



**Legislative Assembly  
of Ontario**

Second Session, 38<sup>th</sup> Parliament

**Assemblée législative  
de l'Ontario**

Deuxième session, 38<sup>e</sup> législature

**Official Report  
of Debates  
(Hansard)**

**Monday 11 December 2006**

**Journal  
des débats  
(Hansard)**

**Lundi 11 décembre 2006**

**Standing committee on  
general government**

Municipal Statute Law  
Amendment Act, 2006

**Comité permanent des  
affaires gouvernementales**

Loi de 2006 modifiant des lois  
concernant les municipalités

### **Hansard on the Internet**

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

### **Le Journal des débats sur Internet**

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

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

### **Index inquiries**

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

### **Renseignements sur l'index**

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

### **Copies of Hansard**

Copies of Hansard can be purchased from Publications Ontario: 880 Bay Street, Toronto, Ontario, M7A 1N8.  
e-mail: [webpubont@gov.on.ca](mailto:webpubont@gov.on.ca)

### **Exemplaires du Journal**

Des exemplaires du Journal sont en vente à Publications Ontario : 880, rue Bay Toronto (Ontario), M7A 1N8  
courriel : [webpubont@gov.on.ca](mailto:webpubont@gov.on.ca)



## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
GENERAL GOVERNMENTCOMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Monday 11 December 2006

Lundi 11 décembre 2006

*The committee met at 1559 in room 151.*MUNICIPAL STATUTE LAW  
AMENDMENT ACT, 2006LOI DE 2006 MODIFIANT DES LOIS  
CONCERNANT LES MUNICIPALITÉS

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

**The Chair (Mr. Kevin Daniel Flynn):** If we can come to order. We're meeting today to resume clause-by-clause consideration of Bill 130, An Act to amend various Acts in relation to municipalities.

At the time of the closing of our last meeting, we were on section 100 of the bill. There was an amendment by Mr. Prue on page 30.

**Mr. Michael Prue (Beaches–East York):** I move that subsection 238(6) of the Municipal Act, 2001, as set out in subsection 100(4) of schedule A to the bill, be struck out.

This is a provision that would allow members to participate electronically in council meetings. We do recognize that it is contained within the city of Toronto bill, but I don't know how that one got past me. It did; I didn't see it. I think it is an absolute abomination.

Consider that council is deadlocked. Consider a council of nine members, eight of whom are present, eight of them who hear all the deputants, eight of them who listen to all the staff, eight of them who participate in the meeting, and one is not there. The one who is not there is on vacation, sitting on a beach in Acapulco with a drink in one hand and a cellphone in the other, casting the deciding vote. That's the reality of this. This is the only government that I am aware of in this country, and certainly the only one in this province, that is going to allow people who are not present at the meeting to vote.

If this happens, I can only anticipate that the time will come when a Liberal majority government at some time in the distant future will stand up and do the same thing in the Legislature. "I'm not there, but I'm on my cellphone and I want to vote. I didn't hear any of the debate, I didn't hear anything that was happening, and I'm going to vote." We don't allow it in this Legislature, we don't allow it in the House of Commons, and I, for one, believe

it is a very wrong-headed move to allow it in municipalities.

This is probably coming from some politicians who want that luxury. I'm sure this is politician-generated. It makes it easy for them to try to do their job when they're not there. But the citizens who are in the meeting—and I'm waiting for the first tie vote, when the vote is cast not by the mayor but by someone who's on vacation. I'm waiting for the citizens and the reaction you're going to get from them for having allowed this. People think that skulduggery is afoot, that people don't know how they're voting, that they don't even have the good graces to be in front of those whom they are serving.

I just think it's wrong. I don't know why this government wants to go ahead with this. I will be voting against it. I think it's absolutely the wrong thing to do. I don't know how many other people want to speak, but I want a recorded vote on this.

**The Chair:** Mr. Hardeman and then Mr. Duguid.

**Mr. Hardeman:** In support of striking this out, electronic voting, in my mind, goes a little further to total electronic meetings, where we don't have a necessity to get together in a council meeting and actually have the discussion in a public forum where the public can be part of the discussion. As Mr. Prue mentioned, if you can vote electronically—and of course we have to assume that if one can do it, we all can do it—it doesn't say that you must electronically be part of the discussion. It just says that you can be part of the meeting from somewhere else. As I've said a number of times, I asked a number of people who presented whether they had a need to do things behind closed doors more than they presently could, and there was no one who actually said that they needed more in camera discussions and so forth.

This section goes even one step further than going into a closed meeting. In fact, all the debate the individual who is voting is going to hear is not only behind closed doors, that they went into an in camera meeting, but in fact—I don't want to suggest that they're all going to be in Acapulco, but if that person is there and the only discussion as it relates to that issue is what he did on the beach, I'm not sure that that's the qualified vote that should carry the day.

I find it also interesting—this was discussed somewhat when, on October 10, the minister was speaking to accountability and transparency in this act. He was answering a question. It must have been from Mr.

Duguid, because in the centre of the quotes—the first quote is from Minister Gerretsen. Brad Duguid—from the Hansard—just interjected with “Enhanced Auditor General powers.” That’s the start of it. Then Mr. Gerretsen says, “The enhanced powers of the Auditor General, right. Again, it’s a permissive situation whether or not municipalities want to in effect appoint these officers, in exactly the same way that we have officers here of the Legislative Assembly that report to the assembly and not to the government as such. Those are the areas of greater accountability and transparency that we’re giving municipalities, as currently structured in Bill 130—permissive powers to implement if they so want. Do the other two issues that you’ve mentioned—the electronic voting and the closed meetings—take something away from that? Well, we can discuss that, and we should put parameters around that, quite frankly.”

I would presume from the comments of the minister that he intended to put parameters around this voting. I’m not sure—and maybe the parliamentary assistant in his presentation can answer me—whether in fact that has been done in other amendments, or whether since that time the minister has changed his mind and does not believe that parameters around that issue—and he’s quite clear: “....the electronic voting and the closed meetings—take something away from that? Well, we can discuss that, and we should put parameters around that, quite frankly.” Now, I just wanted to know if that has in fact happened from that discussion.

**Mr. Brad Duguid (Scarborough Centre):** I think it’s time to clarify this. I mean, if I was sitting at home watching as I heard the comments of my colleagues opposite, I would have thought what the government is doing is telling the municipalities that they can just now, any time, decide that anybody anywhere can vote.

That’s not what’s happening here. What’s happening here is that, throughout this bill and throughout the hearings with regard to the City of Toronto Act, we’re showing confidence in the judgment of municipalities to determine, and give them the flexibility they need to ensure that they can make good decisions.

In this case, I am fully confident that a municipality is not going to allow somebody sitting on a beach in Acapulco with a cellphone to vote. That’s just balderdash. That’s just exaggeration to the nth degree.

Mr. Chair, what this does is it gives municipalities, by way of an example—and I know that most of us here are from, generally speaking, fairly urban areas, maybe with the exception of Mr. Hardeman. Mr. Brownell is as well, for the most part. When you’re up in northern Ontario and you have extreme weather conditions and you may have an important decision to make, there may be a case where some municipalities in a situation like that may want to have some flexibility to be able to make those decisions, in particular if there are time elements involved.

What this section does is it gives municipalities like that the ability, the flexibility, to put in place a policy that works for them.

I don’t think I, as a former city of Toronto councillor, want to impose my experiences on communities in northern Ontario. I want to give them the flexibility to be able to decide what’s best for them. And down the road, as technology changes and improves, who knows what the future holds in terms of technology. I think municipalities are more than mature enough to make these decisions as to how best to govern their meetings and how best to ensure that they vote.

In response to Mr. Hardeman’s question about provisions that are being put in place with regard to limitations that we have talked about in the past, there has to be a quorum of members physically present at the meeting, and the power does not apply to closed meetings. So those are two of the areas where limitations are in place.

**The Chair:** Mr. Hardeman.

**Mr. Hardeman:** Thank you very much for the presentation. Just a couple of questions. I think it’s a given that it does not apply to closed meetings, because voting cannot take place in closed meetings, so to say that somehow that protects the public is somewhat erroneous.

Of course, they could have the closed meetings without the member present and then they could come out of the closed meeting and have the member from Acapulco actually be part of the vote. Is that not right?

**Mr. Prue:** Yes.

**Mr. Hardeman:** I just ask the question. And the other thing: I wondered other than—and I appreciate the comments, that they have to have the majority of members present before the rest can vote. So on a nine-member council, only four could be away on vacation at the time. Is that—

**Mr. Duguid:** I’m sorry. Say that again?

**Mr. Hardeman:** I said, on a nine-member, only four can be away at the council meeting and still participate with a full council.

1610

**Mr. Duguid:** Four could be away at a council meeting—I don’t know. That would depend on how the municipality decided to implement this. You’re speculating now that a municipality’s not going to have limitations on this type of power or authority.

**Mr. Hardeman:** I wonder if the parliamentary assistant or maybe the legal branch could tell me where in the bill—and I’ve been sitting here trying to find it—it puts limitations. It was suggested that it’s balderdash that someone from Acapulco could be phoning. I’d like to know where in this bill it says that can’t happen.

**Mr. Duguid:** What I’m saying is balderdash is your lack of confidence in municipal politicians to make reasonable and wise decisions and the fact that you seem to think they are not accountable to their own people. Do you really think that any municipal council under this provision would allow the scenarios that you’re describing to take place? I have a lot more confidence in my municipal councillors, obviously, than you do in yours.

**Mr. Hardeman:** Mr. Chairman, it’s not the lack of confidence I have in councillors anywhere in the province of Ontario—

**Mr. Duguid:** It's coming through loud and clear in this particular debate.

**Mr. Hardeman:** I have been in politics long enough to know that if there is a contentious issue and it's going to be dependent on one vote and that vote happens to be away, regardless of where they are, the winning side will try and get that person's vote into this decision all over the province of Ontario. That's why I say that if the province has so much confidence in municipalities, I don't know why we have a Municipal Act, because they could do anything. It would seem to me, if we have confidence in them, why do we need to direct them anywhere? In this case, it's quite possible and plausible that they will need that extra vote and that they would get that from wherever it had to come from in order for that person to be there, to get the vote and break the tie.

If you don't want it to happen, then I see absolutely no reason—like, under what condition does it make sense to have electronic voting from somewhere else in the world to participate in an existing council meeting? To me, there just seems no need for this to be in there if it's not for the things we mentioned.

**Mr. Prue:** I just want to point out a very courageous man in the federal House of Commons from BC, the man who was dying of cancer. He flew halfway across the country in order to cast his vote because the federal House would not allow him to phone it in. We all remember. He was able to do that, and he had to do that or the government would have fallen. I think that if any councillor wants to vote, that councillor should have the wherewithal to be there in front and face squarely his or her electors and look them in the eye and listen to all of the stuff and be accountable and be seen and vote.

I do not believe for a minute—whether they are in Acapulco or in their basement or whether they're on some government business somewhere, they are not in the hearing and they are not in front of the electors who elected them. They are casting a vote out of sight and out of mind, with no one to look at. If you're afraid to look at your electors or if you're not there to look at your electors, then you ought not to be voting.

It's the same as when we stand up in that House. If you're not going to vote, you don't come in, and if they're not going to vote, they shouldn't be—those are the rules. I don't want to give something that potentially can be misused. I'm not saying it will be in every case, but it only has to be misused once or twice and the whole thing will come crashing down and the blame will come right down on this House. The blame will come right down on this Legislature, saying, "You allowed for this." The first time someone misuses it, and they will, because they're human beings out there, then they'll point the finger to today and they'll say, "How could you have been so silly?"

