



No. 61B

N° 61B

ISSN 1180-2987

**Legislative Assembly
of Ontario**

Third Session, 37th Parliament

**Assemblée législative
de l'Ontario**

Troisième session, 37^e législature

**Official Report
of Debates
(Hansard)**

**Journal
des débats
(Hansard)**

Monday 25 November 2002

Lundi 25 novembre 2002

Speaker
Honourable Gary Carr

Président
L'honorable Gary Carr

Clerk
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LEGISLATIVE ASSEMBLY
OF ONTARIO

Monday 25 November 2002

ASSEMBLÉE LÉGISLATIVE
DE L'ONTARIO

Lundi 25 novembre 2002

The House met at 1845.

ORDERS OF THE DAY

FUNERAL, BURIAL AND
CREMATION SERVICES ACT, 2002

LOI DE 2002

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

Mr Hudak moved second reading of the following bill:

Bill 209, An Act respecting funerals, burials, cremations and related services and providing for the amendment of other statutes / Projet de loi 209, Loi traitant des funérailles, des enterrements, des crémations et des services connexes et prévoyant la modification d'autres lois.

Mr Michael Gravelle (Thunder Bay-Superior North): On a point of order, Mr Speaker: I don't believe we have quorum this evening.

The Acting Speaker (Mr David Christopherson): Would the table please check and see if we have quorum.

Clerk at the Table (Ms Lisa Freedman): A quorum is not present, Speaker.

The Acting Speaker ordered the bells rung.

Clerk at the Table: A quorum is now present, Speaker.

The Acting Speaker: Quorum now being present, we'll go back to the minister for the order of the day.

Hon Tim Hudak (Minister of Consumer and Business Services): Mr Speaker, I am splitting my time this evening with a couple of other members—Mr Gill and, I believe, Mr Wettlaufer as well—who are anxious to contribute to the debate.

Mr Rob Sampson (Mississauga Centre): What are you hiding?

Hon Mr Hudak: Of course, Mr Sampson is welcome to contribute if he feels the desire. I know he has really kept up to date on this issue.

I'm pleased to speak tonight upon second reading of the proposed Funeral, Burial and Cremation Services Act, 2002, also known as Bill 209. As members of the House will know, this bill is a companion piece to Bill 180, the proposed Consumer Protection Statute Law Amendment Act, 2002, also known as CP21, consumer protection for the 21st century, which is currently before

this House. This is a package that is part of a comprehensive consumer protection agenda that is the most ambitious ever proposed in the province of Ontario and is being proposed by the Ernie Eves government.

Bill 180, as members here this evening know, proposes to update a set of consumer protection laws that were passed back in the 1960s and 1970s, a time when computers were the size of Mack trucks, owned only by NASA scientists, colour TVs were a luxury item, and the Internet was simply the stuff of science fiction.

The world has changed. Business practices have changed. Culture has changed in the province of Ontario. That's why it's important to change our legislation to keep astride of emerging business practices and cultural evolution. Just like in the consumer protection bill, Bill 180, in the bereavement services sector our legislation is in need of updating. In fact, our legislation with respect to bereavement is even older. It was brought forward to the Legislature almost an entire century ago. Mr Speaker, you won't remember, but I'm sure you have read that 100 years ago people were commonly still driving a horse and buggy. The Wright brothers were making their first flight. Obviously, lifestyles and customs have changed significantly since then, and we need to update our bereavement sector laws accordingly.

I'll give you a couple of examples. In today's Ontario, we see more people choosing cremation as an option, very much unheard of, or very rare, in those days when the legislation was brought forward in earlier sittings of this Legislature. In the last 10 years or so alone, it has grown from 28% of services to almost 40% in 2000. Similarly, there's an emerging and growing demand for simple or "no-frills" bereavement services.

There's no doubt, as we can see every day in the province, that today's Ontario is far more diverse and multicultural than it was 10 years ago, let alone 100 years ago, when the legislation was first brought forward. Members of different religions and different cultures are looking for bereavement services that meet their needs and reflect their traditions.

1850

It only makes sense that our laws governing this sector must be modern and flexible to respond to how times have changed. As with our broader consumer protection package package in Bill 180, our goals with this bill are twofold and they are complementary. We want to provide excellent consumer protection to the people of Ontario, and we want to level the playing field so that businesses

can continue to grow and prosper in this province under fair and equal competition.

Mr Sampson: Where's the hideout?

Hon Mr Hudak: I don't want to hide anything in this legislation. I want to come forward and let members know what Bill 209 contains.

First of all, for those watching at home and those in the assembly who want to learn more about this bill, I'll describe why this legislation is needed. No doubt bereavement is a difficult topic for most of us. It's a topic that most of us put off thinking about until, unfortunately, a loved one dies and we can no longer avoid dealing with this very sensitive issue.

As MPPs, we all know the providers back in our home ridings, and we all agree that bereavement services is a very unique type of business. People are in a very vulnerable grieving state when they make purchases in this sector. Often they will have little or no experience in dealing with bereavement services, and they must make these difficult and sensitive decisions rather quickly during a time of great stress for the family and friends of the deceased.

With all of these factors, combined with the significant expenditure involved in a funeral and cemetery service, our government believes this area calls for special attention and consideration; hence the bill in debate this evening. It's also why it's important in this discussion to talk about protections for consumers to make sure they have fair dealing practices at this very difficult and sensitive time.

A bit about the industry. Bill 209 not only protects consumers; it provides fair rules, allows for new business models reflecting the evolving culture in the province, and creates a level playing field for businesses that work in this sector. Furthermore, as I always say with consumer protection, by strengthening confidence that people—taxpayers and consumers—have in a particular industry, it also helps those businesses to thrive.

I know there are many honest and hardworking service providers in the bereavement sector. Back home in Fort Erie, Beamsville and Dunnville, they are all very honourable people doing a great deal of hard work and doing their best to help people at a difficult time in their lives. I would expect members in the assembly would give the same indication from those they have worked with in the bereavement sector.

Most of us naturally think of funeral homes when considering bereavement services. Funeral homes, as we all know, make up an important part, but just part, of the bereavement services sector altogether. In fact, today there are approximately 550 funeral homes across Ontario, 5,000 cemeteries, approximately 60 monument retailers, and several other types of businesses, such as casket retailers and transfer services, among others, that all work to provide services to consumers after the death of a loved one.

There's no doubt that diversity characterizes the participants in the bereavement sector. Funeral establishments, as I mentioned earlier, tend to be private, for-

profit businesses, but on the cemeteries side we have private businesses co-existing with religious, not-for-profit and municipal cemeteries across the province. In that context, this legislation would allow for new business models and working more closely together so they can continue to grow and create jobs and respond to consumer demand in the evolving culture in Ontario.

Certainly legislation of this complexity and this history would not come about without a great deal of consultation in the sector, meaning those who are involved in the business, those who are representatives here in the assembly as part of the debate, and of course consumer groups as well who advocate on behalf of consumers who encounter the bereavement sector during difficult times. It's been a very extensive and lengthy process of consultation, but it has been essential, given the sensitive and complex nature of this type of industry.

The consultations to date have arrived at a consensus in principle on the direction the legislation should take, with the assistance of many people both within government and from a variety of service and consumer groups. I'll give you a bit of background on this process to update the members on where we have been and how we got to this point. In 1998, the member from Markham, then-Minister Tsubouchi, who is with us this evening, asked the Red Tape Commission to consult with businesses, organizations and consumers to prepare a report of advice. I want to thank the members of the Red Tape Commission, who did an outstanding job and a great deal of work in consulting with those in this industry and consumers. In fact, sitting next to me tonight is Steve "Cookie" Gilchrist, one of those members—vice-chair or co-chair—

Mr Steve Gilchrist (Scarborough East): I'm demoted?

Hon Mr Hudak: Sorry, co-chair, of the Red Tape Commission; his colleague Gary Stewart, who has a great deal of knowledge in this business; Joe Spina, John O'Toole and Marcel Beaubien, among others, whose report, a number of years ago, set the stage for this proposed legislation now before the assembly and who offered the benefit of their esteemed counsel and research during the consultation process. Again, we're indebted to your efforts.

Shortly thereafter, then-Minister Bob Runciman retained former Justice—esteemed Justice—George Adams to conduct mediation in this process to bring the sides together in response to the recommendations that he had received. In fact, that was continued in the summer of 2001, when my immediate predecessor in this portfolio, the lovely and talented Norm Sterling, himself met with many consumer groups and organizations in the bereavement services community to explore the needs of both consumers and service providers.

An advisory group of consumers, service providers and government came to be known as the Bereavement Sector Advisory Committee, or BSAC as I'll refer to them throughout my remarks. They worked toward finding a consensus on how to move the industry forward

into the 21st century based on the advice they've had to date. With the assistance of the Honourable Justice George Adams, meetings of BSAC, which involved 15 organizations and 30 members sitting around the table, through facilitation came out with some very important, well-thought-out and principled recommendations for legislation.

I want to be clear about the BSAC process. It included a diverse group of members, including representatives from the funeral services industry, monument builders, cemeteries, casket retailers, transfer services, retailers, the Consumers Council of Canada, of course representatives from the ministry who had worked with the sector for some time and the Canadian Federation of Independent Business as well as religious organizations. Certainly no one can deny the importance of the faith community when it comes to bereavement services.

I mentioned it upon first reading and again want to, on the record, as we begin second reading, personally thank the Honourable George Adams for his efforts and echo his sentiment that the level of professionalism and commitment to finding common ground demonstrated by all of the participants in those discussions has helped us, helped him and helped us, the government, in moving this important initiative forward into the Legislature. As I indicated in the description, it was a long time coming, and a great deal of work has been done to this point.

I shouldn't forget to thank a lot of hard-working staff as well with the Ministry of Consumer and Business Services. Certainly Rob Dowler, Alice Young, Deborah Brown, Gary Demers, Joe Richer, Beverley Wise and Joan Spence, among others, have provided a great deal of effort and assistance throughout the process and have been with this piece of legislation for many years.

Of course, it would not be a fair discussion of the bereavement sector without mentioning the continuing importance and the historical role of the religious community in bereavement services. Certainly that was an important part of the consultations and a result of the consultations: the need to respect and to support religious traditions and sensitivities, especially given not only the history but the emerging diversity of religions in the province of Ontario. This bill is designed to allow religious groups to partake in the rights and rituals surrounding death as they always have. We're not, members of the assembly, to presume that we could override some 2,000-year-old ceremony built on great tradition and religious belief. In fact, we want to support the continuation of those important religious activities. The importance of the faith groups in bereavement sectors cannot be understated.

We have already consulted extensively. I intend, if this bill is passed by the assembly and as reforms go forward through the regulatory process and beyond, to continue to ensure that the religious communities are consulted and that their feedback and concerns are heard and acted upon.

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So there's a bit of an introduction, an overview of the industry as a whole, and an indication of how we got to

this point of second reading this evening, on November 25, 2002. As I mentioned, Minister Tsubouchi began this process in 1998. The legislation was first introduced in the Legislature almost a century ago.

Here's an overview of some of the provisions in the proposed legislation that I think are very important to protect consumers and to level the playing field for business.

First of all, I'll start with the consumer protection side of the legislation. The BSAC group, the consultation panel, the consensus panel, identified no less than 18 provisions to strengthen consumer protection. These 18 provisions, to a one, have been embraced in the proposed legislation, Bill 209. They range from very simple things like "consumers should have easy access to pricing and product information"—that makes a lot of sense. We want to make sure that consumers, whether a widow grieving for a lost husband, a son or daughter grieving the loss of a parent, have the proper pricing and product information to make a decision under very complex considerations.

Similarly, other parts of the consumer protection initiative include a code of ethics—for example, to help protect consumers against high-pressure sales tactics. Maybe they were looking at doing a budget-oriented funeral service. There is a concern we hear from time to time about being moved to, so to speak, a Cadillac type of service when they can only afford, despite their willingness to send off their loved one as well as possible, a budget provision. We want to make sure that high-pressure sales tactics and misrepresentation will not take them to some place that they could not afford to go or their loved one would not have wanted them to go in the first place.

