study of this.

Ms Stanley: Thank you very much.

Mrs Munro: What are our options in terms of being able to support you?

Ms Stanley: One of my concerns was in contacting Ms Ecker and giving her the information that we had—and you've got copies of just some of the petitions. We have so many petitions and hundreds and hundreds of signatures begging anybody from any level of government, "Please look into this." I guess Ms Ecker has to, because the board is such an entity unto itself. She asked the questions, they gave her the answers and she has to take that at face value unless she wants to do an investigation.

That's another concern of ours. These people should be investigated, this should be investigated, but her hands are tied in a sense as well. Our concern is that this little tiny board with all these billions of dollars is acting so outrageously. They have no regard for the law. They don't have to be accountable to anybody. They're accountable to themselves. They sit there like a bunch of demigods, controlling all this and not knowing what they're doing. It's frightening.

A perfect example is that the buyout for Ms Jackson would have paid for the complete renovation of the school, with an extra $100,000 left over. So how are these people to be responsible for our children and communities? Someone has to investigate them and make them accountable.

Mrs Munro: I really appreciate your putting this on the record for us and bringing forward your personal experience and the experience of your community. We'll certainly look at all of this.

Ms Stanley: Thank you very much. It's a lot of reading, and there's more if you need it.

The Chair: OK, Mr Hastings, a final question?

Mr Hastings: Based on your experience, do you believe school boards should be eliminated?

Ms Stanley: No, I believe they should be amalgamated and they should be held accountable to the parents.

Mr Hastings: Well, they were amalgamated.

Ms Stanley: No, I mean the Catholic and the public. I think they should be one board and they should consult with parents and community, which they do not.

Mr Hastings: How do you know, if you have one amalgamated board for Toronto, that you would have any more so called accountability than what you've had, based on the way they're supposed to proceed?

Ms Stanley: Well, for one thing the school would not have been closed. There were 250 children in the community who needed the school, and they said, "Sorry, you're not part of us." Well, what do you mean? They're kids who live next door to mine.

Mr Hastings: What is the capacity of that school: 320, 440?

Ms Stanley: Of Hughes? I think it's 320—or more, actually.

The Chair: We'll have to leave it at that. Thank you very much for your presentation. I'm sure we'll be reading this with great interest.

BRABANT NEWSPAPERS AND THE FLAMBOROUGH REVIEW

The Chair: Next we have Brabant Newspapers and the Flamborough Review, Mr Ken Bosveld, the group managing editor. Is Mr Bruce Haire with you as well, sir? Welcome, you have 10 minutes for your presentation.

Mr Ken Bosveld: I've been editing right up to deadline.

The Chair: That's great. You're in that kind of business, so there you go.

Mr Bosveld: Good morning, and thank you for the opportunity to speak to the committee concerning Bill 95. I'm Ken Bosveld, the group managing editor of the community newspapers in Hamilton, Ancaster, Dundas, Stoney Creek and Flamborough, and the associate publisher of the community newspapers in Waterloo, Cambridge, New Hamburg and Guelph. My colleague, Bruce Haire, is co-publisher of the Caledon Citizen, the King Township Sentinel, the Innisfil Scope, the Beeton Record Sentinel and the Tottenham Times.

To begin, we take it as a given that all committee members attach the highest value to a few basic principles and beliefs such as: open, accessible local government is a good thing; greater accountability is always preferable; and a clear, affordable and fully accessible process for dealing with alleged infractions is always desirable. Furthermore, we suspect that we wouldn't get bogged down in disagreement over a couple of other general observations; namely, that citizens in the communities we serve, and the communities you represent, very much desire more openness, greater democracy and more informed decision-making. But these things all require accountability, and accountability flows from clear rules and a method of enforcement.

With respect to community newspapers, our main concern has to do with the ease and frequency of in camera meetings by municipal councils and local boards. The greatest weakness in the current Municipal Act is the lack of penalties and the absence of a practical mechanism for dealing with alleged violations.

The new Municipal Act, as introduced by Minister Hodgson, appears aimed at moving toward a more mature relationship between the province and municipalities. But, like the current act, the proposed one does not provide for penalties, nor does it have a mechanism for dealing with complaints. We put it to you that it's not enough for the province to create the playing field, write the rules of the game and then step away without defining any penalties and without leaving a referee in charge.