If the brave man could fly—and I'm trying to remember his name—all the way from British Columbia with cancer to cast his vote and die a couple of weeks later, then I think he sets the standard that we all need to live by.

**The Chair:** Further speakers? All those in favour of the motion?

**Mr. Hardeman:** A recorded vote.

### Ayes

Brownell, Duguid, Kular, Peterson.

### Nays

Hardeman, Prue.

**Mr. Duguid:** Actually, Mr. Chair, could we retake that vote? I'm sorry. I thought that was the section that we were voting on.

**The Chair:** Okay: unanimous consent. We appear to have had our wires crossed on that one. Do we have unanimous consent?

**Mr. Hardeman:** I think they do.

**Mr. Duguid:** Well, you got your wires crossed too.

*Interjections.*

**The Chair:** I think you guys voted in support of it. It's entirely up to the committee. We need unanimous consent—

**Mr. Prue:** It's now struck out, right?

**The Chair:** Yes, it would be. We need unanimous consent. Okay, moving on.

Shall section 100, as amended, carry? All those in favour? All those opposed? That section is carried.

Moving on to section 101, the clerk informs me that the order to deal with these is that the PC motion on page 32 would be the first motion to move forward on this. Mr. Hardeman.

**Mr. Hardeman:** Page 32 is a government motion; page 31 is the PC motion.

**The Chair:** I'm sorry. Bear with me. We'll deal with the government motion first, on page 32.

**Mr. Jim Brownell (Stormont–Dundas–Charlottenburgh):** I move that subsection 239(3.1) of the Municipal Act, 2001, as set out in subsection 101(1) of schedule A to the bill, be struck out and the following substituted:

"Educational or training sessions

"(3.1) A meeting of a council or local board or of a committee of either of them may be closed to the public if the following conditions are both satisfied:

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

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

**The Chair:** Speaking to the motion? All those in favour?

**Mr. Hardeman:** I thought we were going to hear an explanation from the government side on the motion?

**The Chair:** Well, no, we weren't, and I called for the—did you want to speak to it?

**Mr. Hardeman:** Yes. This question is to the parliamentary assistant. I gather this is to clarify the issue of

clearly defining what would be allowed in the expansion of the closed meetings part of the bill. But to me, it runs into a problem and it comes to the point where—and the parliamentary assistant has said a number of times that we don't want to put things in the bill that are redundant, that are totally useless, totally red tape, that don't accomplish any single event.

On this one, I want to just go to the presentation that we got from the Ontario Community Newspapers Association. This was the one section where it talked about the expansion of closed meetings. These two were exactly the ones that the independent newspaper organization was opposed to being in closed session. Now it seems they're the only ones left in this closed session. They said if you're going to have training and technical discussions, who better to listen to those discussions and then interpret them to the community so the citizens will have some idea what those discussions were and how council got to the decision they did, recognizing that none of these trainings or technical briefings are secret or need to be kept away from the public for any purpose or any length of time, because they can only be educational and technical and they cannot further the business of the decision-making of council.

I would suggest that one good example would be right now, because municipal elections have just concluded. Councils would have seminars or training or assistance for new councillors. Community Newspapers says that is the exact thing that the public needs to be made more aware of, of how that works, so they understand and can get that message out to the public. I, for one, can't see why any part of councillors' training should be kept out of the sight and the hands of the public. It would seem to me that we would all be well served in the electoral process, in the democratic process, to understand better how politics works and how councils operate in general, as opposed to individual issues.

1620

It just seems so redundant to have the training and education purposes as part of a closed meeting. Mind you, I think you're going to have trouble to get the Toronto Star or the Globe and Mail or any of the newspapers, even the local newspapers, to cover a councillors' training session, but I see absolutely no reason on earth why you would make it so they weren't allowed to do that. So, in support of our community newspapers, I think it would be very advantageous if we did not allow that closed meeting at all, as opposed to just changing it to limit it somewhat, and clarify what it is you can go into closed meetings for.

**Mr. Prue:** I'm not going to support this amendment, although I must state that this amendment is better than what was originally in the bill. It does go some way. But I still feel very uncomfortable with this because it complicates an issue and it introduces the whole idea that we go beyond what is presently an in camera meeting and add some more things. Citizens want fewer closed-door meetings. I have never met a citizen, a citizens' group, a newspaper, an advocate, someone who acts on

behalf of citizens, lawyers, planners, anybody, who wants any type of closed meeting. They need to see that the meeting is transparent. They need to see that the ideas are discussed. They don't want fewer closed meetings. It's the politicians who want fewer closed meetings.

Notwithstanding that this says "educating or training the members," the reality is that at present most municipalities, when they have training sessions, have open meetings. When I was on council in East York, when I was the mayor of East York, and even in the megacity of Toronto, we had open meetings. There weren't many people who attended them—nobody wanted to see the councillors brainstorming much—but they were open, and if somebody wanted to walk in and sit down, well then so be it. If the councillors ask dumb questions, then the councillors ask dumb questions. We all ask dumb questions. We all strive to try to figure it out. Sometimes you use rhetoric and sometimes you use rhetorical questions, and it all makes sense. I don't see that anything is hugely going to be gained here. All it's going to do is make the public more skeptical about the municipal process. Even if it's just something as innocent as an education or training session for members, they are going to be skeptical when they are not allowed into it.

We have had a history in this country and in this province for over 100 years that the meetings are public. It's what makes municipal government so good. It is, in my view, what makes it the best form of government, even better than our provincial one. I don't see watering it down, because I don't see any benefit at all except that some politician somewhere will think that he can ask goofy questions in private that he couldn't ask in public. The people who will be the most hard on him or her for asking goofy questions will be his or her colleagues and not the public, because the public oftentimes won't understand the issue either.

Having said that, I don't intend to vote for this. It's not a deal-breaker for me, but I don't intend to vote for it. I want open meetings, not closed ones.

**Mr. Hardeman:** In final summation on it, I think we've heard quite a number of times this issue of, "We have to go into closed meetings because councillors, particularly new councillors, may want to ask foolish questions and they wouldn't want to do that in public." I think, as Mr. Prue said, likely the harshest critics of foolish questions at one of these seminars would be other elected officials in the meetings.

I'm almost willing to bet in every case that if you had a sizeable group of ratepayers listening to the seminar, there would be someone in that audience who, given the opportunity, would have asked exactly the same question. I don't think, just because we're newly elected officials, that somehow we're going to ask more foolish questions than the general population. I think this would be helpful to the public regardless of the questions. There is likely someone in the audience who would like to hear the answer to that to inform themselves.

Again, I see absolutely no reason for that section to be in. That's why I will be voting against this amendment

and supporting the one that comes before it, which is to just remove the section to not have more closed meetings than what the present act allows.

**Mr. Duguid:** I guess the one thing that somebody who may be listening to this particular debate would be interested in is that what we're talking about here in this legislation is for the first time having an avenue for them to go to if they feel that their local council has inappropriately closed the meeting off and had a secret or private meeting. They'll now have the ability to have an inspector, who may be appointed by their particular municipality, or a fallback of the Ombudsman if a municipality chooses not to appoint an inspector, to give them the ability to lodge a complaint and to have that complaint followed up. That's something that has never existed before. So we'll now have a strengthened ability to—I don't know if I want to use the word "police," but I'll use that word—to police private meetings to ensure that they meet the criteria as set out in the act.

The current act provides a number of areas—legal, property purposes, employee negotiations, labour relations and a number of others—where private meetings are allowed. It's not mandatory, but it's the option of the council to go into private meetings. The only thing being added here to that list is, "for education and training purposes," something that municipalities have asked us for, something that AMO has asked us for, something that we deem reasonable. We don't believe it will be in any way abused. We think it's an appropriate way, if a municipality chooses—they don't have to, but if a municipality thinks that in this particular issue they think it's appropriate for educational and training purposes that it would be more effective to go into an in camera meeting, to engage in that, they have that option, plain and simple.

**The Chair:** Further speakers?

**Mr. Hardeman:** It happens every time that, when I get all this information, I have another question. Is the parliamentary assistant suggesting that somehow expanding the closed meetings is also the impetus for having the investigator being able to look into closed meetings? Is there some suggestion that you couldn't have one without the other?

**Mr. Duguid:** No, not at all.

**Mr. Hardeman:** So you're assuring the people that there is in fact no connection between the ability to go to an investigator and whether we expand the closed meetings to include training.

**Mr. Duguid:** They're two separate issues.

**Mr. Hardeman:** There is no connection between the section of the bill that allows the expansion of closed meetings to include education and training for members and the fact that the bill allows the appointing of an investigator to deal with closed meetings in municipalities.

**Mr. Duguid:** I think the appointment of the investigator is an effort on the part of our government to ensure as much as possible that municipal meetings are transparent where appropriate and that municipalities comply with the legislation that we put in place. The

legislation we put in place is the legislation that we're working on right now, and this is one of the clauses that is part of that.

**Mr. Hardeman:** Again, I support the ability of the municipalities or the ratepayers to go to a short process to make sure that the municipalities are complying with the rules of closed meetings, but again, I want to be assured that there is no connection between that and supporting the expansion of closed meetings.

**Mr. Duguid:** I don't know how many ways I can say there's no connection, but there's no connection.

**The Chair:** Any further speakers?

**Mr. Prue:** A recorded vote, please.

**Mr. Duguid:** Better check this motion before we vote on this, Mr. Chair.

**The Chair:** This is a government motion. It's on page 32.

### Ayes

Brownell, Duguid, Kular, Peterson.

### Nays

Hardeman, Prue.

**The Chair:** That motion is carried.

Moving on now to page 31 of your agenda, or moving back to page 31 of your agenda, is a PC motion.

### 1630

**Mr. Hardeman:** I move that section 101 of schedule A to the bill be amended (a) by striking out subsection 101(1) of schedule A to the bill; (b) by striking out clause 239(4)(b) of the Municipal Act, 2001, as set out in subsection 101(2) of schedule A to the bill; and (c) by striking out subsection 239(9) of the Municipal Act, 2001, as set out in subsection 101(3) of schedule A to the bill.

This is primarily just a resolution to go back to the status quo of what is allowed in closed meetings and what isn't. The bill speaks about being a bill about transparency. I have asked quite a number of people, quite a number of government representatives and people presenting at this committee and so far I was unable to find one person who would suggest that you could comply with the translation of transparency by in any way expanding the ability to hold meetings excluding the public. This amendment is strictly to go back to the old legal and personnel portion of the present Municipal Act rather than expanding it to the motion that was previously passed.

**Mr. Prue:** I just have a question of the Chair or perhaps of the clerk. If this motion passes, since we've already dealt with government motion number 32, by striking out subsection 101(1) of schedule A to the bill, are we as well striking out what we have just voted on in motion number 32?

**The Chair:** I'll ask the clerk to comment on that. We were going to deal with that with your motion on page 33 as well when it comes up.

**Mr. Prue:** But I need to know, when I'm voting on this one here, whether I am in fact just undoing—

**The Chair:** I understand that, and the clerk is going to answer your question on this one first.

Mr. Prue, I just conferred with the clerk and it is in order to be dealing with it.