I'll give you another example of a practice that will be restricted even further if this bill is passed into law. It will enable restrictions on telemarketing and solicitations that could be considered aggressive or unethical, such as calls to homes for the aged, a practice that I think very few members of the assembly, if any, would support. We want to make sure that these types of solicitations maintain a high level of ethics. There's an example of some of the consumer protection initiatives that are part of the proposed Bill 209.

Secondly, we want to ensure that there is a level playing field between different types of businesses that are in this field. Currently, I don't think anybody in the assembly would argue with the statement that there is an uneven playing field, as we speak today, in the bereavement sector. I'll give you some examples to help us better understand the importance of Bill 209.

I know the member from Stoney Creek supported Bill 209 on its first reading, and I hope that with these examples I'll convince him to continue his support as we go through second reading. I appreciate his open mind.

Visitation centres are currently unregulated because technically they're not funeral homes as defined by the current act, the current act being almost a century old. Unlike funeral homes, visitation centres do not need to be

licensed; they operate in a bit of a grey area in the law. They can be located on cemetery grounds, which confers an advantage to them if somebody was looking to do their entire rite, so to speak, in one place. But because cemetery lands are excluded from municipal property taxes currently, on-site visitation centres are actually tax-exempt. So not only do they not have to comply with the code of ethics and the rules behind funeral parlours, similarly they are also tax-exempt, which conveys a business advantage to them. But consumers using the visitation centres would not have the same types of protections that exist currently for funeral homes. They can offer similar services to funeral homes, except for embalming, but the same protections do not exist.

I know my colleague across the floor was looking to address this in his Bill 54, if I recall—and hopefully he'll be satisfied with the approach today—to make sure that if it's a visitation centre or a funeral home, you'll have high standards, a code of ethics and protections in place for consumers, and that if there's a funeral home across the street on Main Street and a funeral home on a cemetery property, they should pay the same taxes. It's only fair to the business model, that principle of a level playing field throughout this legislation.

If the legislation is passed, we would include visitation centres within the definition of funeral establishment, meaning that just like funeral homes they would have to be licensed, they would have to pay municipal property taxes and they would have to meet the exact same high standards of service and ethics as the funeral service director across the street. Most importantly for consumers, this would mean they could expect the same high level of service regardless of whether it's a visitation centre or a funeral home. Probably for most consumers it's an apples-to-apples comparison. It's only fair that the same high standard of care, the same code of ethics and the same consumer protection initiatives make sure fair dealing results would occur whether it's a funeral home or a visitation centre. For businesses, this means a level playing field in business practices and in taxation, which is something they've been asking for for some time.

Mrs Margaret Marland (Mississauga South): And the same licensing.

Hon Mr Hudak: And the same regime in its approach with respect to licensing, with respect to code of ethics, as I mentioned. I appreciate the member for Mississauga's support on that.

As I said, 100 years or so ago, when the legislation was first introduced, you had the Cemeteries Act and the funeral services act. There are other types of service providers who are not really adequately covered by legislation and hence work in an unregulated environment, which, as I said, can be problematic in a unique and sensitive industry if abuses occur.

Bill 209 proposes to license new groups that operate in this field. For example, marker and casket retailers currently operate in an unregulated environment. Quite frankly, this is a hole in the current consumer protection framework that we aim to correct through this bill. We

believe it is important for consumers to be protected when purchasing caskets or grave monuments, as they are for other bereavement services. It's the goose and the gander argument—

Hon Brad Clark (Minister of Labour): The gander and the goose.

Hon Mr Hudak: —or the gander and the goose—equal treatment. There would be similar consumer protection initiatives when purchasing caskets or grave monuments as there are for other bereavement sectors, because these are similarly large purchases at a very vulnerable time in someone's life.

We're joined by some representatives from that industry today, and I want to commend them and thank them for their work, because the casket-making and grave marker industries have recognized this and have asked to be regulated as services in the funeral and cemetery sectors are, and voiced that through that BSAC consultation process. I thank them and welcome them here this evening.

As I said, for consumers these new licensing requirements will provide assurance that all bereavement supplies and services would be sold by qualified practitioners who meet the professional and educational standards appropriate for their sector of the industry and licensed facilities right across the province.

Combinations and alternative options: the proposed legislation, Bill 209, would set out conditions under which combined cemeteries and funeral homes would be permitted. I talked earlier about visitation centres. This is happening today in Ontario, but it's happening in an unregulated environment with an uneven playing field and a lack of protections for consumers who deal with visitation centres on cemetery properties. Under current legislation, by the letter of the law, it is not permitted to locate a funeral home on the site of a cemetery or to have a crematorium in a funeral home. That's prevented by the old legislation; it says those two must be fully separate business.

As I said, the reality is that in many ways there's a grey area, and this line has been crossed in the name of these visitation centres, which the member opposite had tried to address in Bill 54. In fact, Ontario is currently one of only two provinces, along with Prince Edward Island, that does not recognize and try to regulate this emerging business practice and try to bring protections to consumers. Similarly, by making this change, we bring Ontario's laws in line with eight other provinces and 40 US states and recognize what is happening anyway in the province by providing the proper regulatory framework to protect consumers.

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I mentioned earlier that under current legislation, visitation centres are able to locate on cemetery grounds because, since they're not technically funeral homes under the old legislation, they fall outside a legislative framework. Under Bill 209, while we are bringing visitation centres under the definition of funeral establishments, we are allowing combinations so they can

continue to operate within existing cemeteries. So again, it's an apples-to-apples situation, having the same level playing field and the same types of protections for consumers, whether it's in a cemetery or on Main Street.

Traditional funeral homes would also be able to locate on cemetery grounds or combine with a crematorium or scattering ground on one site. This would help consumers who, in a vulnerable time after a loved one has died, might prefer to make all their arrangements in one place. We would give them that option—

Hon Mr Clark: One-stop shopping.

Hon Mr Hudak: —one-stop shopping, as the member from Stoney Creek describes it—but, under that option, a regulatory framework to protect them at this vulnerable time.

Importantly, the proposed legislation would, with some exceptions, prohibit what is known as tied selling. Tied selling, which we deal with in consumer protection legislation on a regular basis, is a practice whereby consumers have to purchase a package in an all-or-nothing proposition to them.

Hon Mr Clark: That doesn't seem fair.

Hon Mr Hudak: It doesn't seem fair. In fact, we have complaints about this where somebody who is buying a service is told they can only buy the gravestone from a particular site, and if they don't buy the gravestone from that site, there's an additional administrative fee put on top. We don't agree with that.

Hon Mr Clark: That's shady.

Hon Mr Hudak: Well, it's an unfortunate practice, because it doesn't give consumers full knowledge and full choice as to where they can buy the services for their loved one.

Let me give you an example: a cemetery might expand into also providing grave markers, but the cemetery would not be able to refuse to install or accept a marker from another company. If the legislation is passed, they cannot tie the consumer's hands so that he or she must buy the grave marker from that particular cemetery. We want to give consumers the choice to deal with an operator they're most comfortable with and will get the best quality and price from. If the consumer wants to buy a grave marker from a shop of great reputation that has supplied the family for generations or shop for one that offers a better price or quality, he or she would be able to do just that if this legislation is passed.

Prepaid services: increasingly, people want to make arrangements for their own funerals while they are healthy, because frankly they want to avoid burdening their loved ones at some future date; in fact, that's often recommended by people in this field. It's a difficult decision for your loved one to make in grieving one's loss. Often it's encouraged to try to make those arrangements ahead of time to relieve that burden and also to give an indication of what type of service you would like once you pass away. The proposed legislation would protect the rights of people who want to pre-purchase bereavement products or services.

It would also provide a 30-day cooling-off period for consumers who purchase goods and services. So if they felt they were a victim of a high-pressure sales tactic or, on sober second thought, changed their mind within the cooling-off period, they would be able to get out of that deal, no questions asked—for example, if they had second thoughts about one of these prepaid package deals. The proposed cooling-off period is consistent with rules set out for other prepaid services in our companion package, Bill 180, the brother of Bill 209, which also has cooling-off periods.

Hon Mr Clark: CP21.

Hon Mr Hudak: CP21, exactly; consumer protection.

The bill also provides for new trust requirements. The money a consumer pays would have to be held in trust by the service provider, so that if the company goes out of business and can't make good on the contract, the consumer's money would not be lost. It would come back. It's a very important protection, because this could be a substantial investment for someone. If it cannot be conferred by the contract, it would come back through the trust requirements.

In addition, this bill provides for the resale of grave plots or scattering rights. Scattering rights is an evolving practice—it has existed for a while, but it is evolving; for example, if you were cremated and you preferred your ashes to be scattered in a particular area or scattering ground. In this bill we contemplate the ability to resell that plot or scattering right at market value. The fact of the matter is, unfortunately, under the current legislation in the province today—not this bill; the existing legislation—if you bought a grave plot 20 years ago and you moved or changed your mind and you were to resell it today, you would only get back the price of what you paid 20 years ago. It's not fair. You would lose out on the inflationary value. You would have put the money into that 20 years ago but only would receive, say, \$1,000 back, but if you had invested that money or bought it today, it would be worth, say, \$2,000.

We are going to remedy that under Bill 209, if passed, to make sure that consumers would get the purchase price in modern prices if they chose to change their mind in this type of prepaid service. Even if they bought it 20 years ago, they would get the current value of that asset. I think that's only fair.

Disclosure: under the proposed Funeral, Burial and Cremation Services Act, 2002, consumers would have more information about the choices available through the disclosure and consumer education requirements. We want to make sure—I talked about this a bit earlier and, as I said, I think that the vast majority of funeral service and cemetery providers, monument retailers and such are very honest, legitimate dealers who look out for consumers' concerns, but we shouldn't be shy from admitting the fact that we do get complaints about this to the ministry or to the board from time to time. Anecdotally, we've heard the same thing.

For example, to get to the point, we want to ensure that consumers are not shown only the most expensive or

gold-plated packages or services, which can make them believe that it's the only package available or that the loved one would have wanted it that way. It's unfortunate, but we do receive concerns in this area. We want to make sure that if the budget of the family is at a certain level, they will be provided with information that would fit within that budget. Secondly, as I said, prepaid services—an indication through prepaid services as to what, for example, I would want for myself as I pass away: we want to make sure that full information is provided so that you know the full array of services at hand as part of the grieving service.

The bill also includes ownership disclosure, because quite frankly sometimes several different establishments are owned by the exact same company under a corporate structure. When a consumer shops around and finds prices are similar, they may assume that's what it costs. Or if they're referred to another service, they might assume that's what it costs. We want to make disclosure part of the business across the board so that consumers know who they're dealing with, and if the company they're referred to, or if they're shopping around, is owned by the same corporation, or if true competition exists in the sector or in their municipal area.

The bottom line is, we want to make sure that consumers understand the range of options that are available to them. Under this bill, consumers would be given an information brochure and, for example, a telephone number of the provincial regulators of bereavement services, so they could ask general questions about consumer rights and the obligations of the businesses, to make sure they're getting a fair deal and a fully honest representation of the options that they have available to them.

Regulations under the proposed legislation would make easy-to-understand information available through brochures and standardized price lists, to quote a couple of vehicles for doing so. I think we all believe the more information consumers have about the options available to them, the more likely they are to make decisions that reflect their preferences, the preferences of the deceased, their budget, and their religious or cultural traditions and beliefs.

Compensation funds: under Ontario's proposed new legislation, an industry-funded compensation fund that includes all sectors—I mentioned the different sectors—would be established and applied to all goods or services purchased but not delivered. Currently, only funeral directors are included in such a compensation fund plan. They already have one, but the other sectors currently do not. So insolvent cemeteries, for example, become the responsibility of municipalities, and casket and marker activities, those businesses, those retailers, are currently unregulated.