Who is left to cry "foul?" Usually, it's a lone citizen, a ratepayers' group or a community newspaper. A complaint concerning an improper in camera meeting is not something you can bring to the local police. In fact, if a controversial item is about to be discussed in camera, you are far more likely to find the police providing security than questioning whether the subject can legitimately be discussed in secret.

If a violation does occur, there is no mechanism within the current, or the proposed, Municipal Act whereby a complaint can be effectively launched. Currently the only recourse is to take your evidence before a judge and hope that a slap on council's wrist might discourage improper secret meetings in the future. That's the current reality, and we don't think it's working very well.

A quick search through Ontario newspapers within the past few weeks alone reveals that:

Kingston council met in camera to discuss a private development proposal.

New Tecumseh council went in camera to discuss its procedural by-law and when council would hold its meetings, claiming this was a personnel matter.

Welland council discussed in camera the sale of land to a private developer.

Lakeshore council has held several in camera meetings to discuss the possibility of creating an in-house legal services position. That same council held an in camera meeting prior to reversing its position on a controversial subdivision proposal.

Hamilton councillors met in secret to discuss how the cash-strapped city can afford to build a new arena complex.

Ramara Township council met in camera to discuss disposing of municipal land. That conduct was challenged by Bruce Galway of the Orillia Packet and Times, who wrote in his column just last Friday, "I posed my questions to the Ministry of Municipal Affairs and Housing, and was surprised to find there is no apparent mechanism in the Municipal Act for handling such violations. The ministry stated that a member of the public must take action by taking it to a judge if the mayor or council violates the act. There is no provision for a penalty."

Even today the town of Bradford-West Gwillimbury is taking the county of Simcoe to court in an attempt to gain access to in camera reports concerning municipal restructuring.

1130

Don't believe for a moment that municipal councils aren't exploiting the lack of any penalty under existing laws. Hamilton councillors have met in secret five times in the past two months to discuss the process toward hiring a new city manager. You would think councillors would realize that clause 55(5)(b) of the Municipal Act makes it clear that personnel matters must relate to an identifiable individual. Discussing what to look for in a yet-to-be-identified candidate doesn't fall within the exclusions set out in the act. Yet councillor Marvin Caplan told the Hamilton Spectator, "Frankly, I think there should be more stuff in camera, not less."

Unfortunately, not all municipal councillors believe in open, transparent, accessible local government. Some really do seem to prefer secrecy, and its evil twin, lack of accountability. And that is precisely why we believe Bill 95 is needed.

The Ontarians with Disabilities Act proposes fines of up to $5,000 for improperly parking in a designated handicapped parking space. Yet how can it be that currently there is no fine whatsoever, no penalty, no complaint mechanism, no effective recourse when a public body holds improper secret meetings and thereby denies the public the information they are legally entitled to?

We are not convinced that a $1,000 fine will be much of a deterrent, but it's a start. Right now, the Municipal Act is totally toothless. While $1,000 doesn't buy a lot of teeth these days, at least the law will finally have some bite.

But a fine is meaningless without an effective process for handling complaints. It is unrealistic to think the situation will improve if the only option for citizens is to invest thousands of dollars in legal fees to go to court against a council or body whose legal costs are being funded through the public coffers, all to prove that an improper meeting took place, and there could be a fine of up $1,000 fine. For this reason, our main recommendation to this committee is that you create an effective and accessible complaints mechanism. We believe you can

easily do this by building upon something which is already in place and serving the people of Ontario quite well: the office of the privacy commissioner.

The privacy commissioner already has responsibility for reviewing requests under the Municipal Freedom of Information and Protection of Privacy Act. We would strongly suggest that you extend the scope of Bill 95 to allow members of the public to bring complaints of alleged violations of sections 3 and 5 of this act before the privacy commissioner, just as they would bring forward a freedom of information request or appeal. What we are proposing here is very similar to what our newspapers participate in through the Ontario Press Council. It's quick, cost-effective and it works.

With respect to the conflict of interest section of Bill 95, our concern is that the proposed $1,000 penalty is substantially less than what currently exists in the Municipal Conflict of Interest Act. We agree that, given the seriousness of such offences, it is appropriate that the office of the Attorney General investigate complaints. But our second recommendation would be that the conflict-of-interest penalties in Bill 95 should reflect those within subsection 10(1) of the Municipal Conflict of Interest Act. This would allow a judge to remove a guilty party from their elected or appointed office, prohibit them from holding office for seven years, or order whatever restitution is required to offset any personal gain if they knowingly violate the act.