**Mr. Prue:** What does it mean to me? If I vote for this, does it mean that I am striking out number 32 that we've just voted for? Because it doesn't exactly say that. This one here has passed. It means that what we've passed we can now vote to strike out. Okay. That's all, thank you.

**The Chair:** Any further speakers? Seeing none, this is a PC motion on page 31.

**Mr. Hardeman:** A recorded vote.

### Ayes

Hardeman, Prue.

### Nays

Brownell, Duguid, Kular, Peterson.

**The Chair:** Moving on to the NDP motion on page 33. Since 32 passed, the advice I have from the clerk is that the motion becomes redundant and would be out of order. Is that correct? Okay.

**Mr. Prue:** That's why I wanted to make sure when I voted.

**The Chair:** Moving on to page 34, Mr. Hardeman, a PC motion.

**Mr. Hardeman:** I move that section 101 of schedule A to the bill be amended by adding the following subsection:

“(0.1) Subsection 239(2) of the act is amended by adding the following clause:

“(f.1) any matter, consideration of which at an open meeting would,

“(i) have an adverse effect on the finances of a municipality or local board,

“(ii) tend to prejudice the reputation or character of any person, unless the person requests an open meeting, or

“(iii) result in the disclosure of records, if disclosure of the records is prohibited under this act, the Municipal Freedom of Information and Protection or Privacy Act or any other act”;

This is an amendment directly in relation to the city of London presentation. The city of London spoke at length about the need for more information and direction in the act when dealing with the closed meeting options. This particular amendment would clarify when indeed it would be appropriate to move in camera. I think their problem was that the extension of the provisions to the closed meetings did not deal with some of the challenges

they were presently facing as to defining the old portion of the act.

I know in municipal circles they always just used the comments “legal and personnel”; that implied anything having to do with any legal action the municipalities may or may not be involved in or may foresee being involved in, or anything to do with personnel. They said the definition wasn't clear enough, and they were spending a lot of time and effort at the board to be heard on whether they were actually legally in legal and personnel meetings. This has been put forward as a solution to the problem they faced, at least partly a solution to the problem they faced.

**Mr. Duguid:** Just a quick question to the mover: Do you and your party support this, or are you moving it as a courtesy to the city of London? Do you support this?

**Mr. Hardeman:** Obviously, we have put it forward, so we support it.

**Mr. Duguid:** That's interesting. The member spent a great deal of time talking about our government opening up closed meetings with a potential for education and training. And then he goes and moves a motion which he says he supports, and I believe him, which has the effect of broadening the opportunities for municipal governments to go in camera in three different areas, and very broad areas: one, having “an adverse effect on the finances of a municipality or ... board;” another, an issue that tends to “prejudice the reputation or character of any person, unless the person requests an open meeting;” and the third one, something to do with the Municipal Freedom of Information and Protection of Privacy Act or any other act.

You can't have it both ways, Mr. Hardeman. On one hand, you're criticizing us for allowing for education and training to take place in closed meetings if municipalities want. On the other hand, you're putting in place very broad definitions adding to when municipalities can go in camera. I'm sorry, but you're trying to have it both ways. We're looking at it here and we're shaking our heads and saying that you criticized us for making a small change. I'm not saying this is massive, but it's a heck of a lot more significant and could be interpreted to be a heck of a lot more significant than training and education. We won't be supporting this for that very reason.

**Mr. Hardeman:** I gather from the presentation that the government side isn't going to support it. I would point out that if you read the present Municipal Act and you followed council minutes around the province in the past, you would not need to expand the definition of “legal and personnel” to cover all three of these items. It's already prohibited. If there is information that deals with the freedom of information and privacy act, council is not allowed to disclose that to the public. So if that's what you were going to discuss, it would come under legal and personnel, because legally they can't do that.

If you're talking about “prejudice the reputation or character of any person, unless the person requests an open meeting,” in fact, that's personnel. You can go into legal and personnel to do disclosure. The adverse effect would be dealing with property where disclosing that

information would adversely affect the dealings of the municipality. So my contention is—and obviously we're going to disagree on it, to the parliamentary assistant—there's absolutely nothing in this resolution that broadens the scope of the present legal and personnel conditions in the Municipal Act. This clearly defines it so it isn't up to the courts each time to decide whether they did or didn't follow the right rules.

**The Chair:** Any further speakers?

**Mr. Hardeman:** A recorded vote.

### Ayes

Hardeman.

### Nays

Brownell, Duguid, Kular, Peterson.

**The Chair:** That motion loses.

Moving to the NDP motion on page 35, Mr. Prue.

**Mr. Prue:** I move that subsection 101(2) of schedule A to the bill be struck out and the following substituted:

“(2) Subsection 239(4) of the act is repealed and the following substituted:

“Procedure re closed meeting

“(4) Before holding a meeting or part of a meeting that is to be closed to the public, a municipality or local board or committee of either of them shall state by resolution,

“(a) the fact of the holding of the closed meeting;

“(b) the substantive reason for the meeting being closed; and

“(c) the general nature of the matter to be considered at the closed meeting.

“Same

“(4.1) A resolution under subsection (4) shall not be passed unless,

“(a) there was reasonable notice of the proposed resolution; or

“(b) the resolution explains why notice was abridged or not provided.”

**1640**

What we're asking here is that if a council wants to hold a closed-door meeting, they have to tell the public the reason and the rationale for it. We want the substantive reason for the meeting being closed stated and the public notice of the closed meeting, and if there's no public notice provided, the reason why it was not provided.

Now, I can understand that in some circumstances it will not become apparent until the actual time of the meeting when the council strays into areas in which it must be closed, but when it's known in advance, we think that notice should be provided so that the public is aware that that portion will be closed, and the rationale for it.

We want to make sure that closed council meetings need to be carefully circumscribed. Councils need to be accountable to the public as to why this privilege—and it is a privilege—is being invoked. The motion would

create a more open and publicly accountable approach to holding closed-door meetings.

If I can just state my own experience, in all those years in municipal government, the only time our citizens truly got angry was when decisions were taken behind the wall, where they were not party to it, where they could see not it, where they could not discuss it and where it was not on television. Then, when we came out and simply moved the motion, it made them extremely unhappy.

We did so reluctantly, we did so only when it was necessary to do so, but in the end I firmly believe that wherever possible, citizens should have the right to hear what the politicians are doing. Wherever at all possible, when they cannot be there because of personnel or legal matters or the sale or purchase of land—which are the big ones—that they be told in advance, that a public notice be given, so that they understand what is happening.

**The Chair:** Any further speakers to the NDP motion on page 35?

**Mr. Hardeman:** I will be supporting this, as I think we do need to do it if we're going to have more closed meetings, to clearly define for what purpose and how they must be conducted as best we can.

I do have some problems with a lot of closed meetings when they are for the purposes in the present act, before these amendments. They do come up on very short notice. The topic may very well not have been obvious the week before or even when the meeting was scheduled; that the topic was going to turn to things that would be required under legal, personnel or purchase. So I do have some concerns with the prescriptive nature of it. I think we need to do whatever we can to make sure that there are some lines in the sand as to what is required if you're going to go to in camera meetings.

**Mr. Duguid:** We won't be supporting this. We just don't feel it adds anything substantive to the provisions that already exist in the legislation. Municipalities have to pass a resolution stating that they're going into a closed meeting, as it is. And they also have to state the nature of the matter to be considered at the meeting, prior to the closed meeting being held.

We're also making it mandatory that municipalities develop a notice policy, so we expect that municipalities will be able to consider the appropriate kind of notice. We think they're capable of making that decision, and as a result, we won't be supporting this.

**The Chair:** Any further speakers?

**Mr. Prue:** A recorded vote, please.

### Ayes

Hardeman, Prue.

### Nays

Brownell, Duguid, Kular, Peterson, Racco.

**The Chair:** That motion is lost.

Moving on to page 36. This is a PC motion.

**Mr. Hardeman:** I move that section 101 of schedule A to the bill be amended by adding the following subsection:

“(2.1) clause 239(6)(b) of the act is repealed and the following substituted:

“(b) the vote is,

“(i) for a procedural matter,

“(ii) for giving directions or instructions to officers, employees or agents of the municipality, local board or committee of either of them or persons retained by or under a contract with the municipality or local board, or

“(iii) a vote of a committee that has the power only to advise or make recommendations to a municipal council or local board for the sole purpose of referring the matter to the municipal council or local board for deliberation.”

**The Chair:** Mr. Hardeman, are you speaking to it?

**Mr. Hardeman:** This is a similar motion to the previous one from the city of London. If we had had a different result on the previous vote, which would have structured the Municipal Act under its present conditions, this motion would not be required. This is only what they could do in meeting beyond what is presently there.

**The Chair:** Any further speakers? Seeing none, all those in favour of the PC motion on page 36? Those opposed? That motion is lost.

Moving on to the government motion on page 37, Dr. Kular.

**Mr. Kuldip Kular (Bramalea-Gore-Malton-Springdale):** I move that subsections 239(7) and (8) of the Municipal Act, 2001, as set out in subsection 101(3) of schedule A to the bill, be struck out and the following substituted:

“Record of meeting

“(7) A municipality or local board or a committee of either of them shall record without note or comment all resolutions, decisions and other proceedings at a meeting of the body, whether it is closed to the public or not.

“Same

“(8) The record required by subsection (7) shall be made by,

“(a) the clerk, in the case of a meeting of council; or

“(b) the appropriate officer, in the case of a meeting of a local board or committee.”

**The Chair:** Speaking to the motion, Mr. Duguid?

**Mr. Duguid:** Just a brief explanation. This clarifies that minutes have to be kept for both open and closed-door meetings, because some municipalities have interpreted the existing legislation to not require minutes for closed meetings. I don't know if that was or wasn't the case, but this ensures it's clarified one way or another.

**Mr. Hardeman:** I appreciate that. I know there was quite a bit of debate from the minister too—it could have been with the other act—that a citizen shouldn't worry about what goes on in closed meetings because minutes had to be kept.

This definition, “without note or comment” recording the “decisions and other proceedings at a meeting of the body”: If it doesn't include “note or comment,” in fact it includes absolutely nothing except decisions taken. Of

course, in a municipal council meeting that becomes quite evident. When they pass a motion to take an action, there is a motion there, and the body of the motion includes the event that took place. But if you don't pass a motion in legal and personnel, then what would be left to record in the minutes? I really am confused as to what would be the minutes of a closed meeting if no action was taken: just a list of attendees?

**Mr. Duguid:** I'm not a clerk, and I've got to admit that I haven't read the minutes too frequently of closed meetings that I've been involved in. But I think there are certain general things that they will say as to what they went in for, and they may say a decision—well, you can't take a decision in camera, anyway. The minutes would probably not be able to say much other than that a discussion took place, perhaps attendance. I think we'd need to get a more expert opinion if you wanted to know exactly what those minutes would or wouldn't say.

**Mr. Hardeman:** If I could, I think this is a very important issue, in my mind, as to whether this goes beyond what I always thought, where nothing was written except that which was passed, or whether the clerk can be asked to record what others say. That would not be their note or comment; that would be the discussion that took place. Would the minutes record discussions that took place in a closed meeting or in an open meeting, for that matter?

**Mr. Duguid:** Municipal minutes aren't like Hansard. They're generally just minutes of what took place at meetings. They do talk about attendance. They may talk about motions moved. In this case, I would assume they talk about a discussion being held, and what they could say or couldn't say I'm not quite sure. The clerks would have to determine that. So there'd be no minutes in terms of word verbatim, who said what or anything like that. Generally speaking, that's not done at most municipal governments that I've been privy to. Whether they'd have the option of doing that or not, I'm not sure. I'm really not sure whether that's just the standard that most municipalities have across the province or whether that's a standard they have to adhere to. I'm not an expert on minutes for municipalities, so I really couldn't answer that for sure.