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Under the proposed legislation, if passed, consumers would be compensated for financial loss if goods or services are not delivered in any and all of the licensed sectors, including cemeteries and casket and marker retailers. Instead of only funeral services, it would go

across the board into the four types of sectors—or more, if they develop as culture evolves. We want to make sure that at this sensitive time and with a substantial investment the consumer is totally protected. Whether dealing with a funeral home, a cemetery, a monument builder, a casket maker or a transfer service, we want to have a high level of protection for consumers and a high code of ethics and, in this part of the legislation, a compensation fund to make sure that they are not out funds in this type of investment. For example, if the monument retailer goes bankrupt before completing a headstone, the consumer would be compensated for that monetary loss and buy that headstone from another retailer that can make good on what the individual wants for the deceased. It's very good. It's an important provision and probably a lot of us were surprised—I was—to know that it currently does not exist in the province of Ontario, which goes to the earlier point that it's time to update this piece of legislation.

Code of ethics: under current legislation, only funeral directors in the province are required to adhere to a code of ethics, offered to ensure the protection of consumers and service providers alike. This bill, if passed, will include a provision that all bereavement service providers would be obliged to comply with a code of ethics which I, as minister, would like to see raised across the board. As I mentioned, currently some areas are unregulated, and to their credit they want to become part of this approach and to bring forward a code of ethics to reinforce confidence that people have in this particular industry.

Under this proposed code of ethics, all industry members would have to provide the same high standards. If not, if they were caught giving improper service or—hopefully not, but it could happen—taking advantage of consumers, they would face redress from the regulator.

This would ensure first and foremost that human remains are handled and treated with the respect they deserve and dignity and care across the province and throughout the industry.

A strict code of ethics would also help to protect consumers from unconscionable business practices, such as misrepresentation and high-pressure sales, while protecting quality service providers from the poor reputations earned by bad operators. And it would help create a level playing field, because all licensees would have to abide by similarly high standards across the board.

I know my colleagues here are going to regret the next word I say—"conclusion—but I do have some—

Hon Mr Clark: I'm not sold yet.

Interjection: It's too soon.

Hon Mr Hudak: I haven't sold—it's too soon? Well, maybe throughout the debate I'll have time to add some more comment.

Hon David Young (Attorney General, minister responsible for native affairs): Hear, hear.

Hon Mr Hudak: I appreciate it, but I know that some colleagues of mine, esteemed colleagues who have done a great deal of research in this area and feel strongly

about representing their constituents, like Mr Wettlaufer and Mr Gill, may be among others who want to contribute. But I want to wrap up.

The Ernie Eves government believes that promoting development in Ontario's bereavement sector is crucial to being able to offer protection to consumers in the bereavement industry. To summarize, this proposed legislation would support honesty in business dealings, encourage a wide and appropriate variety of services on the market, provide consumers with information on prices and services to make proper and appropriate decisions, and ensure quality services at prices that are fair to both consumers and suppliers.

As I said, bereavement is a topic that not all of us are comfortable talking about, but at some time or another all of us will experience the loss of a loved one, and we will need to rely on the advice of professionals in this sector to provide us with these services.

Our government wants to ensure that we have efficient, up-to-date legislation so that, when the time comes, there are strong protections in place so that consumers can be dealt with honestly and fairly, not only now but into the future.

We also want to ensure that the businesses in this sector—and many of them are small businesses throughout the province, located in communities across Ontario—can grow and expand within a fair, level playing field and modern legislative framework, with a high degree of ethics across the board. As I mentioned, some sectors currently unregulated, to their credit, want to get into this type of framework to help raise the code of ethics across the board.

Through the hard work of my predecessors, the work of the Red Tape Commission and from good advice of the Bereavement Sector Advisory Committee, we have been able to reach a consensus between industry, consumer groups and government on these principles reflected in Bill 209. This bill, I can say with confidence, reflects that consensus.

The principles of strong consumer protection, of a level playing field for business, are consistent with those set out in our general consumer protection package, Bill 180, CP21. These proposed reforms to the grievance services sector are a sister bill to that proposed legislation, and I can say that together Bill 180 and Bill 209 would bring our consumer protection laws into the 21st century and provide some of the strongest, most effective consumer protection not only in Ontario but in the entire country.

Mr Wayne Wettlaufer (Kitchener Centre): I am very pleased to be able to speak to the proposed Funeral, Burial and Cremation Services Act, 2002. I know you share something in common with me. You have a great deal of sensitivity to people who need protection in times of stress, in times of need, and that is what this legislation does.

This legislation, as you've already heard from the minister, replaces two statutes: the Cemeteries Act and the Funeral Directors and Establishments Act. It has four

main goals: to strengthen consumer protection, to establish clear rules under which funeral home operations will be permitted with combined cemetery operations, to foster a level playing field for industry participants, and to enable the creation of a single regulatory regime.

Interjections.

Mr Wettlaufer: There are a number of benefits that we need to address, and I'm having a hard time hearing myself speak because of the nonsense going on around here. But that's all right.

Our government has made a commitment to the consumers of Ontario, and that is what this legislation addresses. The reforms to the bereavement legislation before the assembly today are another part of the most comprehensive review of consumer protection legislation ever undertaken in this province. The reforms are sweeping but they have not been developed in isolation. Consumers, sector participants and all businesses alike have been asked for input and they have asked for reforms to accommodate a 21st-century business environment.

Stakeholders have given significant output. We are trying as a government to find a balance, to find practical solutions that will balance industry and consumer interests. We had input from the Red Tape Commission, plus we had input from the Bereavement Sector Advisory Committee, and it all forms the foundation of this act. We are confident that the proposed legislation is based on stakeholder consensus.

I personally find it a little bit difficult to think of anything more emotionally charged than making preparations for my own passing or for the passing of a loved one. I was in the life insurance business as well as the property and casualty business and, when selling a life insurance policy to a family, because it is usually the family that is involved, first of all no one wants to think that he or she is going to die, even though mortality is real. No one wants to think of a loved one dying. Least of all do they want to think of someone dying before his or her time. It's an emotionally charged item.

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What happens quite often is that consumers will make their first foray into this industry at a time of bereavement, at a time when they are vulnerable. So what happens? Because of their vulnerability, they then make a financial commitment, a commitment (a) that is significant and (b) that is not one they may be fully prepared to handle. The financial commitment that someone makes when discussing a funeral is the fifth largest purchase that one will make in their lifetime. The average cost of a funeral is about \$5,700. Considering that many people have less than \$5,000 life insurance, they then have to go into their pockets and sometimes don't deal with that properly and they will purchase something they can't afford.

The consumer expects that we will strengthen his or her protection, that we as a government will strengthen the protection of the consumer. The consumer must feel secure that we have put in place the necessary mech-

anisms to protect them when they make the crucial decisions regarding bereavement arrangements. Consumers need to feel secure that they have the means by which to change their bereavement arrangement if the situation changes. Consumers need to feel secure that their financial investment will not be squandered. They need to feel secure, period. I believe this act does provide that security.

Most members in the bereavement sector, whether they be funeral dealers, whether they be—well, whatever segment of the bereavement sector, they deal with their clients in a very respectable and honourable manner. In fact, I have to tell you, in my riding I can't think of one who wouldn't. They're all honourable people. But I have heard of instances, as I'm sure we all have, that throughout the province there are some situations in which clients have felt they haven't been treated honourably or that through mistakes they feel they haven't been treated properly or that there are those who confuse consumers deliberately, or not necessarily deliberately, or perhaps there have been those who through poor management did not deliver the product or service as the consumer expected.

What we've done with this act, the proposed act, if passed—and I would like to think that it will be passed. I cannot believe that the members opposite would not vote in favour of this.

Mr Rosario Marchese (Trinity-Spadina): Come on. How do you know?

Mr Wettlaufer: I say to the member for Trinity-Spadina, I know there is a possibility that there will be members opposite who will say they're going to vote for it and then won't vote for it, who may speak in favour of it and then vote opposed. On the other hand, they may speak against it and vote for it.

Mr Marchese: Who would they be?

Mr Wettlaufer: If Dalton McGuinty were to appear in the House, it may be that they will speak against and for, and vote for and against. That is a possibility. I'm saying that.

But I do say that I really do believe all of the members will support this, because this bill prohibits unfair business practices; it increases disclosure requirements; it allows for mandatory 30-day cooling-off periods with expanded cancellation rights; it permits consumers who hold interment and scattering rights to sell rights that they no longer require; it expands trust requirements for pre-paid services; and—this is very important—coming from a profession in which we had to maintain a trust account for the benefit of the consumers, I see this as a very valuable part of this bill: consumers must be protected financially, and only a trust account can do that.

This bill also licenses sector participants, who were previously unregulated—specifically, casket and market retailers. It provides that all licensees must comply with a code of ethics. Whereas right now funeral directors are subject to a code of ethics, this act will require all those in the bereavement sector to abide by a code of ethics. It guarantees consumer compensation schemes that will include all sectors that are regulated.

The proposed legislation will protect consumers through all phases of the bereavement arrangement. This would start with the decision-making process, it will continue through the contract process and then, of course, finish with delivery of the commitments governed by the contract.

The first step in protecting consumer interests, of course, is to prohibit unfair business practices. Falsifying information, false advertising and the furnishing of false information will all be prohibited, and there will be very stringent penalties in place. The proposed legislation will give power to control current advertising, and also regulations will be in place that will require advertising to be pre-approved before publication. No false advertising will be permitted.

An informed consumer definitely is the best defence against unfair business practices, so obviously disclosure requirements are part and parcel of this legislation—including, of course, ownership disclosure. Educational brochures and standardized price lists are mandatory. They're part and parcel of the disclosure requirements. Licensed operators will be prohibited from selling at a cost that is more than the price indicated. "No surprises" will be part of this legislation; no additional financial burdens for the consumer.

I think all of us in this House realize that no matter how carefully a consumer may make a decision, no matter how carefully the element of the bereavement sector has tried to make the consumer aware, nevertheless there are situations in which the consumer may want to change his or her mind. That could be a function of his or her emotional state at the time; it could be a relocation of residence if a pre-arranged negotiation has been made; it may be a function of a change in the financial circumstances; or it may be a function of a new interpretation of the loved one's last wishes. I think we can accept that. We can appreciate that. We have to be willing to accept that consumers may want to change their mind about how they want to proceed. I think if we had legislation without a remedy for these situations, it would be incomplete legislation.

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The act will accommodate this changeable nature. It will ensure appropriate protection nevertheless for members of the industry. The proposed legislation takes the human factor into account. There will be this 30-day cooling-off period and expanded cancellation rights for the consumer. But the consumer must realize that, with any expenditure on his or her part by the member of the bereavement sector, there has to be some allowance that the bereavement sector be reimbursed for that. The consumer will be able to rethink the decision, fitting in with his or her financial constraints or personal beliefs, but the member of the bereavement sector nevertheless would have his financial obligations satisfied.

The purchase of licensed supplies or services by an individual other than interment and scattering rights may be cancelled at any time before delivery—however, less the prescribed amount that could be compensated to those businesses.

Stakeholders identified to us a need for flexibility in certain areas of contractual obligations. They gave as an example someone who has purchased prearranged services, but even though they planned their funeral—not just the funeral but the scattering rights or the burial; they did everything they thought was right—they may decide to move, for whatever reason—for economic reasons or for other reasons—to another city. Therefore, they are in a position of having to change their mind for their bereavement arrangements.

The new legislation would allow for routine life changes like that. It would permit someone to sell their interment or scattering rights to a third party if they no longer require them, unless the cemetery bylaw prohibits such a sale. In instances where resale is prohibited by a bylaw, the cemetery owner would then be required to repurchase the rights from that rights holder, in accordance with this legislation.

Protecting consumers must extend well beyond the decision-making and transitional phases. This is where I get into the trust fund process. It is so necessary to have the trust fund in place. It ensures that consumers are not only being protected during the initial transaction but also in the future when obligations of the contract must be honoured.

Licensed operators will have to maintain trust accounts. Money received by an operator in respect of sale of supplies and services in advance of the provision of those supplies and services will have to be held in a trust account. The monies must be held to protect the consumer. Cemetery operators who sell interment rights or scattering rights, especially with respect to a part of a cemetery that is not yet developed or ready to be used for interment or scattering purposes, would also be required to hold that money in trust, the money received from sales.