Our third recommendation would be to revise clause 3(2)(d) of Bill 95 to state that in camera personnel matters must involve an identifiable individual, similar to the way it's worded in the Municipal Act.

Our fourth and final recommendation has to do with the availability of minutes, as prescribed in clause 5(1)(c) of Bill 95. We believe the act should make it clear that minutes can be obtained or inspected before they have been adopted. Again, this is consistent with what is stated in subsection 74(1) of the Municipal Act.

Being a citizen of a democracy and holding public office in a democracy can be hard, demanding work. But it also requires a great deal of responsibility and accountability. We dare the members of this committee to aspire to create a model of local democracy that is greater than what we have today.

Please use your wisdom and your belief in a transparent democratic process to craft Bill 95 into legislation that will empower citizens to hold their local politicians to a higher standard of accountability.

We thank you for the opportunity to speak to you today.

The Chair: Thank you very much, Mr Bosveld. We have a couple of minutes for questioning. We'll start with Ms Martel.

Ms Martel: I think I'm fine, Chair, because the amendments have been attached.

The Chair: Yes, the amendments are part of the presentation.

Mr Hastings?

Mr Hastings: Mr Bosveld, I will propose an alternative that may be based on good judgment, common sense etc. What would your reaction be if, instead of setting up all these mechanisms, penalties, rules and processes, we create a municipal conflict of interest amendment act that says, "If you are in conflict as a municipal councillor, if you have a propriety interest, or an indirect one, and you don't declare it, you lose your position," and extend the kinds of matters Ms Di Cocco has brought up to that kind of situation? Instead of all these new rules, you lose your position. We'd have to have more bureaucrats.

The other charge that's brought against us, and I'm sure you'd appreciate this, is that we are often criticized for trying to micromanage local government.

The other point would be, what is wrong with the municipal law section of the Law Society of Upper Canada today, which doesn't seem to be advising their clients—ie, councillors and citizens who serve on agencies, boards and commissions—about what the rules are when you're dealing with conflict of interest? For example, if you have a propriety interest, you declare it, you aren't there and that's it. If you're dealing with a personnel matter where you're going to fire somebody, you declare it if your brother-in-law is the person, or if there's a criminal matter.

It seems we're trying to legislate some good judgment that is lacking.

The Chair: Do you want him to respond to some of those issues you've mentioned?

Mr Hastings: What's wrong with, you lose your office if you're a municipal councillor, instead of these rules?

Mr Bosveld: With the Municipal Conflict of Interest Act, you can be removed from office if you're convicted of conflict of interest, whereas Bill 95 refers to a $1,000 fine. We're saying that the greater penalty that currently exists should apply if there is a violation.

Mr Hastings: Forget the $1,000 fine; just be removed. How's that?

Mr Bosveld: That was one of our recommendations.

The Chair: Mr Haire, did you want to say something as well?

Mr Bruce Haire: I think that's going too far. I don't think you need a lawsuit to enforce the act. We want to see something perhaps less costly. I know that when one of our councillors got removed for a conflict of interest, the citizens who took him to court spent a lot of money and took a lot of time. In the end, we lost a good councillor over something that wasn't a huge issue. I don't think we're looking to be really punitive with this situation.

Mrs Munro: I just wondered about when you were talking about the question of there needing to be some kind of penalty, some kind of mechanism against in camera meetings, and the kind of practical limitations there are today. Right now in this Legislature and in the committee process we're looking at the Municipal Act. In

fact, yesterday this issue of in camera meetings was the subject of one of the deputations we heard. I would invite you to make a submission, which might be very similar to the kinds of things you suggested today, to that committee. If you could see fit to do that, to fax it to the clerk, because our deadline is Monday, I would invite you to do that, if possible.

Mr Bosveld: It's my understanding that the Ontario Community Newspapers Association made a presentation yesterday afternoon concerning the in camera portion.

The Chair: Anyone from the Liberal side? No.

Thank you very much to both of you gentlemen.

1140

ONTARIO ASSOCIATION OF BROADCASTERS

The Chair: Next we have the Ontario Association of Broadcasters: Paul Larche, president, and Stuart Robertson, lawyer. Welcome, gentlemen. You have 10 minutes for your presentation. If you take less than that, there may be some time left for questions. Go ahead, sir.