1650

**Mr. Hardeman:** The reason I ask is that it's been a general thought that in fact that doesn't take place, particularly in legal and personnel meetings. But the fact that the government is now defining that minutes must be kept, and if no motions are kept, does that somehow tell the staff that they have to record some of the events as they happen?

I would just use an example. If this was a municipal council meeting and the parliamentary assistant said the government side will not be supporting this motion—not verbatim, because it's not in Hansard—would the minutes of that council meeting say, “Brad Duguid said they would not be supporting the motion,” paraphrasing it as opposed to word for word? Would they record that action?

**Mr. Duguid:** I hesitate to give a definitive answer. My understanding would be no, that that's not the way it would be reported. But keep in mind that this isn't a new provision. It doesn't provide any additional powers to anybody or change any of the current provisions. All it does is clarify what's always been the understanding from the province's perspective under previous governments and under ours under the current legislation. It just clarifies, because some municipalities were interpreting it a little bit differently. I don't know if they were acting differently within it. I'm not aware of any circumstances, but there were some issues in terms of interpretation. So it's just a clarification of the present policy, that minutes are taken when closed-door meetings take place.

**Mr. Hardeman:** But in the present act it's not a requirement to have minutes of closed meetings, is it?

**Mr. Duguid:** My understanding is that that's the provincial—we could go to staff just to see if they're nodding their heads or not.

**The Chair:** Perhaps a member of the staff could come forward.

**Mr. Duguid:** My understanding is that under the current act there would have to be some record taken of the closed meeting.

**Mr. Scott Gray:** Scott Gray, municipal affairs, legal branch. Yes, I think our interpretation of the Municipal Act, as it is written now, is that minutes should be kept of all meetings, whether they're closed or open, but some municipalities have interpreted it as not being required when meetings are closed. This is an effort to say both with council meetings, where that ambiguity exists, as well as with local board meetings, that there will have to be some form of minutes kept. There will obviously be some standard. If challenged, courts will say that minutes have to reach a certain minimum standard. What exactly that is isn't set out in legislation.

**Mr. Hardeman:** Okay, thank you.

**The Chair:** Any further questions?

**Mr. Prue:** Just a comment: I'm going to vote for this. I'm very pleased with this motion, that minutes are kept at closed meetings. Had that happened back in the days of MFP and that famous meeting—I believe Mr. Duguid was probably there too; I know it was late into the night—none of what transpired in the city of Toronto probably would have transpired. I'm voting for it.

**The Chair:** All those in favour of the government motion on page 37? Those opposed? That motion is carried.

Going on to the PC motion on page 38 and continuing on 38a.

**Mr. Hardeman:** I move that section 101 of schedule A to the bill be amended by adding the following subsection:

“(4) Section 239 of the act is amended by adding the following subsections:

“(10) If, on the application of any person, the Superior Court of Justice finds that this section has been contravened, the court may,

“(a) issue a declaratory judgment in relation to the contravention;

“(b) prohibit the continuance or repetition of the contravention; or

“(c) declare void any action that resulted from the contravention.

“(11) In determining whether to make a declaration under clause (10)(c), the Superior Court of Justice shall consider the following factors among other relevant factors:

“1. The extent to which the contravention,

“i. affected the substance of a resolution or bylaw,

“ii. denied or impaired access to any meeting that the public had a right to observe and record, or

“iii. prevented or impaired public knowledge or understanding of the public's business.

“2. Whether voiding the action is a necessary prerequisite to a substantial reconsideration of the matter.

“3. Whether the public interest would be served by voiding the action by considering the prejudice likely to accrue to the public if the action is voided, including the extent to which persons have relied on the validity of the action and the effect that declaring the action void would have on them.”

This is to deal with the London presentation, and this is to put in place a way that the courts would look at the action as it relates to open and closed meetings and how they should deal with the end result of it. And I think it's important; this here is to make sure that the action for something council did doesn't adversely or negatively impact someone in the general public who put faith in that decision that they made, even though it may have been made according to the courts in the wrong way. So this is to put the consequences of their action in the appropriate place, but at the same time do so in a way that would not negatively impact the innocent people who were negatively impacted by it.

**The Chair:** Any further speakers?

**Mr. Duguid:** We won't be supporting this. We don't feel it's necessary. We feel the courts already have these remedies at their disposal and that they'll likely consider these factors. They have the option of considering these factors as it is, so we don't believe this is necessary.

**The Chair:** Any further speakers? Seeing none, all those in favour of the PC motion on 38 and 38a? All those opposed? That motion is lost.

Shall section 101, as amended, carry? Those in favour? Those opposed? Section 101 is carried.

Moving on to section 102, the first motion is an NDP motion on page 39.

**Mr. Prue:** I move that section 102 of schedule A to the bill be struck out and the following substituted:

“102 The act is amended by adding the following section:

“Investigation

“239.1 A person may request that an investigation of whether a municipality or local board has complied with section 239 or a procedure bylaw under subsection 238(2) in respect of a meeting or part of a meeting that

was closed to the public be undertaken by the ombudsman appointed under the Ombudsman Act.”

The rationale for that is this has been requested by citizens’ groups and the Ontario Ombudsman. The amendment would ensure equal opportunity for oversight of municipal councils across the province. Instead, the way it’s set out here, it would be investigated in some locales and would be the purview of the ombudsman and others. This would treat all municipalities in the same manner, and citizens, no matter where they were in Ontario, would know that they had remedy through the ombudsman and the ombudsman would therefore have sole oversight for investigations as to whether the municipality or board has complied with rules pertaining to closed-door meetings.

**The Chair:** Further speakers?

**Mr. Hardeman:** I support this resolution, with some concern. I do believe that, properly instituted, the appropriate way to deal with this issue is with ombudsmen properly appointed as municipal ombudsmen. I think the government has made it quite clear that it feels the municipalities could do an appropriate job of appointing an ombudsman to deal with this so they wouldn’t have to go to the Ontario Ombudsman. But, having seen some of the amendments that we have already dealt with that outline the direction of the approach the municipalities must use to appoint an ombudsman, it doesn’t give me confidence that in fact they will be an independent third party, that the public would have confidence in that when they were appealing to the ombudsman whether the closed meeting was appropriate, that they in fact would be assured that it’s a third party that’s hearing that case as to whether they’re going to win or lose. So I think this here would do that. The Ombudsman pointed out quite clearly in his presentation that he had concerns that the municipalities, where this oversight was required, would be the first ones to appoint their own. So the public would not be able to use the Ontario Ombudsman, and yet it was likely in the area where the situation required the impartiality of an Ombudsman. The Ombudsman felt that if the ombudsman locally wasn’t appointed somewhat to the same standards as the provincial Ombudsman, the provincial Ombudsman should apply to the same—so we would have equal justice for everyone across the province.

**1700**

I’m not convinced that the ombudsman, in the earlier part of the act, is being appropriately structured, so I believe that this is the answer that would deal with that. For that reason, I’ll be supporting this motion.

**The Chair:** Any further speakers?

**Mr. Duguid:** In short, we believe that municipalities are quite capable of appointing independent investigators to deal with these particular issues. We have confidence that they would use this additional authority in an appropriate way and be accountable to the people they serve.

**The Chair:** Any further speakers? All those in favour of the NDP motion on page 39? Those opposed? That motion is lost.

Moving on to the motion we have before us on page 40, Mr. Racco.

**Mr. Mario G. Racco (Thornhill):** I move that subsection 239.2(1) of the Municipal Act, 2001, as set out in section 102 of schedule A to the bill, be amended by striking out “investigate” and substituting “investigate in an independent manner.”

**Mr. Duguid:** This simply clarifies that an investigator must carry out his or her functions in an independent manner.

**The Chair:** Any further speakers to the government motion on page 40?

**Mr. Hardeman:** Just a question: In the original, before this amendment, is there an assumption there—was it implied that it wouldn’t be an independent investigation? What prompts the need for this amendment?

**Mr. Duguid:** Mr. Hardeman might find this hard to believe, but we do listen to him when he’s here at committee. He expressed concerns about the independence in this particular area, and the Ombudsman made recommendations that we should clarify it. While we assume and I think we’re confident that municipalities would be able to recognize and distinguish what’s independent and what’s not, it’s to clarify it. It just strengthens the idea that the investigator would have to be independent.

**Mr. Hardeman:** Saying it doesn’t make it so. There’s absolutely nothing that’s changed that would make him more independent. It’s just that he’s got to do it in an independent manner.

**Mr. Duguid:** There’s a subsequent motion coming that further defines that independence and how they have to work.

**The Chair:** Any further speakers? Seeing none, all those in favour of the government motion on page 40? Those opposed? That motion is carried.

Moving on to the government motion on page 41, Mr. Brownell.

**Mr. Brownell:** I move that subsection 239.2(2) of the Municipal Act, 2001, as set out in section 102 of schedule A to the bill, be struck out and the following substituted:

“Powers and duties

“(2) Subject to this section, in carrying out his or her functions under subsection (1), the investigator may exercise such powers and shall perform such duties as may be assigned to him or her by the municipality.

“Matters to which municipality is to have regard

“(2.1) In appointing an investigator and in assigning powers and duties to him or her, the municipality shall have regard to, among other matters, the importance of the matters listed in subsection (2.3).

“Same, investigator

“(2.2) In carrying out his or her functions under subsection (1), the investigator shall have regard to, among other matters, the importance of the matters listed in subsection (2.3).

“Same

“(2.3) The matters referred to in subsections (2.1) and (2.2) are,

“(a) the investigator’s independence and impartiality;  
 “(b) confidentiality with respect to the investigator’s activities; and  
 “(c) the credibility of the investigator’s investigative process.”

**Mr. Duguid:** This simply installs the four cornerstones as recommended through the Ombudsman’s discussions with us, similar to what we’ve done previously.

**The Chair:** Further speakers? None. All those in favour of the government motion on 41? Those opposed? The motion is carried.

Shall section 102, as amended, carry? Those in favour? Those opposed? That section is carried.

Sections 103 to 107 have no amendments before us. With the committee’s concurrence, we’ll deal with them as one. Those in favour? Those opposed? They’re carried.

Moving on to section 108. We’re just going to take not a recess, just a big breath.

Just so everybody is clear on this, what the clerk has distributed is a PC motion, 41.1, dealing with section 267. Section 267 of the act is not open. Mr. Hardeman, would you move your motion first and then I’ll go into the information from the clerk after that.

**Mr. Hardeman:** I move that schedule A to the bill be amended by adding the following section:

“108.1 Section 267 of the act is amended by,

“(a) striking out ‘for a period exceeding one month’ in subsection (1); and

“(b) striking out ‘for a period exceeding one month’ in subsection (2).”

**The Chair:** Mr. Hardeman, the clerk informs me that section 267 is not open. In order to deal with this we would need unanimous consent of the committee. Do we have unanimous consent?