Cemetery owners who sell interment rights or scattering rights would be required to establish and maintain a care and maintenance fund to ensure the proper care of cemetery lands and their markers and structures. Again, this is protection for the consumer which was recognized by the stakeholders. Legislation that doesn't protect consumers or legislation without teeth that does protect consumers is not legislation. Legislation, as we all know, must have teeth, and this legislation does.

As I mentioned earlier, licensing is part of it. Regulation of the bereavement sector, which now includes licensing, will cover cemetery operators and their sales representatives, crematorium operators and their sales representatives, funeral establishment operators, funeral directors, transfer service operators and their sales representatives, casket retail business operators and their sales representatives, market retail business operators and their sales representatives, and on and on. Of course, they must all comply with a business code of ethics.

The Acting Speaker: Members now have up to two minutes for questions or comments on the government's leadoff debate.

Mr Bruce Crozier (Essex): I'll be having more to say on this particular bill as we move into our leadoff, but it

was interesting to me that the member for Kitchener Centre would assume without any reservation that we would support this bill. That's not always the case. That would assume that somebody has written a perfect bill, and that would also assume, then: what's the point in having debate?

This is a very interesting bill. There's no question about it. It isn't often that we deal with consumer issues in this Legislature that involve death, that involve the funeral business, that involve cemeteries.

I just wanted to say to the member for Kitchener Centre that there may be, and in fact I think we will point out through debate, some areas in this bill that can't just simply be accepted because the member says we should. Absolutely when it comes to consumer protection in this very sensitive area we're all interested and we all want to do the right thing. But that doesn't simply go to the point that because the government is presenting this we should do it without any issue. So I suspect, as we get on in the debate, it may even surprise the member for Kitchener Centre that there are some issues that we will take the government to task on. There may be some areas that we'll ask the government to consider doing in a different way. So I just ask him to be patient. When the debate is finished, I'm sure we'll all have the bill that we want.

Mr Marchese: I do not want to make light of a very serious discussion here, but I must confess: funeral, burial, cremation services are not subjects around which I ruminate much. I do have to say that I concern myself more with matters of the living than I do with matters of the dead. I must also confess that I personally rage against the dying of the light and I do that as best as I can, as often as I can, because I enjoy being awake and being alive. I've got to admit that. So one could spend more time on these matters, and others do—God bless them—but no doubt there are matters that other people raise with respect to this bill.

People worry about the imposition of new charges, fees or levies for small congregations. I'm sure they're concerned and they probably talked to you about it. They're worried about the imposition of new administrative burdens and personnel qualification requirements on volunteers. They probably talked to you about that, and I don't know how you deal with those issues. I suspect you're not dealing with them in the bill, but maybe in regulation, and I'm not quite sure whether people feel comfortable about whether you're doing that or not.

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They're worried about any provision that might lead to new property taxation. That would certainly be an incredible burden. Some would love to make sure funeral services at least are kept within family control versus corporate control. Maybe you heard about that. I don't know what you have to say about that.

I'm personally concerned about having a consumer watchdog, of which you speak much about, in terms of protecting consumers. I argue that unless you have a consumer watchdog out there, I'm not sure consumers

will be supervised very well or protected very well. That's why we need hearings.

The Acting Speaker: The member for Mississauga has been on her feet for the better part of half a minute. I gather it's because you'd like the floor.

Mrs Marland: Yes.

The Acting Speaker: Please go ahead.

Mrs Marland: Thank you very much, Mr Speaker.

I just want to take the opportunity to emphasize my personal appreciation and that of my constituents for the fact that Minister Tim Hudak has finally brought forward a bill that has been needed for a very long time—I would suggest through two previous governments and realistically through the government before the last two governments, going back to our own government.

This is obviously a very complex subject. When we talk about making decisions in this place on behalf of our constituents and their well-being, I doubt there can be anything that's more important than this subject area. I would be very surprised if anyone in this Legislature would vote against this bill, recognizing there is, and has been for a very long time, a need for protection of the consumer.

The interesting aspect, as the minister so well explained, is that the whole approach to funeral services and the accompanying parts of that—whether we're talking about monuments, caskets, cremation or cemeteries; everything to do with what happens to our loved ones on their demise—is a critical personal responsibility for each of us within our families, but certainly as legislators we have an enormous responsibility to serve the public, and this bill does that.

Mr Michael A. Brown (Algoma-Manitoulin): Up front, I have to say to the Legislature that I potentially have a conflict of interest. I am a licensed funeral director, although I have not been involved in the business for approximately 16 years now.

But I want to say, first of all—and members might not remember, but the member from Mississauga South would not be surprised that I remind her—that there was a funeral directors' act passed in the late 1980s with the support of all the members of the Legislature.

I want to suggest to the Legislature that probably the problem is not with the funeral directors. This legislation is not directed at funeral directors. Funeral directors conducted about 83,000 services in Ontario last year. Of those 83,000 services, do you know how many complaints there were? There were 26. Of the 26, half were made by other funeral directors. In other words, families in Ontario complained 13 times out of a possible 83,000 times about the funeral directors in this province.

I would suggest that families in this province have been well served by funeral directors. We have many women and men who have devoted their lives to helping people through one of the most difficult stages in anyone's life, losing a loved one, and they turn to funeral directors. And people might know, or might be surprised, that at the time of the loss of a loved one, when families are asked who was the most helpful person who got them

through this dark stage in their life, they name the funeral director. So I think what we need to understand here is that this is not about funeral directors.

The Acting Speaker: The time for questions and comments has expired. Any one of the members who gave the leadoff debate may respond, up to two minutes. Minister.

Hon Mr Hudak: I appreciate the comments from my colleague Mr Wettlaufer and my colleagues from across the floor. In their two minutes, we'll look forward to their discussion. Certainly, this industry, as I indicated, is very complex, a great deal of history and tradition, and at the same time, we're seeing the face of Ontario change, the culture evolve in the province. That's why it's important to bring this legislation forward.

As the member from Algoma-Manitoulin mentioned, the last kick at the can, so to speak, I think, was 1989. I believe his colleague Mr Kwinter was minister at the time, if memory serves, and brought forward some important changes to modernize the legislative framework. If Mr Kwinter has a chance to comment on this legislation, I'd enjoy hearing from him as well.

The member for Algoma-Manitoulin makes a fair point. The funeral services industry, as I indicated in my remarks, has a code of ethics, and they have a board to ensure that code of ethics is maintained. They also have a compensation fund. The issue, I mentioned in my speech: they don't exist in other parts of this sector—but the entire rite involves a funeral, often a cemetery or cremation, monuments, as well as casket retailers, all of these areas. We need to ensure as a whole that where the loved one has passed on, the family member will be assured of those similarly high standards, or that even higher standards across the board will exist for consumer protection.

Similarly, in the business practices, it will level the playing field so that opportunities that exist currently only for cemeteries will be available to funeral service directors, for example, and vice versa but on a level playing field with similar rules. As I said, to the credit of the other industries that are not currently as tightly regulated—for example monument builders, casket makers—they want to get involved, they want to ensure that those high standards are throughout the industry, and they want to ensure that consumers have the opportunity to find redress if not dealt with properly. They deserve that credit; they were part of the process. I want to thank, again, Bob Youngs, who is here from the Ontario Monument Builders Association, joining us here in the gallery—from Niagara, may I add, importantly.

The Acting Speaker: The time is now upon us for the leadoff debate of the official opposition. The Chair will recognize the member for Essex.

Mr Crozier: I'm pleased to rise this evening to speak to this bill, Bill 209, An Act respecting funerals, burials, cremations and related services and providing for the amendment of other statutes.

I want to say at the beginning of the debate that in the abstract this legislation, this Bill 209, has to stand up to

the same test that any other piece of legislation must stand up to: on first reading, the bill is introduced. We then have the opportunity to review the bill, all of us, government members, members of the opposition and members of the third party. Then, second reading of the bill, which we are standing on tonight, is to debate the principle of the bill, and I don't think that there is much argument as to the fact that if the principle of this bill is to protect consumers, we all want to reach that end at the end of the debate.

There may be, though, differences of opinion on how we do that. This is one piece of legislation, I suggest, that is not partisan in nature. It isn't a philosophical bent of any particular party; we all want to do the right thing. But I remind a couple of members from the government side who have insinuated that we should accept this bill and adopt it and not be opposed to it that we're not opposed to the principle of the bill. I can go on record as saying that. What we might be opposed to is how you're arriving at that principle.

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Of course, in the legislative procedure, what we do then is debate the principle at second reading. It then is normally sent off to committee, hopefully for some public hearings, because there have been stakeholders who have had the opportunity to have input into this bill, we are told, but I'm not so sure those stakeholders included the general public. Once they learn more about this bill, they may have something to say about this. So while it's at committee, it's hoped on our part that there would be public hearings on it so that the public could understand what it is we're talking about. Then after those public hearings, at committee, the right thing to do is to consider amendments to it, to make that bill better, if that's what we can do. Then it comes back to the Legislature for third reading so we can debate the bill after it has been amended.

I'm going to make a prediction that if this bill comes back to the Legislature after second reading, and in fact I'm going to make a suggestion that even before it goes to committee, if the pattern is followed that has been followed in this session in particular, this bill will in all likelihood be time-allocated. In all likelihood, it will have limited committee hearings—I hope that it has public hearings but I'm not optimistic about that—and in all likelihood will be brought back to the Legislature and have no third reading debate.

The Acting Speaker: I'm sorry to interrupt you. Could you take your seat for a second? I know no one is doing it deliberately, but there are two discussions going on on both sides of the House involving people standing and congregating. For anything more than a moment or two, please go outside, because it is very distracting for the speaker on the floor and the Speaker in the Speaker's chair. I appreciate your co-operation. Thank you.

Sorry for the interruption. Please continue.

Mr Crozier: Notwithstanding those predictions, I want to get on with the debate of this bill. I would hope that the government members who have suggested we

support this out of hand will take into consideration some of the issues we have to bring up on this Bill 209.

This bill repeals the Cemeteries Act and the Funeral Directors and Establishments Act and replaces them with one statute. The act will be administered by the Board of Funeral Services.

This bill is going to cover a wide range of issues. It's going to cover the licensing of funeral service providers, consumer protection, trust accounts for cemetery maintenance and prearranged funerals. It's going to cover compensation for consumers, the establishment and closing of cemeteries, and the investigation and discipline of licensees.

To give you a little bit of background about this particular bill—and my colleague from Algoma-Manitoulin referred to some of this—there are approximately 500 funeral homes in Ontario that conduct in excess of 80,000 funerals every year. The average cost of a funeral is \$6,000—probably one of the major expenses any of us will face as we go through life and as we care for our loved ones. Probably next to the purchase of a home and automobile, funeral expenses are next in the major expenses that we will incur.

As my colleague mentioned, of those 80,000 funerals last year, there were a little more than 20 complaints to the Board of Funeral Services, and half of these complaints were from one funeral home to another. So one would ask, what's broken, what's the problem when we have so few complaints out of some 80,000 funerals? Well, perhaps because of the sensitivity of this issue, the bereavement process, what families go through, we might say there isn't perhaps a lot to complain about. We generally deal with, in small towns certainly and I would even suspect in major urban centres, people we know, and we trust those we know. Therefore that's a good enough reason that most, by far the greatest percentage of, funerals that are conducted in this province are carried out and completed with little complaint.

Funeral homes and cemeteries have been governed by two separate acts for over a century, and the legislation governing funeral homes has been, in the past, very stringent. Funeral directors are licensed, and they go through a two-year college program before working in the industry. Legislation, as we have it today, prevents funeral homes from operating on the grounds of cemeteries, for example, in order to prevent monopolies.

However, over the past few years, large cemetery operators have opened visitation centres on cemetery grounds. Essentially, a visitation centre is a funeral home without a preparation room. Some of these large cemetery operators have expressed a desire—and maybe even some of the small ones, although not any I've heard of in my area, where it's small urban and rural—to have funeral homes as part of an overall service and that they might be located on cemetery grounds.

The new legislation will give cemeteries the ability to build funeral homes on the cemetery grounds. This will create, in my view, the opportunity for the funeral business to become much larger than it has been in the

past. In fact, many of us may know of a particular large funeral operator in both the United States and Canada—and I look to my friend from Algoma-Manitoulin—the Loewen Group operated in both countries? Yes. They have in fact run into some financial difficulties. So just because it's a large operation that provides a significant service, it doesn't mean that they can't run into some of the problems that some of us might think smaller operations could.