Mr Paul Larche: We'll take less than that. Good morning. My name is Paul Larche. I'm the owner of CICZ-FM in Midland, Ontario. I'm also president of the Ontario Association of Broadcasters. We represent most of the radio and television broadcasters in the province of Ontario. In our submission we have a list of our members, as well as a list of the board for the Ontario Association of Broadcasters.

With me this morning is our counsel, Stuart Robertson, of the law firm O'Donnell, Robertson and Sanfilippo, and hopefully, if we get into some questions about any of our specific recommendations, he can help us through some of that.

Ontario broadcasters all support open government and the bill introduced by Caroline Di Cocco is a bold and important step to see that the people's business is conducted transparently. We support Bill 95 and we focus our particular interest on the open meetings portion of the bill.

Broadcasters are members of the public too and want to know what appointed people are doing on their behalf: what decisions are being made and how they are being made. As members of the media with the job of telling the people what affects the communities of Ontario, we can say without any qualification whatsoever that we expect to be able to tell the public what is in the public's interest to know and, in doing so, get it right and be fair about it.

When the public's business is closed to public scrutiny, there is no real fairness that anyone can see or feel. There is no way that broadcasters and other members of the media can get a fair and complete picture of how things have unfolded so that we can tell the story as it should be told.

How many of you have felt over time that what you see as the real story gets skewed or screwed up by the media? "Oh well," you might think. "they're just trying to sell newspapers or sell more advertising." Well, there is something you can do about that. It is not suggested that the best approach is to keep more things from the public's attention; instead, it is to make certain that the media has the tools to get it right and to be fair about it. If the only way the media hears about such important matters is from one side to an argument, why would you ever expect that the full story can be presented in a fair way?

Queen's Park has already dealt with the issue of the openness standard for bodies that exercise statutory authorities. This bill provides some much-needed teeth to that older law, but there is no need to limit the application of this bill to things that should be open under the older law.

In the handout to you this morning, we have made some specific suggestions as to how we think the bill can be beefed up a little so that it would make certain that the spirit of the bill can be honoured and respected. Here's a couple of the headlines:

Provide as clear a record as possible as to what the matter is that has to be heard in the absence of the public, so that the public can know what is being discussed and decided upon;

Make the exceptions to openness the same as, and not less than, those in the existing law that applies to bodies that exercise statutory powers;

The decision not to disclose must be reviewable by a court—with real consequences;

Allow broadcasters and other journalists to record the proceedings so that their reports can be as accurate as possible.

We congratulate all members from all sides who have voted for this bill at first and second readings. It is a brave step at open government that the public frankly expects at this point. The time for secret government is behind us.

Stuart and I would be more than happy to answer any questions that you may have. Thank you very much.

The Chair: We start with the government side this time. Any questions?

Mr Maves: I found the question Mr Gilchrist asked a previous group intriguing. His question was about media, talking about openness to the public, of being frank and open to the public and letting them know what's happening and who's saying what. The media uses unnamed sources all the time. That's not very frank and open with the public, so how do you square that circle where you're asking for more and more openness from, say, government, but there's no discussion about the issue affecting you? In here you can pick up a newspaper clipping any time and it will say "Queen's Park source" or "a Tory insider," which could, quite frankly, be just about anybody under the sun. The information could damage somebody or damage the government or damage a member of the opposition. It happens all the time, so should the media not be held up to that higher level of scrutiny by the public also?

Mr Larche: First of all, I would say what the former person who was presenting said—I think that we're talking apples and oranges here in one sense.

I'm here representing broadcasters—electronic broadcasting. We are regulated by the federal government under the CRTC, so there are consequences to what we do: we can have our licences revoked. We don't own the frequencies that we broadcast on; the Canadian people do. We're custodians of it for a certain amount of time. We have to renew those licences, and for any member of the public there's an opportunity, through tribunals such as this, through interventions to the CRTC, to make any complaints that they may have about a particular media, how they've conducted something or said something. Again, I'm not speaking for newspapers here; I'm speaking for electronic television and radio. We do have a code of ethics that we follow. The RTNDA—the Radio-Television News Directors Association—follow that code to the best of their ability.

Stuart, do you have any—

Mr Stuart Robertson: Nothing to add. That was excellent.