**Mr. Duguid:** We’re happy to allow it to come forward.

**Mr. Hardeman:** This section was presented in the presentation from the county of Oxford. It was presented that they wanted the ability to substitute people to sit on county council because of the fact that they only have one member from each municipality on county council, and at times when one person can’t be there, the suggestion was that they be given the authority to substitute members on council. My amendment really doesn’t allow any further substitution on council to what the present act is, save and except that it removes that one-month requirement. Presently, the municipality can, by resolution, appoint a replacement on council providing the present member is going to be away for a month. This would allow that to take away the month. It could be done for a single meeting, but it would still have to be done by council. So one individual could not just appoint someone else from council to go in their stead; it would have to be a prepared process and deal with the issue too. So it isn’t just a fly-by-night, call up in the morning and say, “Joe, I can’t go. Could you go and vote for me?” This would require a decision of the local council to appoint the upper-tier member. It still prohibits the

appointment of heads of council and it just takes away the month or exceeding one month, to make sure that we can do it for a single meeting.

**The Chair:** Further speakers?

**Mr. Duguid:** While there may be issues that can be argued for or against, this provision would affect not just Oxford but a number of different regions and we really haven’t consulted with those regions to see whether this is something they would be interested in or would support. Without being sure of a consensus on this at this point in time, we have trouble supporting it.

1710

**Mr. Hardeman:** One of the later restructuring county acts actually does allow the substitution within a county of their members of council. Our amendment intentionally does not allow the individual substitution any time they want. It still keeps everything in place that’s presently in the act. So the only impact it would have on anyone is that they could still stick with the once a month, but they could not—county council meets twice a month, so they could appoint them for one of the meetings instead of both. It’s almost a housekeeping thing.

**The Chair:** Any further speakers? Those in favour of the PC motion on 41.1? Those opposed? That motion is lost.

Moving on: Mr. Hardeman, the PC motion on 41.2 that you have distributed.

**Mr. Hardeman:** I move that schedule A to the bill be amended by adding the following section:

“108.1 Section 267 of the act is amended by adding the following subsection:

“Restrictions

“(2.1) A person may not serve as an alternate member of an upper-tier council under this section unless,

“(a) the person’s appointment as an alternate member specifies the dates or meetings at which the person is authorized to serve as an alternate member of the upper-tier council; and

“(b) notice of the appointment is given in writing to the clerk of the upper-tier municipality and to the public.”

This is a continuation of the same section as to where we took out “one month.” This clearly defines that it must be an appointment from the lower-tier municipality as opposed to an individual choice of the sitting member.

**The Chair:** Any further speakers? All those in favour of the motion on 41.2? Those opposed? That motion is lost.

Shall section 108 carry? Those in favour? Those opposed? Section 108 is carried.

No amendments were brought before us on sections 109 and 110; if we can deal with those both at the same time. Those in favour? Those opposed? Sections 109 and 110 are carried.

Moving on to section 111, page 42. It’s a government motion.

**Mr. Kular:** I move that the paragraph 6 of subsection 270(1) of the Municipal Act, 2001, as set out in section 111 of schedule A to be the bill, be struck out.

**The Chair:** Mr. Duguid?

**Mr. Duguid:** This was an issue raised by a number of the municipalities and AMO. It was a question of concern about potential liability of mixed interpretations of what was meant by property and civil rights. So we've agreed that we'd remove that part from the bill.

**The Chair:** Any further speakers to the government motion on page 42? If none, all those in favour? Those opposed? That motion is carried.

Shall section 111, as amended, carry? Those in favour? Those opposed? That's carried.

There are no amendments before us on sections 112 to 139. We can collapse those and deal with them all at the same time. All those in favour? Those opposed? They are carried.

Moving now to section 140, government motion on page 43.

**Mr. Duguid:** We're going to withdraw this motion. I'll give just a short explanation. Some municipal organizations wanted a change in terminology in the formula used in this section. Our staff have indicated that they'd like some more time for discussions with them. It's not a critical issue; it's a fairly small issue in terms of interpretation. So rather than try to come up with something last minute that may not work, we'll just withdraw the motion.

**The Chair:** Thank you. That motion is withdrawn.

Going on to the government motion on page 44, Mr. Racco.

**Mr. Duguid:** We'll withdraw that as well, Mr. Chair. It's related.

**The Chair:** Okay, that's withdrawn as well.

Moving on to 45.

**Mr. Prue:** We're halfway, Mr. Chair.

**The Chair:** It doesn't feel like that, for some reason.

**Mr. Racco:** I move that subsection 353(6) of the Municipal Act, 2001, as set out in subsection 140(3) of schedule A to the bill, be amended by striking out "10 years" and substituting "seven years."

**The Chair:** Mr. Duguid?

**Mr. Duguid:** This is a request by a number of stakeholders, including the Association of Municipal Managers, Clerks and Treasurers and a number of other organizations that appeared before us, and we agreed to it.

**The Chair:** Any further speakers? All those in favour of the government—oh, Mr. Hardeman?

**Mr. Hardeman:** Since I haven't got the bill right here open to that section, what are we reducing from 10 to seven?

**Mr. Duguid:** It's to do with the share of proceeds from the sale of property that a municipality acquires through vesting after a failed tax sale. It used to be 10 years—well, we were looking at 10 years in our bill, and municipalities said, "That's way too long. Seven years would be more appropriate," and we said, "That's fine."

**The Chair:** All those in favour? Those opposed? That is carried.

Shall section 140, as amended, carry? Those in favour? Those opposed? That motion is carried.

Sections 141 to 145 have no amendments. Those in favour, if we deal with them all at once? Those opposed? They are carried.

Moving on to section 146, it's a government motion on pages 46a and 46b.

**Mr. Brownell:** I move that subsection 361(12) of the Municipal Act, 2001, as set out in section 146 of schedule A to the bill, be struck out and the following substituted:

"Definition

"(12) In this section,

"'tax' includes,

"(a) charges that are imposed under section 208, and

"(b) fees and charges, other than charges described in clause (a), that are imposed under this act and satisfy the conditions set out in paragraphs 1, 2 and 3 of subsection (13).

"Same

"(13) The conditions referred to in clause (b) of the definition of 'tax' in subsection (12) are:

"1. The fees and charges are imposed to raise an amount for at least one of the following purposes:

"i. Promotion of an area as a business or shopping area.

"ii. Improvement, beautification and maintenance of land, buildings and structures of the municipality in the area, beyond that provided at the expense of the municipality generally.

"iii. Interest payable by the municipality on money it borrows for the purposes of subparagraph i or ii.

"2. The fees and charges are imposed on owners of land that is included in the commercial or industrial classes within the meaning of subsection 308(1).

"3. The fees and charges have priority lien status and are added to the tax roll."

**The Chair:** Mr. Duguid?

**Mr. Duguid:** This is a technical amendment for clarification purposes.

**The Chair:** Any speakers? If none, all those in favour? Those opposed? That motion is carried.

Shall section 146, as amended, carry? Those opposed? That is carried.

Sections 147 to 153 have no amendments. Dealing with them all at once, all those in favour? Those opposed? They are carried.

Section 154: There's a government motion on page 47.

**Mr. Kular:** I move that clause 379(7.1)(c) of the Municipal Act, 2001, as set out in subsection 154(4) of schedule A to the bill, be struck out and the following substituted:

"(c) any interest or title acquired by adverse possession by abutting landowners, including the crown in right of Ontario, before registration of the notice of vesting."

**The Chair:** Mr. Duguid?

**Mr. Duguid:** It's just technical.

**The Chair:** Any speakers? Seeing none, all those in favour? Those opposed? That motion is carried.

Shall section 154, as amended, carry? Those in favour? Those opposed? Section 154 is carried.

There are no amendments before us on sections 155 to 182. We have concurrence to deal with them all at once. All those in favour? Those opposed? They are carried.

Section 183: page 48.

**Mr. Duguid:** Just quickly, we're recommending that committee vote against this, simply because it was put there as a place marker in case Bill 14 went through as written. There were changes made to Bill 14, so it no longer applies.

1720

**The Chair:** Further speakers?

**Mr. Prue:** Bear with me. I have not been able to find this section yet.

**The Chair:** Section 183 of schedule A.

**Mr. Duguid:** Page 98, I think.

**Mr. Prue:** Page 98, yes; I just got there. Let me just have a look for one second. Section 183(1) says, "This section applies only if Bill 14 (Access to Justice Act, 2006), introduced on October 27, 2005, receives royal assent." Has it received royal assent?

**Mr. Duguid:** I believe it has, but I don't know if there's any justice official here that can—the fact is, it was changed. We'll get clarification for you on that.

**Ms. Elaine Ross:** Elaine Ross, Municipal Affairs and Housing. Yes, Bill 14 did receive royal assent, although I don't think it's been proclaimed. But at the committee hearings, the section that this refers to was removed. So the amendment refers to 75.1 of the Provincial Offences Act and that provision was not passed in Bill 14.

**Mr. Prue:** All right. So this is totally redundant, then?

**Ms. Ross:** Yes.

**The Chair:** Any further speakers? Shall section 183 carry? Those in favour? Those opposed? That motion loses.

Moving on to section 184, this is an NDP recommendation on page 49.

**Mr. Prue:** The reason I'm asking people to vote against section 184 of schedule A: This removes a section of the bill that allows the Lieutenant Governor in Council to make regulations imposing limits on municipal powers under sections 9, 10 and 11 if it is in the provincial interest to do so.

I don't understand the rationale of the government. You keep talking about trusting municipalities to do so many things, but then you're giving with one hand and taking away with the other. Most municipalities were united in their request to remove this section of the bill. They saw it adding a significant element of uncertainty to their decisions. Either the municipalities are a mature level of government, as you keep on saying, or, if you pass this motion, you have to admit they're not. The question is, which one is it to be? Why does the Lieutenant Governor in Council have the right to impose limits on those municipal powers? I know you're going to answer me back with "municipal interest," but surely,

if you trust the municipalities, the 450 or so in this province, you should not be putting this section in the bill.

**The Chair:** Are there any further speakers?

**Mr. Hardeman:** Again, I'm agreeing with my colleague Mr. Prue. I suppose, apart from all the individual parts of the bill, this is the one that takes it all away. There is no place in the bill that is safe from intrusion, where Big Brother will still be looking over their shoulder, because they have this section in the bill. It doesn't matter what happens: If the province deems that it would be of provincial interest, they don't even have to explain what that interest might be. They can, by regulation, override anything a municipality does. As was said, I don't think there was anybody in the whole process who presented to the committee who suggested that that was a good idea, that "what we really want is the right to do things, but we still want the provincial government to be the arbitrator, shall we say, of all our decisions. In case they don't like one, they can, by regulation, overturn it."

Again, I've heard it a dozen times if I've heard it once: "They're a mature level of government. We have trust in them," even at times suggesting that this side of the table doesn't have confidence in municipalities. I find that hard to reconcile with this section, to say that the government does, because this section absolutely takes away all the confidence that you've told us you have, that anything in the bill that does not suit the government the Premier's office, by regulation, can change and not adhere to the bill at all.

Again, as was mentioned, it takes away the confidence that municipalities need to show that when they make decisions based on the letter of the law, that law isn't going to change after they've made the decision, contrary to their decision. I think we should not be supporting this section.

**Mr. Duguid:** Our government has a responsibility to protect the provincial interest for the people of Ontario. While this kind of provision, I'm sure, would be used reluctantly and probably not very often, if at all, by any government that may happen to be in office, we feel it's important that the people of Ontario are protected and to ensure that we can address any unforeseen circumstances or consequences that may impact the public provincial interest.