Some specific details in the legislation: the bill requires the licensing of cemetery operators and sales representatives; of crematorium operators and sales representatives; of funeral establishment operators and funeral directors—who have, I pointed out, had to be licensed in the past—of transfer service operators and their sales representatives; of casket retail business operators and their sales representatives; and of marker retail businesses and their sales representatives. So in each of these cases, as I've said, there are sales representatives involved, and therefore we do need consumer protection. There's no question.

Purchasers will be entitled to cancel a contract at any time if the specified requirements of the contract are not met. A 30-day cooling-off period for prepaid services, for example, will be required. All monies from prepaid services must be held in a trust account, as it has been in the past. I do not know of—certainly none that have come to me in my constituency office—anyone who has dealt with prepaid services that were required to have trust accounts, who lost any money. There may be examples that others in this Legislature are aware of, but I'm not.

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The board of funeral services will have certain powers over casket retailers and sales representatives, as I've said, of transfer operators. What's been the stakeholders' reaction? The government has said it has consulted widely on this issue, and there were a number of stakeholders, certainly from the retailer side and various religious organizations, who have had some input to this. Again, I'm a bit concerned—and it's a difficult thing to do—that the general public has not had the opportunity to have any input to this. Private funeral home operators are concerned, I can tell you, as they feel this legislation will allow large monopolies to take over the business.

The faith groups are concerned that the imposition of new charges, fees or levies will have serious consequences for small congregations, mosques, synagogues and parishes that operate small cemeteries. There are cemeteries in this province that have as few as a dozen or two interments a year, totally unlike the large cemeteries in a metropolitan area; for example, like Mount Pleasant, where they have thousands of interments each year. These small cemeteries have to be assured that they won't be put into the same category as some large operator.

The faith groups are also worried about the imposition of new administrative burdens or personnel qualification requirements, as much of the work is done by volunteers.

We have to take these smaller congregations and smaller groups into consideration, because there are many of them around this province, I would suggest, particularly in the areas where the population is much more sparse; for example, in northern Ontario.

There's also a concern about any provision that would lead to any taxation issues. We wonder, for example, with these thousands of cemeteries around the province and with over 500 funeral home operators in the province, who really is going to go around the province and make sure that all these licensed companies and licensed individuals are following the letter and the spirit of the law. It costs money to do that. This is where the smaller operators are concerned that the fees involved with this will be particularly onerous on them. Under those circumstances, I suspect you're going to have to wait for a complaint. I expect that since a funeral service isn't a purchase that people make very often in their lives and is one that's made without a great deal of research, complaints might not be forthcoming. So the law might not be followed, and the complaints may be few, as we know already they are. So how is this legislation going to be administered and monitored so we can be sure, notwithstanding the fact there may be a complaint, that the consumer is being treated fairly?

Often in this situation and in many others, people really don't know whether they have been duped. It seems that most often it's on the consumer to report any shady or manipulative tactics, just as he or she would complain about a bad wiring job at home. I'm not trying to trivialize this at all in making that comparison, but it's just the kind of service we don't hear a lot of complaints about.

We know, for example, that the Association of Municipalities of Ontario is not happy with the legislation as it's presently proposed. They're concerned about the fact that cemeteries and all of their related expenses will become the responsibility of municipalities if they're abandoned by their operators and the municipalities will receive no compensation for that. At the present time, I am told, municipalities in Ontario operate 47% of the cemeteries, and they're concerned that this board that's going to be formed to oversee this legislation will not reflect the interests the municipal stakeholders have in the operation of these cemeteries that are abandoned.

So although we, again, appreciate the sensitivity of this legislation, there are some facts, some real concerns about the bottom line, the costs of them. The legislation is not endorsed by all the stakeholder groups who were involved in the consultation on it. As I pointed out, there may be some serious repercussions for faith groups, private home operators and, yes indeed, the consumer.

I hope through the debate on this issue that we can be better informed about how the changes came about, but it would appear that it may be more the interests of large operators that are being served by this than it is of small, independent and volunteer workers in this market.

The legislation, as it's written now, doesn't create a level playing field, in my view, as the cemetery owners

and funeral home owners are at the present time subject to totally different tax issues. We would, again, hope that this might be addressed throughout the discussion on this legislation.

We're told that the government started consultations on this legislation about three years ago. They've put forward a bill that in some instances we think creates more problems rather than solves them. In a letter to Minister Hudak dated September 20 of this year, the Canadian Federation of Independent Business states, and I quote, "Our reading of the legislation is that there are areas where it does not respect the agreement of principles put forth by the Bereavement Sector Advisory Committee to your predecessor" of Minister Hudak in some correspondence in November of 2001.

We suggest to the government that although you've taken several years to come up with changes to the legislation, which hasn't been dealt with in the last 12 or 13 years, you apparently disregarded many of the recommendations you were given. Smaller stakeholders, like the faith organizations and small municipal cemeteries, were initially, we are told, left out of the discussion. That again goes to the fact where I wonder who the driving force is behind the changes in this legislation.

Currently, it might be of interest for you to know, Speaker, the top 10% of cemeteries in this province make most of the money. Soon, we feel, they could be taking an even greater share of that from independent operators.

We feel that this legislation, as it's currently written, is a threat to smaller funeral homes. Allowing funeral home operators' involvement with commercial cemetery operators will, we think, result in large corporate monopolies. As I alluded to a little bit earlier, at least in my experience in small, urban and rural Ontario, we're used to dealing with independent funeral directors and operators in our own communities. Many of these operators, if not all of them, are involved in their community. They're part of the community. It's more than just a business; it's really a service to the community. We don't want anything in any legislation that would be a threat to those smaller funeral homes and operators. If smaller, independent funeral homes become no longer viable, consumer interests will in fact be put at risk. That's the way we feel monopolies work.

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In this bill, there are a number of problems. There's still not a level playing field when it comes to taxes. Private sector funeral homes, monument builders and retailers must all pay taxes levied by all levels of government. I have had, for several years, the example a small, independent monument maker who, because of the nature of his business—he is independent, separate from any faith group or cemetery—must collect provincial sales tax. Yet, if you are involved with a faith group or a cemetery, you don't have to pay provincial sales tax—maybe not much of an advantage. I would suggest that if we were going to resolve that, perhaps we could take the view that there shouldn't be any provincial sales tax, whether it's small independent operator, a faith group or a cemetery.

Private sector funeral homes, as I said, are concerned about the taxing issues. Municipal cemeterians who engage in the same business, however, may not be presented with these issues. If you're talking about markets and fairness and making things equal for all players, then surely we have to take all of them into consideration and treat them the same. If not, we feel that you're continuing or ensuring the continuation of a group that gets some kind of special treatment, one that can keep costs down, compared to someone else. So this is something that we feel should be addressed before this legislation becomes law.

When we're speaking of taxes, crematoria, in this legislation, will not have to pay taxes for five years after it's enacted. I understand that rather than suddenly creating a tax issue, it's an effort to allow this to be brought in over time to ease that burden. But in the meantime, does that treat others who are involved in the business fairly? That is something that deserves some second thought. It presents an advantage, for example, over any new business that might wish to start up. You seem to be favouring the older business at the expense of the new, even as you say you wish to increase consumer choice, but there won't be that consumer choice because one will have advantage over the other. It hardly encourages consumers to choose the small crematoria that starts up and is forced to charge the taxes which therefore make the prices higher overall.

Greater consumer choice is usually a good thing, but we have to be careful not to surrender ourselves to the cult of choice and market forces. In the circumstances surrounding a loved one's death, when a family is confused and vulnerable, the family doesn't exactly fit the classic definition of informed consumers. They're not going to go out, at least not usually, and compare quotes, and those few that do don't represent the majority. As I mentioned earlier, most often I think they go to those whom they trust and whom they know. If they're not in a position to do that, then they may do what appears to be the easiest thing and go to the one that offers the least hassle.

That's why we need greater consumer protection—and I agree with the minister on that view—in this industry, because at that time, consumers are not always able to think in the most clear terms. We feel that this bill, in its present form, doesn't offer that. The bill makes it easier for large corporations to take over in the marketplace. They can offer you—I almost hesitate to use the words "one-stop shopping," but that's what it is—one-stop service. If we allow them to have funeral home, cemetery and monument service all wrapped up in one package, we feel that might not be in the consumers' best interests when they're making a decision at a time when they're the most vulnerable.

We feel you really can't treat the bereavement industry like any other industry. You can use formulas, and you can do everything from fines to licensing to advertising, but we have to understand that there are unique characteristics and requirements of this sector.

As we've pointed out, of the 26 complaints made to the Board of Funeral Services last year, half were made funeral home to funeral home. I assume that means the other half, the other 13, were made by consumers. Maybe it's my cynicism, but I'm wondering who this bill sets out to protect in regulating these complaints: the big business or the consumer? We're in desperate need of consumer protection in this province in a variety of areas. We have to be very careful that we don't simply treat this industry like many of the other industries that we deal with from day to day. At any rate, 13 consumer complaints out of a total of 80,000 funerals is really a trifle compared to what we face in all of our other purchases from day to day.

Some of the groups have said that final authority must rest with the minister. That's because they feel the minister is best able to, at arm's length, take their concerns under consideration. By delegating to a self-managing authority, the Board of Funeral Services, though, individual groups like faith communities are afraid that they won't be able to access the minister directly and that if they're not able to do that, they may not be able to present their concerns as well as a large corporation might be able to do.

As always, there's much that's in the regulations that we don't debate in a bill. So as we go to committee with this bill, I would ask the minister that some of the regulations be addressed as well, if it's possible. By doing that, I think we can all better understand the legislation that's being put before us, the objective of that legislation and the fact that we all do want to protect consumers.

With that, I will ask my colleague from Algoma-Manitoulin to say a few words to you.

2030

Mr Brown: I want to thank my colleague from Essex for his presentation, and start by saying to the government that this is an important and significant piece of legislation. This legislation will touch virtually every Ontarian at some point in his or her life.

I heard someone earlier say that this was about the dead. Nothing could be further from the truth. This is about the living. Legislation relating to the bereavement sector is about the living. It is about the families. It about those who survive. It is about those who are able to get on with their lives following what often is a tragedy in a family.

I, as I said before, am a funeral director. I've not been working in the field for some time but believe I do know something about it. The minister would have done himself some good, in my view, if he had provided those of us on this side of the floor with the submissions of those who responded during his consultations so that we understood where the various parties to this bill came from, what they were thinking, what views they brought to the table, what concerns they may have had. It puts an opposition that is trying to be constructive in a difficult position when you present a bill at the end of a week, and the next Monday evening we're debating it. This bill is

86 pages long. It is a considerable undertaking—to use a pun, I suppose; I was waiting for somebody to do that—to understand how this all came about, particularly if you understand the funeral directors act of, as the minister says, 1989, which was the last revision of that act and which apparently works reasonably well. The emphasis in this act apparently is to bring the other sectors up to a standard where the funeral directors have been for some time.

That may not be quite a fair statement, but I think maybe it is, because the funeral directors act of 1989 had as its premise that separating the sectors, making sure there was transparency between the sectors, that there could not be tied selling between cemeteries, funeral directors, monument providers etc, was a good thing and that it would protect the public because there was some transparency in the transactions. But we know the act was not successful in doing that. We know that especially large corporations, some of them not-for-profit corporations but nevertheless very large corporations, have found ways around the concept of the 1989 bill. They put visitation centres, for example, in cemeteries. You don't pay municipal taxes on visitation centres. They put funeral directors at a distinct disadvantage as various sectors started to sell monuments, making it very difficult for monument dealers to ever actually approach a client. We know that, as well-intentioned as the 1989 legislation was, people found a way to run around it. To be fair, in many jurisdictions, probably in most jurisdictions in North America, there are combinations of cemeteries, funeral directors and the various other businesses that might be associated with that.