Ms Di Cocco: I find the question coming from the government members curious, because again, the intent of the bill is about public bodies, funded by public dollars, making decisions that impact on people's lives. I agree that there are elements of it and I thank you for some of your suggestions, some of which are up for interpretation because I think some aspects of it are already in the bill, but I'll certainly take a very close look at a number of the good suggestions. That's what the public hearings are for—so we can have an opportunity to have people who have experienced various levels of openness or closed-door meetings give their input and to have the experts give their input. Then, in the end, we hope as legislators we can come up with a very good policy, because I don't believe we have a mechanism that's easily accessible by the public that can ask, "Why do we have these closed door meetings?" and say, "There should be a penalty." Again, I regret this implication that it's the same thing that is there with the press council.

In just a few words—it would certainly help me—how do you see this bill as assisting what I call good local government?

Mr Larche: I think it would make people who serve the public think twice about holding anything back that could come under public scrutiny. We live in a democratic society where elected officials are to represent the views of the people and we should have a mechanism in place to make sure—and I'm speaking now as the media—that we can accurately reflect to the people what has been discussed. Sometimes we can't do that, and there's nothing that we can do about it right now, or there's nothing that we can do about it of any consequence.

To answer your question as to what the benefit is, I think the benefit is better government.

Ms Martel: Thank you very much for coming today. On page 2 of your suggestions, you have a section that talks about a review of the decision under section 3, which would be the open meetings, and much of the reference is to a court of law. We heard earlier submissions that perhaps the dispute mechanism would be much better if it were under the privacy commissioner. I'm wondering if you have any comments about that, concerns, or would that work fine for you as well?

1150

Mr Robertson: I think the reason for putting this in is recognizing, firstly, the utility of the bill and the penalty that's there. This isn't to take away from that. This is to go to another statute in Ontario and take from it some very substantial power that may be exercised in the appropriate circumstance. This would then be an additional element of review here. Think of the consequences if you were to take this—it would not just be that those who've made a decision that shouldn't have been made would each be fined $1,000; it goes further, to say the decisions made in that setting would be set aside, potentially if the court so ordered, and that all the costs of the application brought by those who sought to bring the application will have to be paid by the body that made the rule. It's simply adding some large molars to the teeth that are already in Ms Di Cocco's bill.

Ms Martel: I apologize; my concern was whose costs and how will they be dealt with if you do it under the freedom of information and privacy commission? Obviously that is covered.

The Chair: Thank you very much, gentlemen, for your presentation. We appreciate it.

ONTARIO PRESS COUNCIL

The Chair: Finally today, we have the Ontario Press council, Mr Mel Sufrin. Welcome, sir.

Mr Mel Sufrin: Thank you. Just one small matter: the name is spelled S-U-F-R-I-N, if it matters to anybody at all.

Thank you for the opportunity to address Bill 95. One of the objects of the Ontario Press Council as contained in its constitution is to review and report on attempts to restrict access to information of public interest.

It's with this object in mind that the council has for many years campaigned to ensure that meetings of councils and other municipal bodies are open to the public and press, with clearly specified exceptions. The press council, which represents 40 daily newspapers and 188 community and specialty publications, was satisfied when legislation was adopted that listed seven grounds for closing a meeting. Along with the Canadian Newspaper Association, it agreed that a mandatory exception under protection of privacy legislation could be added to the seven—and I emphasize the word "mandatory."

It did object when a 1998 draft bill added another clause which in effect would permit a municipal body to add one other reason of its own choosing for closing a meeting. The minister withdrew that clause before the bill was passed.

With this background, it's obvious that the press council is interested in legislation that will ensure that meetings will be closed only on reasonable grounds. If Bill 95 can do the job, I'm certain council members will support it.

However, I believe there is one reason for concern and that is exception (a), which says a meeting or part of a meeting may be closed if "financial, personal or other matters may be disclosed of such nature that the desirability of avoiding public disclosure of them in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that meetings be open to the public."

Financial and personal matters may be reasonable grounds, but who decides whether it is desirable to avoid public disclosure of other matters? If it is the municipal body itself that makes the decision, it appears to be a way in which it could circumvent the intent of this legislation.

The Chair: Thank you. Questions? The Liberals first.

Ms Di Cocco: Thank you for your submission. I did highlight your comments on that aspect because the concept of the bill is hopefully to create a better, open process that's not onerous and that deals with true accountability. That's the intent. Again, and I've said this a few times at this committee hearing, I welcome the suggestions to tweak it, whether it's wording that could be similar to other statutes that are equivalent, or areas that, as you said, would end up putting us back into the same spot as we are in now. So I thank you for that.