**The Chair:** Any further speakers?

**Mr. Prue:** Just on a recorded vote.

**The Chair:** A recorded vote. On page 49, you have an NDP recommendation. Shall section 184 carry?

#### Ayes

Brownell, Duguid, Kular, Peterson, Racco.

#### Nays

Hardeman, Prue.

**The Chair:** That loses. I'm sorry; it carries.

**Mr. Duguid:** We're all getting tired. It's been a long day.

**The Chair:** Sections 185 and 186 have no amendments before us. Those in favour? Those opposed? They are carried.

Moving on to section 187 on page 50, it's a government motion.

**Mr. Racco:** I move that section 457.2 of the Municipal Act, 2001, as set out in section 187 of schedule A to the bill, be struck out and the following substituted:

"Deemed bylaw re powers and duties

"457.2(1) This section applies if a person or body, other than a municipal services board, ceases to be authorized to exercise powers or perform duties on behalf of, or in relation to, a municipality by virtue of the coming into force of any provision of schedule A to the Municipal Statute Law Amendment Act, 2006.

"Same

"(2) On the day on which the applicable provision comes into force, a municipality is deemed to have passed any bylaw necessary under this act to give the person or body any power or duty,

"(a) that the municipality is capable of giving to the person or body under this act; and

"(b) that the person or body was authorized to exercise or perform, on behalf of or in relation to the municipality, immediately before that day.

"Same

"(3) If the deemed bylaw is a delegation bylaw, it is also deemed to provide that both the municipality and the delegate can exercise the delegated powers.

"Amend or repeal

"(4) The municipality may amend or repeal the deemed bylaw."

**The Chair:** Thank you, Mr. Racco. Mr. Duguid?

**Mr. Duguid:** It's just a transitional carry-over provision. An example would be maybe inspector powers or something like that. It ensures that during the transition that inspector would be able to continue to do the work that they do under the authorities of the current provisions until the municipality passes the appropriate policies.

**Mr. Hardeman:** To the parliamentary assistant, on (3) near the bottom of the page: Is that a change from previously where it said that a municipality, once they delegated the authority, could not exercise that same authority and now, under this amendment, they can exercise the authority that they gave away to someone else?

**Mr. Duguid:** It clarifies, in the transition period, that the authority that somebody currently has exists until the municipality passes something different.

**Mr. Hardeman:** Let me understand it.

**Mr. Duguid:** I believe the proclamation of the act is what they're talking about. When this act is proclaimed, it means that if you've got an inspector—I'm using this as an example; it's hypothetical. If an inspector has certain powers, those powers will continue until the

municipality passes a bylaw that may be a policy in that particular area, or something like that.

It's just transitional. There's no intent change here. It's just because there were some issues raised to make sure that was the case, the understanding. So it's a wording issue.

1730

**Mr. Hardeman:** I guess, though, if I read that, that's how we got there, but when we get to, "(3) If the deemed bylaw is a delegation bylaw, it is also deemed to provide that both the municipality and the delegate can exercise the delegated powers," is there a time when that stops, that they can't both exercise the same delegated power?

**Mr. Duguid:** Let me try to—I'll say it this way. What it does is it clarifies the transitional role which ensures that if a person or a body has certain powers under the existing Municipal Act, that person or body would continue to have those powers following the enactment of Bill 130. This is done by deeming a municipality to pass all necessary bylaws to grant the powers to that person or body. Then the municipality is free to repeal or amend these deemed bylaws at any time. It's a transitional thing, to get them from enactment of Bill 130 to when they get their own policies in place, because they'll need time. The next day, they won't have policies in place to deal with their issues. It's a catch-all to make sure that nothing is left without authority to continue to do the good work the municipality does. I use inspections as an example; there are probably others too.

**The Chair:** Any further speakers? All those in favour of the government motion on page 50? Those opposed? That motion is carried.

Shall section 187, as amended, carry? Those opposed? That motion is carried.

Shall section 188 carry? All in favour? Those opposed?

**Mr. Duguid:** Mr. Chair, do we have a motion on 188?

**Mr. Prue:** It's 188.1.

**Mr. Duguid:** I'm sorry.

**The Chair:** Section 188 carries.

Section 188.1, page 51.

**Mr. Brownell:** I move that schedule A to the bill be amended by adding the following section:

"188.1 Section 468 of the act is repealed and the following substituted:

"Board of control, city of London

"468. Despite the repeal of the old act, part V of that act continues to apply to the board of control of the Corporation of the City of London, subject to the following rules:

"1. The board is deemed to be a board of control under section 64 of the old act.

"2. Subsection 64(3) of the old act does not apply to the board.

"3. The references to a two-thirds vote in subsections 64(2) and 68(3), (6) and (7) of the old act are deemed to be references to a majority vote."

**The Chair:** Thank you, Mr. Brownell. Mr. Duguid?

**Mr. Duguid:** I can see by the looks that there's a need for an explanation. Do we need unanimous consent? Did they want the explanation first so they know what this is about?

**The Chair:** Yes. Just so everybody understands, this section is not open. We would need unanimous consent to deal with that motion.

**Mr. Duguid:** This is a request by the city of London. You may know they're the only board of control left in the province, and they asked that they have the ability to dissolve their board of control by a simple majority rather than a two-thirds majority and to dissolve the board of control without the Ontario Municipal Board approving it. We felt that's in keeping with the requests and the way we wanted to go with this. We thought it was a reasonable request and granted it through this, but it does need unanimous consent in order to carry.

**The Chair:** Do we have unanimous consent to deal with the issue?

**Mr. Prue:** To deal with it, yes.

**The Chair:** We do? It's on the floor, then.

**Mr. Hardeman:** I know it's in the wording, and maybe the parliamentary assistant can answer and maybe we need the legal branch, but "deemed to be references to a majority": Does that mean that we expect two thirds to be the majority, or does that mean that it goes back to half plus one?

**Mr. Duguid:** This has the effect of giving them the ability through a simple majority vote to dissolve its board of control, restructure itself.

**Mr. Hardeman:** I just want to make sure from a legal point of view, when you say that two thirds is deemed a majority, does that mean two thirds is the majority? I know what the intent is and I agree with the intent, but when you say wherever it reads two thirds we deem that to be the majority, does that mean that no longer means one half plus one, that it now means two thirds?

**Mr. Duguid:** My understanding of this is that it changes the two thirds to a majority, majority plus one, I guess, a simple majority.

**Mr. Hardeman:** Just shake your head if you agree.

*Interjection.*

**Mr. Hardeman:** Okay.

**The Chair:** Any speakers?

**Mr. Prue:** I just have a question. Whose majority is this? Is this the London council's majority, or is this the board of control's? As far as I know, the board of control in London—and I could be wrong—is made up of four members plus the mayor, so there are five. Does that mean that three of them have to vote to dissolve that? Is that what this is about, or is this the London council in its totality that needs a majority in order to change it?

**Mr. Duguid:** My understanding is it's the city of London, but maybe staff can clarify that to see whether it's the city of London or both. I think it's just the city of London.

**Mr. Gray:** Yes, it's a vote of city council. So right now the law says you need a two-thirds vote for the bylaw and then approval by the municipal board. Now

the law would be a majority vote by city council without municipal board approval. That's the change.

**Mr. Prue:** It's not the board of control voting, then.

**Mr. Gray:** No.

**Mr. Prue:** Okay.

**Mr. Hardeman:** One more question to the parliamentary assistant: It was in the city of London presentation that they wanted to go to the simple majority?

**Mr. Duguid:** Yes.

**The Chair:** Okay, thank you. Those in favour of the government motion on page 51? Those opposed? That motion is carried.

Shall section 188.1 carry? Those in favour? Those opposed? That is carried.

Section 189: We have no amendments before us. Shall section 189 carry? Those opposed? That motion is carried.

Section 190: Page 52 of your agenda, an NDP motion.

**Mr. Prue:** I move that subsection 190(2) of schedule A to the bill be struck out and the following substituted:

"Same

"(2) Sections 1 to 110 and 112 to 189 come into force on a day to be named by proclamation of the Lieutenant Governor.

"Same

"(3) Section 111 comes into force on December 31, 2007."

The purpose of this is that the municipalities asked for a year in order to implement section 111 dealing with policies aimed at employee hiring, procurement of goods and services, all those things. The municipalities and AMO came before the committee to say they needed a year in order to implement the policies required under section 111. This provides one calendar year for that to take place. Given that I understand this matter, if we finish today, will go back to the House to be wrapped up before we break for Christmas, that would give them at least one year or one year and a couple of weeks to do that. It's a very reasonable request, I thought, that the municipalities and AMO made, and I move the motion to allow them to do it.

**The Chair:** Thank you, Mr. Prue. Further speakers?

**Mr. Duguid:** I appreciate the motion, but the government does have the power to proclaim the sections at different times. We're in discussions right now to determine what sections should be proclaimed when, because Mr. Prue is quite right; the municipalities have asked for more time on a few areas and in particular the areas where they have to develop policies. So we can certainly assure the committee that we're in discussions now and intend to accommodate a number of the concerns raised, but we're not at a point where we can specifically decide which would be proclaimed and when. So we can't support this at this time.

**The Chair:** Further speakers?

**Mr. Prue:** It's part of the record, though: You are going to give them additional time.

**Mr. Duguid:** The answer to that would be yes. We've heard from the municipalities and we're in discussions

right now in terms of the proclamation dates. No decisions have been made, so I can't say hard and fast, but I can say that we've listened very carefully and understand their concerns and I expect that there will be some provisions made in terms of the proclamation dates to accommodate a number of concerns raised.

**The Chair:** Are there any further speakers? Those in favour of the NDP motion on page 52? Those opposed? That motion is lost.

Shall section 190 carry? Those in favour? Those opposed? Section 190 is carried.

Shall schedule A, as amended, carry? Those in favour? Those opposed? Schedule A is carried.

Moving on to schedule B, shall section 1 of schedule B carry? Those in favour? Those opposed? That is carried.

**1740**

Section 2: There is a PC motion on page 53.

**Mr. Hardeman:** I move that section 2 of schedule B to the bill be amended by adding the following subsection:

"(2) Section 6 of the act is amended by adding the following subsection:

"Taxing powers

"(3) Despite any other provision of this act or any other act, the city does not have any power to impose a tax that it did not have before June 12, 2006."

This amendment seeks to remove the taxing powers that were downloaded to the city of Toronto in the City of Toronto Act. The government has proven itself unwilling to address the issue of fiscal challenges of municipalities quickly. In fact, they have ignored our motion to complete the review of the municipal-provincial fiscal imbalance, shall we say, taking it from 18 months to a more expedient time to report to the Legislature and to the municipalities before the next provincial election, even though a great number of municipalities have supported that resolution.

The other day the minister made some comments in the Legislature concerning another matter. He said that he had heard from 110 municipalities, or a hundred and some municipalities, on the issue that he was referring to, so that made it appropriate. Obviously this is not only what AMO wanted but what the municipalities wanted. We now have in the neighbourhood of somewhere between 130 and 140 municipalities across Ontario that have supported the issue; it should not take 18 months to complete that review.

I think the government's actions between the passing of the City of Toronto Act and now have made it quite clear. In August they announced this review, and just these last couple of weeks they actually appointed the first panels to start the review. If it was being done in a way to achieve the best results in the most efficient and effective way, they would have had that panel appointed at the end of August or the first part of September instead of now. Obviously, they do not want to solve the problem.