I have some grave concerns, however, about sales forces. The minister should know that this bill provides for—listen to this—the licensing of cemetery operators and their sales representatives, crematorium operators and their sales representatives, funeral establishment operators, funeral directors, transfer service operators and their sales representatives, casket retail business operators and their sales representatives, and marker retail business operators and their sales representatives. It's very interesting, because what that would say to me is that there is somebody out there selling. The funeral directors act, by the way, precludes that; you cannot solicit sales if you are a funeral director. I think that's a good thing.

Mr Frank Mazzilli (London-Fanshawe): They advertise all the time.

Mr Brown: Yes, you can advertise, but you cannot directly solicit. You can't phone up Frank Mazzilli and say, "Hey, Frank, how about...?" It can't be done.

The issue is that most, for example, cemetery salespeople—I don't know if the members know this—would be on a commission basis. They sell on commission. That's how you sell graves and plots etc in cemeteries. I presume many people in the retail casket business, whatever that might be, are on a commission basis. I presume that marker or monument salesmen are often in a commission sales position. I would suggest to you that we don't want that rolling into the funeral business.

Presently, as people would know, under the funeral directors act, if you were to prearrange a funeral in this province, 100% of the money provided to the funeral director is placed in trust—not 99%, not 98%, not 97%, but 100%—which means there is no room for commissions. It's not hard to figure that one out. And that's the way it should be left.

I look at the Minister of Labour over there; he's looking very interested in this particular issue. I think he would agree that you do not want people, door to door, selling funerals on a commission basis. I think we can all understand what kind of difficulty that would put us in. I would like to see in this act a provision that makes it very clear that commission sales are not possible; frankly, I would prefer that it be in the cemetery business also, but at least in the funeral directing portion of this act.

Mr Mazzilli: How about mausoleums?

Mr Brown: Mausoleums? Those are cemetery crematoria. That's another issue that I think is interesting and we need to canvass more. We desperately need public hearings to talk about this and to understand from stakeholders what it is that we're trying to accomplish. We know that the cremation rate in Ontario is now roughly 50%. That, in my view and in the view of most people, will continue to go up. It will probably approach 80% to 85% in the next 20 to 25 years. There are a number of reasons for that, but it has changed a number of the ways we approach this sector.

I understand that the bill—although I haven't specifically been able to understand how it does this—for the first time actually provides status for cremated remains. At the present time, cremated remains, under the common law and the law in general, really have no particular status. I think the law looks at it that you may do anything you wish with them unless it causes mental anguish to another person. That needs to be changed, for a number of reasons, in this new relationship we're going to see. When we look at columbariums, which are essentially mausoleums for cremated remains, we're seeing those because at the moment there is no status for cremated remains. You can put them virtually anywhere, and people are. I think that's not in the public interest. I don't know what people across the floor might think, but I'm seeing some things in my mind that I wouldn't like about that particular issue.

I suggest to you that there are a whole lot of issues here that the government isn't addressing, but I am particularly concerned about the cemetery side. On the cemetery side, it talks about all this wonderful regulation and bringing it to the standard of the Board of Funeral Services, I guess. The problem with that, as my friend from Essex pointed out, is the small rural cemetery, the faith community, the small churchyard cemetery. You cannot do it. I'm here to tell you right now, it cannot be done.

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I have, over the period of being a member, been approached many times by people concerned with the state of rural cemeteries. I'm going to read this letter I

received almost a year ago now. It's from Donald Shackleton, who's the chairman of the Tarbutt Township Cemetery Committee, RR#1, Desbarats, Ontario. He says:

"I am the chairman of the cemetery committee for the township of Tarbutt and Tarbutt Additional. In the boundaries of the municipality, we have two cemeteries. One of these, the Port Findlay cemetery, is used. The other one, the Stickney cemetery, was closed in 1916. There have been a few burials there over the years, but none for quite some time. This cemetery is the final resting place of the pioneers of the area. There was little to no upkeep done between 1916 and the late 1990s, so you can imagine the mess. In the late 1990s, some volunteers went into the cemetery to do some brushing, but found it impossible because of the forest of trees. We arranged for someone to come in and cut the trees and remove them with payment being the wood. Since then, we have been looking for funding to bring the cemetery back to its original condition. The majority of the graves are sunk in, there are tree stumps everywhere and a lot of the headstones need repair. The fence surrounding the cemetery also needs to be replaced. We have come to dead ends everywhere, but have a few leads.

"Are there any grants available," is what Mr Shackleton is asking, "from the federal government" or the provincial government "regarding historic sites" and regarding the restoration?

I don't think the Stickney cemetery is likely to have the kind of dollars that you're going to need from your regulatory regime to make it work. It isn't going to happen. I would suggest to you, over my constituency there are many of these cemeteries. There are some in the Bruce Mines area, there are some as you go through Iron Bridge, as you go back toward Espanola, certainly on Manitoulin. I would tell you at one of the small cemeteries on Manitoulin that I used to need to work with on occasion, they sold the graves at that cemetery for \$6—\$6 for a grave. Perpetual care at 35% of that was about \$2 they put in trust for every grave they sold. That isn't going to cut the grass for very long. But you know what? That cemetery was looked after by the community. It was a well-kept cemetery. People did those kinds of things for free. The opening and closing charges on a grave were very minimal, and the money was donated to the cemetery. The community looked after seeing the grave was open.

I suggest to you, that happens all over Ontario. It doesn't happen in the big cities, but in rural Ontario it is a reality. I don't see anything in this legislation that addresses those realities of those communities that need to have assistance. They can't afford to pay. They're looking for money from somebody else. AMO, the Association of Municipalities of Ontario, is very concerned that many of these cemeteries will eventually have to be taken over by the municipality and eventually the municipality, out of municipal coffers, will have to do the restoration.

I don't think the model that the government has for administering the cemeteries is going to work. It might

work here at Mount Pleasant, the Necropolis and various other very large cemeteries here in the city of Toronto or in London or in Hamilton or Ottawa, but I'm telling you that in Middlesex county there will be quite a number of small rural cemeteries that aren't going to be able to work in this regime. I think you have created something that just will not work, and I think you've done it not for the consumer. That's the really strange thing here. I think you've done it because the business community has found a way around the old act and you're trying to catch up. You're trying to figure out how to put this square peg into a square hole rather than into the round one that it's being pushed into today. I think it is not in the interest of consumers to have the combinations in the first place. But if we must have these combinations, then clearly that's what this legislation is about. It is about these combinations. If we have to find a way to deal with these combinations, I think we'd better take a deep breath. We'd better take this bill to committee. We'd better have the opposition furnished with the comments we had from the people who submitted in the "consultation."

I'm not sure the red tape that you're convinced we need in this bill is going to accomplish what you want it to. From a government that likes to talk about red tape, this bill has more potential for red tape than any bill I've seen in here in a long time. I think the minister would also do himself some credit if, when it comes to taking this bill to committee, he brought some of the regulations along with it. There is grave concern in a number of areas that this bill does not spell out what the minister says it does. It is a permissive bill. In most cases, it does not give us the regulations. If we don't get regulations that people, for example, who are concerned about commission selling can actually see, read and understand, then I think it wouldn't do any member in this Legislature any good to pass this bill. It would be a mistake.

I think we need, as legislators, to take the opportunity here—and I think there is a real opportunity to get this right. I think there's an opportunity to have the support of all parties in the Legislature. I think there's an opportunity for the government to show that it really does understand this sector. I think that would come from providing us with hearings, with information, with time to get a little bit of a deep breath. I know the critic and myself spent much of today talking to groups on the telephone, and there are still many more to talk to that we just really don't have an opportunity to talk to because we didn't even know we would be debating this bill until late last week. We hadn't even seen the bill till—the first time it was printed would have been Thursday, I believe.

So I think in fairness the minister has to understand that if we want to get this right—if you want the support of other people, which I would think you would—it needs to go to committee with the regulations attached to it, or at least the important regulations, so we can put meat on the bones here, so that we can understand that the consumer in Ontario really will be protected. This is not about protecting the business community or protecting a particular group in the province. It really is

about protecting consumers at a time in their lives when they are very vulnerable. I think we should recognize that.

With that, I think I'll conclude my remarks, but I would hope that someone on the government side could stand up and give us a commitment that it will be going to committee, that we will be able to see the important regulations that would accompany some of the sections to make sure that we do not have a commission-selling regime involved here and that we really know that every consumer in Ontario will be protected.

I would say one more thing and it's worth mentioning, and my colleague from Essex did mention it. In the area of prepaid funerals in the province of Ontario, consumers have never lost a nickel. Yes, we've had businesses that failed, we've had some bad apples that have absconded with some money, but in every case consumers have been fully compensated from a fund that is established under the former act, or the act that's now in place. So it did provide real, true consumer protection for their funds, and nothing less is acceptable in this act for either funerals or cemeteries or any of the other parts of the sector.

So with that, Mr Speaker, I thank you very much for your forbearance.

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The Acting Speaker: Members will now have up to two minutes for questions or comments.

Mr Michael Prue (Beaches-East York): I listened to the two previous speakers, the members for Essex and Algoma-Manitoulin, with some considerable enthusiasm, actually, considering the topic, which I didn't think I was going to enjoy at all.

The member for Essex spoke about a great many things during the 30 or so minutes he spoke, but what hit home the most to me was the whole concept that this government may again invoke closure on a matter that really requires a huge amount of public input. He set it out, but I think it bears repeating: we need to look at a whole broad group of people—those who run municipalities, those who run cemeteries, those who run funeral homes, and faith groups—who have to date not had sufficient public opportunity to debate the merits of the bill or the changes that might be necessary. He set it out very well and I'd like to commend him for that. He also went on to talk about how many of the commenting agencies or groups have not had an opportunity to bring forward to the government in a meaningful way those changes they want to see contained within the bill, and I think primary among all the groups he talked about were the municipalities and the Association of Municipalities of Ontario.

The speaker from Algoma-Manitoulin talked most cogently about the problem of small municipalities, that we need to bear in mind that many of the cemeteries and funeral parlours in small municipalities may be adversely affected, although the large municipal services may be able to weather any change. The small municipalities may find themselves at a point where they have to shut

down cemeteries and places of final resting. Since many of them are historic and are the only places available in those towns, we need to protect them.

I commend the two speakers for what they had to say.

Hon Norman W. Sterling (Minister of Transportation): I've been involved in this particular area, once as the minister in 1995-96 and, more recently, in 2000-01. I can remember going back as far as 20, 25 years and trying to unravel an unbelievable mangled mess in terms of who is responsible and who can do what and who can do whatever. I was really pleased, when I went back to the ministry the second time through, that Bob Runciman had appointed the Honourable George Adams to negotiate and mediate with all the different groups that were involved. Out of that mediation, this bill has arisen. I want to assure each and every member of this Legislature that there is no political agenda behind any part of this bill. This is truly a mediated solution to a mess that didn't make sense to either the people in the industry or the consumer.

Therefore, I plead with the opposition members—yes, I think we should have hearings on this if that's what you feel comfortable with. There's no fear on our part about the outcome because the outcome should be whatever the consumer and the industry want. But let's not spend three or four days on second reading and then force the government to a closure motion and try—it's a waste of everybody's time. Let's pass this bill on second reading, put it out to committee and we will have public hearings under those circumstances. But if we're forced to the other, then why bother? We have consulted very, very widely, actually for not only the past two, three, four years, but really we've talked about this for 20 years. Let's get on with it. Let's do it in a logical sense.

Mr Dwight Duncan (Windsor-St Clair): I'm pleased to have the opportunity to respond to my colleagues from Essex and Algoma-Manitoulin. I say to the Minister of Transportation that this bill would have lent itself, ideally, to going to committee after first reading, because you're absolutely right: this is not the type of bill that lends itself necessarily to partisanship, and I realize the complexity of the issues it deals with. But I can say this: based on the conversations I've had over the last couple of days, whoever was consulted—and a number of the people I've talked to who were consulted—they don't like it and they're urging us not to support it. That's why I think this bill would have lent itself well to committee after first reading and spared the time in the House on second reading, to see if the opposition could work with the government to piece together something that would hold up.

My colleague from Essex mentioned by way of example the small, independent monument maker who has to pay PST on every aspect of what he does. Perhaps that company should have an exemption, as do the non-profits and the cemeteries in the same business. The list of these problems with the legislation goes on and on and on.