I asked this of the previous person: in your view, and you must have heard a number of complaints, or at least concerns, about openness, do you believe we need this type of legislation? You're obviously here, hopefully for that reason. Do we need this kind of legislation to improve the way we do public business?

Mr Sufrin: I think the legislation certainly is needed. The press council has dealt over the years with a number of complaints from newspapers against municipal councils, or mayors in some instances. In every instance, it has upheld the complaint, but not based at that time on legislation so much as on what the council regarded as reasonable and proper practice by a public body. I think it's much simpler if there is strong legislation in place that clearly specifies whether a council can be believed to have improperly acted, that's all. So yes, I do see the need.

The council wanted the original act back in the early 1980s because we had horror stories from all over Ontario about the actions of various councils and other bodies. That helped. Subsequently, there have been some additions to it. I think the situation is nowhere near as bad as it was, but we still hear every so often—we're dealing with a complaint right now from a major city mayor and that is a complaint from a newspaper in that instance. It's sort of confidential until the council actually adjudicates it, after which we issue a press release. It may never come to that. Yes, I do think strong legislation is essential.

The Chair: Thank you. Ms Martel?

Ms Martel: I'm fine, thanks.

Mr Sufrin: Could I add one small matter, or do you want to ask a question?

The Chair: Mr Maves.

Mr Maves: Sure. Ms Di Cocco said, after asking the last deputant a question about public disclosure of people's sources, "This is about public institutions dealing with public dollars." So OK, if you're writing a story about public institutions dealing with public dollars and publicly elected people, shouldn't it be your responsibility to disclose your source?

It's in fairness to the public. They want to know where you're getting your information. You write a story and if you want openness and fairness and you want to have access to all of these public institution meetings, then similarly when you write about a public institution and public people, you should be obligated to disclose your sources.

Mr Sufrin: I agree and the press council agrees. As a matter of fact, a lot of editors and publishers agree that there are too many unsourced statements published in the press. Sometimes this is the result of reporters who don't work hard enough to get an identifiable source. At other times, the only way you get the information is by protecting the source. I'm reminded that there was never a source published all through the Watergate scandal, and it resulted in the downfall of a president. The fact that there are going to be stories without sources in them may not always be a bad thing, but I agree, it should be in there wherever possible. I don't think there is any real disagreement on that. But when you talk to somebody who has real information, inside information, you really sometimes have to concede that you won't publish the name of that person. You're kind of stuck some times.

I should add that the press council is on record as saying that a story that attacks an individual—this is a news story we're talking about—in other words, that contains an unsourced individual attacking someone else is completely improper, and if we had a complaint about it I'm sure the press council would uphold it.

The Chair: A final question, Mr Maves.

Mr Maves: Maybe a comment: you gave a good example of a case when someone needed to withhold the source or you wouldn't be able to get the story, but we get these clippings every day and they're filled with newspaper articles from the Star, the Sun, the Post, the mainstream newspapers. Every day I could go through and—

The Chair: And a lot of other papers do around the province.

Mr Maves: I could go through there every day and find stories without sources named, not about stories that have anything to do with anything like Watergate. Quite frankly, a lot of the things I read that come from unnamed sources—and I know that I was in the room when something happened—are far from the truth. You mentioned something where hiding the source is important

because it revealed the truth of something going on behind the scenes. I read them every day when there are unnamed sources who have something totally wrong.

Mr Sufrin: Why don't you complain to the press council when you have a specific case?

The Chair: Sir, you wanted to make one final comment earlier, or have you made it already?

Mr Sufrin: I think I've made it. Let's face it; we don't like lack of sources in stories. I don't think anybody cares for it, but it's going to continue to happen for definite reasons.

The Chair: Thank you very much for your presentation. The meeting stands adjourned.

The meeting adjourned at 1200.

CONTENTS

Thursday 22 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 Gilles Bisson (Timmins-James Bay / -Timmins-Baie James ND)
Mr Steve Gilchrist (Scarborough East / -Est PC)

Clerk / Greffière
Ms Tonia Grannum

Staff / Personnel
Ms Margaret Drent, legislative counsel

Ms Margaret Kells, research officer
Research and Information Services