When Mayor Miller made a presentation during the City of Toronto Act, he said he had absolutely no plans to use these powers, but of course they are a great concern to a lot of people in the city of Toronto, as to what may happen to them as they reach the point where the city has to deal with that \$519 million, I think it is. It's mentioned in today's paper how they're going to have a shortfall in doing their budget.

Some strange comments are coming out from the city as different people are talking about the city's needs and the province not dealing quickly with that fiscal imbalance, such as the individual who's appointed to the licensing committee. He suggested that maybe the answer was putting a tax on individual apartments in the city of Toronto, so people would pay a larger fee to live in a rented accommodation than to live in a condo or a single-family dwelling. Of course, he didn't suggest it was going to be that way. He said they would put a fee on the landlord based on each apartment, and the lower the level of rent or the lower the quality of the apartment, the higher the fee would be. This would supposedly make the landlord upgrade the apartment building. In most cases, I think what we would see is the pass-through of that fee to the individual tenant, and it would make it even slower in getting the apartment building upgraded. The reason I bring that up is that I think the problem here is that they have the ability to do that.

The deputy city manager, Joe Pennachetti, says that he believes there will be power to put a tax on car licences in the city, that they could add a \$5, \$10, \$25 surcharge on every licence plate issued in the city of Toronto to help pay for city services. Again, we've heard from the people saying they don't want—not just the public in Toronto, but the mayor of the city says they don't want to use those taxes. I think it's important that we look at that and say we treat all people in Ontario fairly, and if the tax is not allowed on the Mississauga side, which this act says it won't be, then across the street the people there will have to pay more tax or the individual establishments will have to absorb that extra cost that would be put on it. So I think it's very appropriate at this time, having looked at what's been happening and so forth, that we just take that out of the City of Toronto Act.

I think it's along with a number—and if we look through this from here on, they seem to be primarily City of Toronto Act amendments, an act that has not yet been implemented that is going to get this many amendments through this act. It would seem to me that if all those other areas we've looked at to see whether what was being proposed in the original act is working properly and the government has decided there are that many that need changing, I would suggest that this is one. When you look at the impact and some of the options that could be coming forward, I think this would be a good time to eliminate that too and get us back into the frame of all municipalities being treated fairly, as accountable governments in their own right. The parliamentary assistant has said that a number of times, and I think this is a good way to show that we have confidence in all municipi-

palities, including the city of Toronto, and that we should give everyone the same: Either everyone should be allowed to tax or no one should be asked to look into that.

Having said that, it may sound like I don't think Toronto should have that authority. I'm personally convinced that when the budgeting process is well under way and the city of Toronto says to the province, "We can't make ends meet with our present ability to pay, with our present tax structure," the province is going to say, "But you have the ability to levy more taxes, so get on with it." I think we should take that out so that's not the approach that the province can use as we deal with the shortcoming in the revenues for the city of Toronto budget that they're going to be facing in a matter of a few months. That's why I'm putting this forward and I hope that the government supports it, though I'm not totally confident that they will.

**The Chair:** Are there any further speakers to the motion on page 53?

**Mr. Duguid:** Just briefly, the Tory approach to Toronto just doesn't change whether they're in government or opposition. They don't respect the city of Toronto, they don't respect the people of Toronto and their judgement. They didn't respect us when they forced an amalgamation on the people of Toronto, and we all know the results of that. They didn't respect us or any other municipality because they were the lord of downloading, which brought Toronto right to its knees. Our government is doing our best to try to upload as much as we can and we continue to work at that. We're working with the city of Toronto. We feel they're a mature level of government. We feel the people of Toronto are a mature people who will judge their elected representatives accordingly. As such, we feel the new tax powers that we're giving the city of Toronto are totally appropriate and will be used in a measured way to the betterment of their community. We have confidence in the people of Toronto, and that's what distinguishes us, I think, from the Tories.

**The Chair:** Further speakers?

**Mr. Prue:** I can see where the Conservatives are coming from, because I know full well that the answer that's going to come is, "You have the power to tax," when the city cries they don't have enough money. I know that's exactly what you're going to say, and I know exactly why he's trying to stop you from doing that.

But turning it around, I too have confidence. I know some people worry sometimes about Howard Moscoe's musings, and perhaps that is what has brought this on. But he is but one member of council. He is very inventive. He probably has 100 ideas a week and at least one of them is good.

*Interjection.*

**Mr. Prue:** No, but that's important. I'm not saying that in a derogatory way, because there are people who haven't had one idea in their entire life on that council as well. And that is very derogatory.

**Mr. Duguid:** We won't name names.

**Mr. Prue:** No, I'm not going to name any names, but we know who some of those people are.

But there are 45 members and they will balance out what Mr. Moscoe thinks about. I am totally confident in the end that if we give them the authority and if they misuse it—I'm sure that's why the minister has that section in; even though I didn't vote for it, that's what it's there for. That's what's going to be exercised if and when they go too far, which I don't think they will.

**1750**

**The Chair:** All those in favour of the PC motion on page 53? All those opposed? That motion is lost.

For sections 3 to 6, we have no amendments before us.

*Interjection.*

**The Chair:** I'm sorry. Shall section 2 carry? Those in favour? Those opposed? That is carried.

No amendments before us on sections 3 to 6. We'll collapse them. Those in favour? Those opposed? They're carried.

Page 54 actually now becomes page 85d. That deals with schedule D.

Moving on to section 7, it's a government motion on page 55.

**Mr. Kular:** I move that section 7 of schedule B to the bill be struck out and the following substituted:

"7. Section 24 of the act is repealed and the following substituted:

"Delegation re hearings

"Application

"24. (1) This section applies when the city is required by law to hold a hearing or provide an opportunity to be heard before making a decision or taking a step, whether the requirement arises from an act or from any other source of law.

"Delegation authorized

"(2) Despite subsections 21(1) and (2), sections 7 and 8 authorize the city to delegate to a person or body described in subsection 21(1) the power or duty to hold a hearing or provide an opportunity to be heard before the decision is made or the step is taken.

"Rules re effect of delegation

"(3) If the city delegates a power or duty as described in subsection (2) but does not delegate the power to make the decision or take the step, the following rules apply:

"1. If the person or body holds the hearing or provides the opportunity to be heard, the city is not required to do so.

"2. If the decision or step constitutes the exercise of a statutory power of decision to which the Statutory Powers Procedure Act applies, that act, except sections 17, 17.1, 18 and 19, applies to the person or body and to the hearing conducted by the person or body."

**The Chair:** Mr. Duguid?

**Mr. Duguid:** I'll give the shortest explanation I can, and if they need more, that's fine. A lot of these motions, this one included, are consequential to motions that were made to the Municipal Act, just to make sure there's consistency between the approach taken in the Municipal Act and the City of Toronto Act. This is one of those.

**The Chair:** Any further speakers? Seeing none, all those in favour of the motion on the floor? Those opposed? The motion on page 55 is carried.

Shall section 7, as amended, carry? Those in favour? Those opposed? That motion is carried.

Sections 8 to 16 have no amendments contain therein. We'll collapse them. All those in favour? Those opposed? They're carried.

Moving on to section 17. There are no amendments before us?

*Interjection.*

**The Chair:** Okay, that was dealt with the first day of our hearings.

Sections 18 to 23: no amendments before us. We'll collapse them. All those in favour? Those opposed? That's carried.

Going on to section 24, there's a government motion on page 58.

**Mr. Racco:** I move that section 24 of schedule B to the bill be struck out and the following substituted:

"24. Section 112 of the act is repealed."

**The Chair:** Mr. Duguid.

**Mr. Duguid:** A separate motion under schedule C, motion 81, would remove ministerial approval of providing financial incentives under community improvement plans for all municipalities. As a result, this specific section in the City of Toronto Act, which gives Toronto the authority to approve financial incentives under community improvement plans, would no longer be required. So this section has been replaced by changes that will be made in the Planning Act, just in the neatness of trying to have different portions of the bill in the right areas.

**The Chair:** Are there any further speakers to that? Seeing none, all those in favour? All those opposed? That motion is carried.

Shall section 24, as amended, carry? Those in favour? Those opposed? That's carried.

For sections 25 and 26 there are no amendments; let's collapse the two. Those in favour? Those opposed? They're carried as well.

Section 26.1: There's a government motion on page 59. Mr. Brownell.

**Mr. Brownell:** I move that schedule B to the bill be amended by adding the following section:

"26.1 The act is amended by adding the following section:

"Development permit system

"114.1 A regulation made under section 70.2 of the Planning Act may,

"(a) vary, supplement or override section 113 or 114 of this act or any bylaw passed under either of those sections as necessary to establish a development permit system;

"(b) authorize or require the city to pass a bylaw to vary, supplement or override a bylaw passed under section 113 or 114 as necessary to establish a development permit system;

"(c) if the city has adopted or established a development permit system,

"(i) exempt it from any provision of section 113 or 114 set out in the regulation,

"(ii) prohibit it from passing a bylaw under those provisions of section 113 or 114 that are specified in the regulation."

**Mr. Duguid:** This is a technical amendment. I can explain further if need be.

**The Chair:** Any further speakers? All those in favour? Those opposed? That motion is carried.

Shall section 26.1, as amended, carry? Those in favour? Those opposed? That is carried.

Section 27: There's a government motion on page 60. Mr. Racco.

**Mr. Racco:** I move that section 27 of schedule B to the bill be amended by adding the following subsection:

"(3) Subsection 115(22) of the act is repealed and the following substituted:

"Transition

"(22) This section does not apply with respect to an appeal that is made before the day a bylaw passed under subsection (5) comes into force."

**Mr. Duguid:** This is a transitional provision fairly similar to something we debated earlier on.

**The Chair:** Any further speakers on the motion on page 60?

**Mr. Prue:** I need a bit more than that. What does not apply to an appeal that is made before the bylaw is passed? I'm trying to leaf through as fast as I can, but I can't quite put my finger on it. I'm running through three sets of acts here.

**Mr. Duguid:** I totally understand; I'm running through the same thing. This ensures that appeals and process can continue under the current system for consents in minor variances until a new system is put in place by the city of Toronto.

**The Chair:** Any further speakers? Mr. Prue?

**Mr. Prue:** No.

**The Chair:** All those in favour? Those opposed? That motion is carried.

Shall section 27, as amended, carry? Those in favour? Those opposed? That is carried.

Sections 28 and 29 have no amendments. Those in favour? Those opposed? They are carried.

Moving on to section 29.1 on page 61, there's a government motion. Mr. Brownell.

**Mr. Brownell:** I move that schedule B to the bill be amended by adding the following section:

"29.1 The act is amended by adding the following section:

"Same

"122.1 The Minister of Municipal Affairs and Housing may make regulations prescribing limitations for the purposes of subsection 113(2.1)."

**Mr. Duguid:** This is a technical amendment to ensure that the regulation-making authority, including the ability to include limitations on conditions which were clarified

in the Planning Act, also apply to the City of Toronto Act.

**The Chair:** Any further speakers to the motion on page 61?

**Mr. Hardeman:** I guess my concern about this amendment is just a clarification. Again, the regulatory powers seem to be able to override powers that were given to the city. To me, it just flies in the face of saying that we trust them, that they will do it right. Does this amendment create more regulatory powers than the present bill contains?

**Mr. Duguid:** This has to do with the zoning-with-conditions provision, that we're allowing municipalities to zone with conditions, and it's ensuring that Toronto has the same regime as others across the province. But in terms of specifics, we'd have to get some staff to answer this precisely.