My colleagues, in indicating that the official opposition will not vote in favour of this legislation, have given

us, I think, good direction. I regret that the government did not use the provisions of the standing orders to send this bill to committee after first reading. Perhaps tonight we could have been debating pension surpluses, which—well, actually, we couldn't tonight. You forced closure on that last Thursday before we really had a chance to debate it. This would have, I would argue, lent itself to that process. Perhaps now we can go to committee.

But it's just an example of mismanagement. This government is mismanaging that whole file as well, at least based on the conversations we've had. My colleagues have put it very well: you can't support this bill in its current form.

Hon Mr Hudak: I'm pleased to respond to my colleagues opposite. The member for Windsor indicated that it didn't lend itself to a partisan process, and he ended up being quite partisan in his comments.

This is not, per se, a bill the government created that I or my predecessors had pulled out of thin air and brought forward. In fact, this has come about, as my colleague Minister Sterling said, after decades of consultation, with this government over three years with a very broad round table, with representatives from funeral services, from cemeteries, from transfer services, from monument builders, the small businesses, consumer groups as well, with that consumer protection mandate, and as such, tried to develop a consensus on principles on these issues. Sure, there's always going to be give and take in that process. Would everybody say they got 100% of what they wanted? No, I don't think any group would say they got 100% of what they wanted, because it's give and take. Would they say they got 90% of what they wanted? I bet you that the vast majority would say they got 90% of what they wanted through this process. It has been a very non-partisan, well-thought-out, well-reasoned process that has been highly consultative.

I got a nice letter from the Honourable George Adams, the justice who had helped with this process. We're indebted to him. He says, "The parties and ministry staff are to be commended for a job well done. On BSAC's"—that's the committee—"behalf and speaking personally, I also want to thank you for your ongoing support," for that committee completing its central task.

They passed on the BSAC report, which, he says, because of those "in attendance at all BSAC meetings, outlines a workable framework for the sector now supported by a very broad consensus." I want to make clear that the principles of the report were, to a one, incorporated in the legislation before the House.

Also in the letter of November 23, 2001, he says, "I am pleased to report that all outstanding differences in principle between the parties were bridged at a final meeting of BSAC held on September 13, 2001." So a great deal of work was done at that committee, and I thank Justice Adams and the participants.

The Acting Speaker: Now one of the two original speakers may take up to two minutes and respond.

Mr Brown: I appreciate what the Minister of Transportation and the minister with carriage of this bill just

said, and I agree: this does not need to be a partisan exercise. Frankly, it's too important for us to be getting into the trenches and putting on our red and blue sweat-shirts and going at it. But I think the ministers need to agree that the opposition, or frankly the private members of this Legislature on all sides, have not been privy to these discussions. We do not have the submissions from the various groups that, as he said so eloquently, acquiesced. We are facing a bill that was presented—the first time we could read it was last Thursday, and we are supposed to be here Monday night saying, “Boy, you guys did a great job. Thank you very much.” We wouldn't be doing our job if that were the case, and you know it.

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What I'm suggesting to you is a suggestion my House leader made. There's no reason now that we can't take this out—we don't have to continue with second reading. You could take it back to first and we could take it out. Let's go to committee, let's hear what the people have to say about this. I'm particularly interested. I haven't been contacted, and neither has my colleague from Essex, as far as I know, by any consumer group to say what their views on this were. We may know what some of the industry views were, but we do not know what the various consumer groups, maybe memorial societies or other groups, might have to say about this.

All we want is some information, some consideration and some time in committee so we can make, as private members on all sides of the House, intelligent judgments on this piece of legislation. I think that's not too much to ask.

The Acting Speaker: It is now time for the leadoff debate of the third party.

Mr Prue: Mr Speaker, I'm going to ask as the first item that our leadoff be stood down, with the consent of the others. The speaker for our leadoff is not available this evening, and I would propose that I be allowed to speak for 20 minutes as the second speaker.

The Acting Speaker: There's a request for unanimous consent to stand down the leadoff debate of the third party. Is it agreed? I hear no opposition; therefore, I'll declare the request and motion made. The member for Beaches-East York may now take the floor for a regular 20-minute speech.

Mr Prue: Thank you very much, Mr Speaker. It is indeed a privilege to stand here tonight to talk about Bill 209 and what we believe is necessary for this bill to be a success. Quite honestly, when I was first asked to speak to this, for an hour or perhaps for 20 minutes, I thought, what could one possibly say to a bill of this nature? It seemed to me to be totally uninteresting, and I did not relish the thought of speaking to it at all. But having done some research and having read the provisions of the bill, this is quite an interesting document—interesting to anyone who relishes municipal input, who has a sense of history about the cemeteries in this province and even someone who is interested in small family business. There's a little of each of these elements to all of it.

But what one is left with at the end, in looking at this bill, the overwhelming thing that jumps out at you is that there is a necessity here, an overwhelming need, for there to be public input—public input that has not been received in a way that is necessary for this bill.

I welcomed hearing the Minister of Transportation, when he spoke in his two-minute commentary, saying that he has no objection—and I take it from that that the government has no objection—to sending this to committee. Surely, if ever there was a time for a bill to go, this is a bill that cries out to go to committee. It cries out for all those people who might be commenting agencies, all those groups that might want to comment, but also for the general public. I think the public in large measure will be caught completely unaware by the contents of this bill, perhaps even more unaware than I was before I had a chance to read it, because contained within the body of this bill are some massive and fundamental changes to how the business of burying the dead has been done in this province for at least a century: massive changes to our Cemeteries Act, massive changes to our taxation act, massive changes to how the public will come to see the funerary services provided in Ontario.

As has been said by other speakers, we are taking two acts that have existed probably for a century—the Funeral Directors and Establishments Act and the Cemeteries Act—and we are melding them, changing them, giving them new force and new life in order to change them in a way that is fundamental to the entire funeral business in this province. It has been in place literally for years. Within what was in place up until today and up until the promulgation of this act, it was impossible for cemeteries to do funeral home business and it was equally impossible for funeral homes to do cemetery business. What we're seeing today is a new act which will allow each group to go into the field of the other. It will allow each group to take business on to themselves that heretofore they never had an opportunity to do. We have to, I suggest, proceed with some degree of caution to make sure that something that has worked well for the people of Ontario for 100 years—if change must take place, then it must take place, but we have to proceed with caution to make sure that that which has been understood by everyone in our society is done correctly. This is not a time for us to be rash. There is no need to be rash. There is nothing to be gained by not sending this to committee and there is everything to be lost by not listening to all those who are affected, all the groups: the municipalities, the funeral directors, the cemeteries, the church groups and even the general public, who will be affected. It's sure that at one time or another in their lives or their loved ones' lives they will be affected by the changes we are making here today.

It has been suggested that all the problems may be solved by way of regulation. But with the greatest of respect, those who are out there and those who are on this side of the House are not willing to wait for the regulations.

Mr Marchese: Or to trust.

Mr Prue: Or to trust, perhaps. The regulations will come and there will be no force and effect from this side of the House, no force and effect from the general public. It will be done by ministerial fiat, as is the law, and that is not in keeping in terms of making this into a policy that can be accepted by everyone.

In fact, there are those who have stated to us on this side of House, to us in the New Democratic Party, that they believe the regulations may be weighted to those who have pecuniary interests, those who have the money and the wherewithal to make the changes. There are those who have stated to us categorically that they believe the changes will pose a significant threat to family businesses that have operated for one, two, three and sometimes even more generations in this province, primarily the family businesses and funeral parlours in cities, towns and villages throughout Ontario.

There are many commenting agencies that have set down their concerns. I'd just like to go through some of them here today. The faith groups have stated they have some very real problems with this bill. They believe the contents of the bill have been stacked in favour of for-profits—that is, what has been done will make much more sense to those groups out there in the funeral and cemetery business who are there to make a profit. Now, that is not a dirty word, not to anyone. It is not, because people are in business to make a profit. It's how they feed themselves and their families. It is how they do business. It is the whole concept of being independent. But it is believed by some in the faith groups that the bill is stacked in favour of the for-profits and against the religious institutions and municipalities.

Many of the small churches, secondarily, are worried about the potential of taxes. They are worried that they will have to pay taxes when they did not have to pay any in the past. They are worried about their ability to do so. A classic example—a parishioner from St John's Norway church in Beaches-East York approached me just the other day and talked about that cemetery plot. I know it well. My great-grandmother and my father-in-law are buried there. She was very concerned about the ability of that church, that parish, that group of individuals to sustain the cemetery in the long term if they are going to have to pay taxes. St John's Norway has provided graves for many people for whom they received no funds at the time of interment and receive no funds today. This struck home to me, because my great-grandmother—her name was Rachel Gillead—is buried in that churchyard. She is buried in what today we would call a pauper's grave. It is three-deep. Two other members of her extended family are buried in the same grave. There is no headstone. I am given to understand that they were all buried because the church allowed it although there was no money for headstones, the plot or anything else. In fact, that church maintains that site and has maintained it since her death some 50 years ago. I'm not sure how long my other extended relatives have been there, but they were there even before that. That is the problem some of the faith groups have.

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In terms of the independent funeral establishments, we have heard from them, particularly in the urban and small urban areas, that they believe they will have a problem, that they will not have access to cemeteries because all the land is swallowed up in places like Toronto, Ottawa and Hamilton. There's no land available to them so they can make the transition from funeral directors to cemeteries, whereas the cemeteries will have a much easier job going after the funeral parlours, because of course the land is secured and to simply get a building is much easier. They have a little bit of a problem with that.

They also have a problem with the big independents coming in, that they might be crowded out by one-stop service, where people think they're making it easy upon themselves to go and get one-stop service even if they do end up having to pay slightly more for it. It's much more convenient for bereaved families to simply go in, sit down with one person and make the whole deal rather than sit down with two.

We see the problems of medium-sized urban municipalities as well. They are most fearful, as they have commented to us, about corporate funeral establishments coming in to invade their markets. They are worried about big American, multinational and even big Canadian funeral establishments coming into smaller-city Ontario and taking over what was once family businesses.

We have the whole problem, which has been mentioned to us by many people, of the training of funeral directors. Right now they receive extensive training, and it is not clear from this bill whether people who work in cemeteries or in ancillary fields will be given the same kind of training, the training to be sympathetic; I think that is a learned trait as well as one that is heartfelt. There's a concern about the reduced trust one might have in funeral directors, who do not work on a commission basis and are oftentimes known to the people, either through family members, extended relatives, or friends or community; oftentimes families will go back to the same home again and again. What will happen if that trust is ever reduced?

They have talked about the tax regime for municipalities and whether the municipalities will be able to afford the additional taxes that will come upon them, or the lost revenue, on the other hand, that they may encounter should the municipal cemeteries be reduced in size, volume or scope.

They talk about the visitation centres, which will be given, under this bill, a five-year tax reprieve. This was something I found rather unique, because I hadn't realized they were going to be given a five-year tax reprieve. They have operated on the fringe—if not illegally, at least on the fringe—for a number of years, and now they're about to be rewarded. I take some solace and some understanding from a most unlikely group, probably, for a New Democrat to quote. We have here a letter from the Federation of Independent Business, 100,000 members strong and growing—

Mr Duncan: Old friends of yours.

Mr Prue: Old friends, and they make a very good point. This is a letter they wrote to Minister Hudak on September 20, 2002. It's a two-page letter; I'll just read the third-last paragraph into the record. It says, "Operators of existing 'visitation centres' on cemetery property and existing crematoria are being rewarded through a 'grandfathering' arrangement. So-called visitation centres operating as unregulated funeral sites confers an ongoing benefit to those who chose to break the rules. Crematoria will also be granted a continued five-year reprieve from taxes, a clear advantage over any new business proposed."

I'm not sure. This could be wrong; I don't know. But I believe that they should have an opportunity to speak to this issue, and that is what I'm saying, to go back to that. This is important that we go back.

We also have the whole problem of consumers. They need to be satisfied that there will be competition, because if this bill in fact does not increase competition; if it in any way reduces competition; if it closes down the number of cemeteries; if it reduces the number of funeral parlours because big multinationals come in with very large facilities; then in the end the consumer will not be the one who benefits. So what we are saying is that we need to be assured, and the public needs to be assured through the public process, that this is going to work and will in fact allow for more competition.

Most important, the problems that have been put forward by the Association of Municipalities of Ontario need to be canvassed. Most recently an Alert went out, a communication to all of the 480 or so municipalities in Ontario. This Alert went out on November 21, 2002, just four days ago, and it went to every single one of them. I think it's quite telling. In that Alert, about Bill 209, the Funeral, Burial and Cremation Services Act, which was just released that day, the Association of Municipalities of Ontario says, "On November 23, 2001, Bereavement Sector Advisory Committee ... submitted its report to the Minister of Consumer and Business Services. The report offered a number of recommendations aimed at meeting the minister's objectives, claiming it had broad consensus from committee members. However, municipal representatives on the committee have indicated that a broad consensus does not exist and a number of recommendations have the potential to negatively impact municipalities."

I believe they need to be heard, and what the municipalities and AMO have said on this very topic is important to all people. AMO is saying I think fundamentally that the abandonment of cemeteries to local municipalities, which could happen if they no longer remain profitable—church groups give them up, towns take them over—will cause a real problem to the municipalities and a real problem with their being able to deal with the social safety net. Many churches and religious groups are being able to provide cemetery services for the indigent and for the poor, and the municipalities may have to take this over. We know the municipalities are bleeding in many respects—from transit to hospitals to

education—we know that there is a whole problem of housing and a lack of municipal revenue. Please don't add another one without hearing them.

They have also said there is a failure to guarantee funding or financial tools for abandoned cemeteries, so that if and when cemeteries are abandoned the municipalities will have a problem in paying to keep them going. They have said, third, that there is an unlevel playing field being established by this act that they would like to comment on. They do not believe that it is in the municipal interest for it to proceed as it is.

They have stated, fourth, that the requirement will be for the municipalities to tax themselves. This is rather unusual, that they would tax themselves, but then the really unusual problem, as they see, is that the money would have to be turned over to a bereavement fund and not to the municipal reserves. At present I understand that some of the money may go to the municipal reserves, but this is money that offsets taxes for those who are still living, as opposed to turning it over to a bereavement fund.

Hon Mr Clark: You've got two minutes. Give me something positive.

Mr Prue: I am, I am. The tax incentives for additional cemeteries may go to the abandoned cemeteries. So the tax incentives that municipalities used to get may not be there.

They believe also that it may create unfavourable market conditions for consumers, although they have not expanded on this for me to know why they think this.

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Last but not least, they say that allowing a single regulatory body is not in the consumers' interests or in the interests of church groups or municipalities.

Having said all that, is there something positive? Of course there is something positive. When you take an old act or two acts that are 100 years old—just like the Municipal Act, when I first got here—when you take an old act and attempt to reform it, you cannot help but do some good things with it. I believe there is an honest and sincere effort being made here to do something good with those acts, to bring Ontario into the 21st century, to do what is necessary to assist the consumers and to bring reality to a changing funeral market and a cemetery market and a market where people are choosing to be cremated. But it needs to be done with slowness; it needs to be done with consultation; it needs to be done with all of the stakeholders being present; and quite frankly it needs to be done with a great deal of public sympathy and an opportunity for groups to come forward.

This is a bill that, as I believe I said earlier, sparked no interest in me until I started to read it and to go into the history of it and the economics of it and all the other things that are contained within this bill. It's an important bill that I believe the general public and the communities abroad in Ontario need to discuss. I would suggest to the minister that it would not be untoward to schedule as much as a week of hearings on this. I would not have said this—

Hon Mr Hudak: I thought you said four weeks.

Mr Prue: Four weeks, if you want.

I would not have said this prior to my reading of this bill yesterday and today.

Hon Mr Clark: You just don't want to go home for Christmas.

Mr Prue: Yes, I do. I want to go home very much for Christmas, but I also want the people of Ontario to have the opportunity to comment on this, and they can only do it if you proceed to the committee stage, and not to closure as you have done on other bills. So I'm asking you to do that.

The Acting Speaker: Members now have up to two minutes for questions and comments.

Mr R. Gary Stewart (Peterborough): I too want to make some comments on this. Much like the member from Algoma-Manitoulin, I also am a licensed funeral director and retain my licence on a yearly basis, so I too feel that I have a little bit of knowledge on this, having graduated in 1960, which seems like a long time ago, from the University of Toronto and the Banting Institute, the latter of which no longer exists.

Interjection: The minister wasn't born.

Mr Stewart: The minister wasn't born then; that's right.

I want to make a comment about when I listened to folks saying there was no consultation on this particular bill. I was asked by the then minister, who would be Minister Sterling, to chair a group, along with my co-chair, the member from Lambton-Sarnia, Marcel Beaubien, and we had a group of about a dozen and a half people there. They represented the funeral industry, funeral homes; they represented cemeterians, both public and private, as well as church cemeteries; we had public advocates on it; we had members from the memorial society, from the various cemetery associations; we had members from the monument field as well. So we had good representation, excellent consultation for about a dozen to 15 times, and we came up with recommendations that were passed on to Judge Adams, who was later appointed. Indeed, Judge Adams confirmed many of the recommendations that we arrived at, the consensus from these people. Those recommendations are in this bill and I will speak to them later on.

Mr Dave Levac (Brant): I appreciate the opportunity to lend my two-minuter toward the member from Beaches-East York, who outlined very importantly the concerns and some of the issues that have been brought to light after his reading of the bill—and the members from Essex and Manitoulin.

Member Stewart indicated the consultation, and I want him to know that what I did in my riding when I received the package, which was graciously sent to each MPP, in terms of the consultation papers. I did forward them to all of those who were involved in this, including the city, who own cemetery plots, and the Catholic Church etc. I want him to know that we received information back. They started setting up meetings with me in my constituency office because this was the first time they'd heard about it. By sending it to them—I don't know why they wouldn't have gotten a copy. But this consultation

process that everyone seems to want to talk about and take credit for needs to process a little bit better than that, because quite frankly a lot of the areas that I'm representing did not know what was going on and were quite surprised about what was happening.

The members on this side believe, and I know that the Minister of Transportation has even indicated, that going to committee is the right thing to do because there is going to be need for more input from the people who are affected by this. Because we do that, what we're now saying is that there is a process problem and, very similar to what's been happening to many other bills, the claim of consultation always gets laid in the front and the bill gets drafted and then, bang, you get that time allocation, where there's no possible reason why we shouldn't be adding that extra time after the legislation is finished to ensure that those who are going to be directly affected have an opportunity for input.

When we don't get that process started right from the beginning, what's always going to happen is that you're going to alienate an awful lot of the people who need to give input on it—consumer groups. Particularly in my riding, not one of them had an opportunity to answer the concern for the consultation. I'm hoping that we'll improve that process.

Interjections.

The Acting Speaker: We don't seem to be quite ready. I was trying to get you to be quiet, and I guess I was failing. So please be quiet.

Mr Marchese: I wanted to congratulate the member from Beaches-East York for raising the concerns, which is our job, right? I was listening to the Minister of Transportation. Perhaps I didn't hear him very well, but I don't remember the Minister of Transportation, when he was here on this side and we were there, standing up and saying, "Yeah, you guys consulted so much on employment equity. Let's just get it out for a day or two and that's all we're going to need for that bill."

Hon Mr Sterling: Yes, we did.

Mr Marchese: No, no, Normie. And I don't remember on rent control your standing up and saying, "Yeah, you guys consulted for years with the tenants. We don't need any more debate. Just send it out for a day and we're quite happy with that." I don't remember your standing up—

Hon Mr Sterling: Your memory is failing.

Mr Marchese: No, no, Norm.

Interjection.

Mr Marchese: We gave you four weeks for employment equity to beat us up on your equity bill, as you called it, right? We gave you four weeks to beat us up on the rent control act so you could go out with the guys, the greasy guys, to get them to beat us up as well. Four long weeks we gave you. You weren't standing up in line to say, "We know you consulted. Let's just get through this right away."

Mr Bill Murdoch (Bruce-Grey-Owen Sound): We beat you up for five long years.

Mr Marchese: I do remember that.

Norm, I've got to tell you, we're not asking for four weeks on this bill, because we're reasonable folks, but at least a couple of days so people could be heard. That is our job, and remember, we don't have a consumer watchdog to do the job for us. The minister says, "Leave it to me." No, Minister, we can't leave that job to you. People don't trust you guys to be their consumer watchdogs, right? We're advocating for a consumer watchdog in every sector imaginable, because I'm telling you, unless you've got a consumer watchdog—he ain't so very good at protecting, no siree.

So we need hearings. We need people to be heard. That's all we're advocating, so people can come and raise their concerns so that we can hear them.

Hon Mr Hudak: We should probably step back a couple of years. I think what my predecessors used to hear would be a group coming forward maybe from the funeral services industry—and I'm going to exaggerate for the sake of the argument—saying, "We want this changed, this changed, and that changed, but don't change anything for the cemeteries or for the religious sector or for the municipalities." And the cemetery guys would come forward and say, "Make this change, allow combinations, but don't do what the funeral guys want, or don't do what the municipalities want, or don't do what the faith community wants." Then the municipalities would come forward—you get the point, I think.

Instead, in his wisdom, Minister Sterling set up the advisory committee with Justice Adams, and had all the players around the table to try to build consensus on the principles, whether it's consumers or cemeteries or funeral services. Yes, there's give and take in any part of that process, but I think at the end of the day folks got more of what they wanted and much further than the mess that had happened before, the one-on-one lobbying. So I think the process was outstanding.

And to be clear, the member opposite brought up some points. Yes, the municipally-owned funeral parlour or visitation centre, what have you, would have to pay taxes. You could say that's a criticism of the bill. But if there's an independent small business across the street from that funeral home, competing against the municipality, I think it's only fair that they would pay taxes equally on the property; the same on the faith-based community if they're running a funeral home or a monument builder or a casket maker—it's a level playing field. It's fair, and I would hope the members would support that.

Secondly, the member opposite talked about a five-year holiday for visitation centres and such. To be clear,

that's not in the legislation. I think if he had a chance to review it, he would probably see that visitation centres or casket makers or monument builders on cemetery property would pay property taxes right away. There is an exception for existing crematoria that have historically never paid. New ones would pay taxes, and the rest after a five-year transition period.

The Acting Speaker: The member for Beaches-East York has up to two minutes to respond.

Mr Prue: I would thank the member from Trinity-Spadina, the member from Peterborough, the Minister for Consumer and Business Services, and the member from Brant.

Much has been said, but I'd like to go back to the primary thrust of my argument, and that is that we need to do further consultation. As much as the members opposite say that there is nothing wrong with the bill—and perhaps there is nothing wrong—there are people out there who need to assuage their fears, there are people out there who have a fundamental need to talk about what should be contained within the bill. There are municipalities that may be financially impacted by this bill in terms of taxes or their operations. There are problems with independent industry within the funeral parlours. There are problems with the cemeteries themselves, that they need to be able to make sure they will operate in a way which will be in the community interest. This is particularly true of small cemeteries and in rural and northern communities. We need to make sure that all of those places remain open and remain accessible to the people who continually go to visit them, either for peace and solitude or to visit loved ones and the gravesites of loved ones. We cannot for a moment simply turn our back on 100 years of history in this province and on circumstances that have worked, I think, to the betterment of most people.

Most people, if you would ask them today, have really had very few or no problems when having to bury a loved one. There are complaints from time to time—and I will acknowledge them—there is a need for the legislation to upgrade and to be brought into the 21st century because of changes that are taking place in funerary practice, but it can and must be done slowly, and I would ask the members opposite to ensure that there is at a minimum at least one week of hearings so the public can satisfy themselves that it is in the best interests.

The Acting Speaker: It now being well after 9:30, this House stands adjourned until 1:30 of the clock tomorrow afternoon.

The House adjourned at 2133.

LEGISLATIVE ASSEMBLY OF ONTARIO
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		York West / -Ouest	Sergio, Mario (L)

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

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