**Mr. Hardeman:** So this is just bringing the city of Toronto in line with all the rest of the province—

**Mr. Duguid:** Exactly.

**Mr. Hardeman:** —as it relates to the planning process.

**Mr. Duguid:** Yes, and zoning with conditions.

**The Chair:** Any further speakers to the motion on page 61?

Seeing none, all those in favour? Those opposed? That motion is carried.

Shall section 29.1 carry? Those in favour? Those opposed? That is carried.

Sections 30 to 35?

**Mr. Prue:** On a point of order, Mr. Chair: We were to have completed the stuff by 6 o'clock. I understand that we can continue and that, in fact, we may want to continue. May I ask you until what time?

**Mr. Duguid:** Mr. Chair, if I can assist just a little bit in that, most of these motions have to do with what we've done previously, and they relate to other changes we've made in the Municipal Act. I don't think there are too many contentious motions left, so I think we can get through this within 20 minutes, maybe, if we go real quick.

**Mr. Prue:** Well, if that's the plan, then I certainly am not going to step in the way.

**Mr. Duguid:** I hope, I hope. If we motor through, I think we've got a shot at doing that.

**The Chair:** Thank you, Mr. Prue.

**Mr. Hardeman:** Could I just have about five minutes to meet the call of nature?

**The Chair:** Okay. We'll take a very short recess.

**Mr. Prue:** I could use a recess to see my staff before they go home, too.

**The Chair:** Let's make it five minutes, then.

*The committee recessed from 1801 to 1808.*

**The Chair:** We can call back to order again.

We're going to deal now with sections 30 to 35, to which there are no amendments. We've got agreement to collapse them. All those in favour? Those opposed? Sections 30 to 35 are carried.

Section 35.1: There's a government amendment on page 62.

**Mr. Duguid:** I move that schedule B to the bill be amended by adding the following section:

"35.1 The act is amended by adding the following section:

"Additional regulation-making powers re corporations

"154.1(1) For the purposes of section 148, the Lieutenant Governor in Council may make regulations governing the powers of the city referred to in that section and governing the corporations established under that section, including regulations providing that specified corporations are deemed to be local boards for the purposes of any provision of this act or for the purposes of the definition of 'municipality' in such other acts as may be specified.

"Saving

"(2) The power conferred by subsection (1) is in addition to the power conferred by section 154."

This is the same as in the Municipal Act, the same motion that we passed previously, which was motion 19 at that time, to do with the authority of business corporations.

**The Chair:** Any questions? All those in favour? Those opposed? That motion is carried.

Shall section 35.1 carry? Those in favour? Those opposed? That's carried.

Sections 36, 37 and 38 have no amendments, if we can collapse those. All those in favour? Those opposed? They are carried.

Moving on now to section 39 on page 63, it's a government motion.

**Mr. Duguid:** I move that subsection 190(3.1) of the City of Toronto Act, 2006, as set out in subsection 39(1) of schedule B to the bill, be struck out and the following substituted:

"Educational or training sessions

"(3.1) A meeting of the city council or local board or of a committee of either of them may be closed to the public if the following conditions are both satisfied:

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

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

It just makes the City of Toronto Act consistent with the same provisions for the Municipal Act.

**Mr. Prue:** Can I speak to this? No, it doesn't, because this is the bill that has been voted the other way. If this is passed, the city of Toronto will be different from everything else. Might I suggest the government may want to withdraw this so that the city of Toronto is consistent with every other municipality in the province when it comes to closed meetings.

**The Chair:** Mr. Duguid?

**Mr. Duguid:** I'm sorry. My explanation may be wrong on this particular one.

**Mr. Prue:** If we could go back, this is the motion that caused some confusion. I believe it was number 30.

**Mr. Duguid:** You see, I had number 32 as the motion that this corresponds to. If I could have some help from maybe our staff? Does this correspond to number 32?

**Mr. Gray:** I think that the motion there was some confusion over was the electronic meetings motion, and not the equivalent to this motion. I think the equivalent motion to this did go through.

**Mr. Prue:** Perhaps, then, it's my error.

**The Chair:** Any further speakers to the government motion on page 63?

**Mr. Prue:** I did not support the last one, and I will not be supporting this one either.

**The Chair:** All those in favour? Those opposed? That motion is carried.

A government motion now on page 64.

**Mr. Duguid:** I move that subsections 190(8) and (9) of the City of Toronto Act, 2006, as set out in subsection 39(3) of schedule B to the bill, be struck out and the following substituted:

"Record of meeting

"(8) The city, a local board or a committee of either of them shall record without note or comment all resolutions, decisions and other proceedings at a meeting of the body, whether it is closed to the public or not.

"Same

"(9) The record required by subsection (8) shall be made by,

"(a) the clerk, in the case of a meeting of the council; or

"(b) the appropriate officer, in the case of a meeting of a local board or committee."

This is in line with motion number 37 that we passed in the Municipal Act.

**The Chair:** Any further speakers? Seeing none, all those in favour of the government motion on page 64? Those opposed? That motion is carried.

Shall section 39, as amended, carry? Those in favour? Those opposed? That is carried.

Moving on to section 40, there's a government motion on page 65.

**Mr. Duguid:** I move that subsection 190.2(1) of the City of Toronto Act, 2006, as set out in section 40 of schedule B to the bill, be amended by striking out "investigate" and substituting "investigate in an independent manner."

This is similar to the provision in the Municipal Act for motion number 40.

**The Chair:** Any further speakers? Seeing none, all those in favour? Those opposed? That motion is carried.

Government motion on page 66.

**Mr. Duguid:** I move that subsection 190.2(2) of the City of Toronto Act, 2006, as set out in section 40 of schedule B to the bill, be struck out and the following substituted:

"Powers and duties

"(2) Subject to this section, in carrying out his or her functions under subsection (1), the investigator may

exercise such powers and shall perform such duties as may be assigned to him or her by the city.

"Matters to which the city is to have regard

"(2.1) In appointing an investigator and in assigning powers and duties to him or her, the city shall have regard to, among other matters, the importance of the matters listed in subsection (2.3).

"Same, investigator

"(2.2) In carrying out his or her functions under subsection (1), the investigator shall have regard to, among other matters, the importance of the matters listed in subsection (2.3).

"Same

"(2.3) The matters referred to in subsections (2.1) and (2.2) are,

"(a) the investigator's independence and impartiality;

"(b) confidentiality with respect to the investigator's activities; and

"(c) the credibility of the investigator's investigative process."

This is similar to what we did under the Municipal Act under motion number 41.

**The Chair:** Any further speakers? Seeing none, all those in favour of the motion on page 66? Those opposed? That motion is carried.

Shall section 40, as amended, carry? Those in favour? Those opposed? Section 40 is carried.

Shall section 41 carry? Those in favour? Those opposed? That carries.

Going to section 42, we have a new motion being distributed.

**Mr. Duguid:** Would you like me to read it while it's being distributed, Mr. Chair?

**The Chair:** Just make sure the opposition parties have it first.

**Mr. Duguid:** They have it.

I move that clause 229(4)(b) of the City of Toronto Act, 2006, as set out in section 42 of schedule B to the bill, be amended by striking out "clause 228(3)(a)" and substituting "clause 228(4)(a)."

This corrects a cross-reference in the new section 229, which authorizes multi-year budgeting. A numerical error was the problem, so it's substituting "(3)(a)" with "(4)(a)."

**The Chair:** We need unanimous consent—

*Interjection.*

**The Chair:** No, we don't. We just deal with it as it is. Any further speakers? Seeing none, all those in favour? Those opposed? That is carried.

Shall section 42, as amended, carry? Those in favour? Those opposed? That is carried.

Section 43: Those in favour? Those opposed? That is carried.

Moving on to section 44, which I think it a government motion on page 67.

**Mr. Duguid:** I move that section 248.1 of the City of Toronto Act, 2006, as set out in section 44 of schedule B to the bill, be amended by adding the following subsections:

“Repeal, surplus from other borrowing

“(3) Despite subsection (1), the city may repeal a debenture bylaw or other bylaw for long-term borrowing to reduce or eliminate the amount that would have been required to be raised annually to repay the debentures or other long-term borrowing, to the extent that an amount applied in accordance with subsection 248(2) reduces or eliminates the requirements for repayment of principal and interest for the borrowing.

“Repeal, sinking or retirement fund in surplus

“(4) Despite subsection (1), the city may repeal a debenture bylaw or other bylaw for long-term borrowing with respect to amounts that would have been required to be raised for a sinking or retirement fund, to the extent that the balance of the fund as audited by the city auditor, including any estimated review, is or will be sufficient to entirely repay the principal of the debt for which the fund was established on the date or dates the principal becomes due.”

This is a technical amendment for consistency again with the Municipal Act. It has to do with sinking funds, and I certainly can provide a greater explanation than that, if necessary.

**Mr. Prue:** If you check the transcript, the parliamentary assistant used the word “review” instead of “revenue.” I don’t want us to be passing the wrong thing. The third line from the bottom, he said “including any estimated review” as opposed to “revenue.” I’m not going to vote against it; it’s just for the record. I want it to be—

**Mr. Duguid:** For the record, I’ll correct that. Do you want me to reread that section?

**The Chair:** Start at “including” perhaps.

**Mr. Duguid:** “Audited by the city auditor, including any estimated revenue, is or will be sufficient to entirely repay the principal of the debt for which the fund was established on the date or dates the principal becomes due.” Did I read it right that time?

**Mr. Prue:** Absolutely.

**The Chair:** Mr. Hardeman.

**Mr. Hardeman:** I guess it’s just a correction in the act. Again, I’m just a little curious, when we get on the principle of local autonomy, as to why we would still be so descriptive in how they borrow and pay off their debts.

**Mr. Duguid:** Actually, what this does is—in the Municipal Act, we’re allowing others to use their surpluses and their sinking funds elsewhere. That wasn’t included in the City of Toronto Act and should have been. It was apparently unintentionally omitted from the City of Toronto Act, so it’s making a correction to that.

1820

**The Chair:** Are there any further speakers? Those in favour of the motion on page 67? Those opposed? That motion is carried.

Shall section 44, as amended, carry? Those in favour? Those opposed? That’s carried.

Section 44.1, a government motion on page 68.

**Mr. Duguid:** I move that schedule B to the bill be amended by adding the following section:

“44.1 Section 249 of the act is repealed and the following substituted:

“Use of sinking and retirement funds

“249(1) No amount raised for a sinking or retirement fund of the city, including earnings or proceeds derived from the investment of those funds, shall be applied toward paying any part of the current or other expenditure of the city.

“Exception, surplus

“(2) Despite subsection (1), if the balance of a sinking or retirement fund, including any estimated revenue, as audited by the city auditor is or will be sufficient to entirely repay the principal of the debt for which the fund was established on the date or dates the principal becomes due, the city may apply any surplus in the fund to one or both of the following purposes:

“1. Repayment of the principal and interest of any other sinking or retirement fund.

“2. Payment for any capital expenditure of the city.

“Same

“(3) Any surplus that remains in the fund after the city makes payments in accordance with subsection (2) may be transferred to the general fund of the city.”

This amendment—

**The Chair:** Just prior to moving on, we need unanimous consent to deal with this. Do we have unanimous consent? We do.

**Mr. Duguid:** This was a request made by the city of Toronto for greater consistency with the existing Municipal Act.

**The Chair:** Any further speakers? All those in favour? Those opposed? That motion is carried.

Shall section 44.1 carry? All those in favour? Those opposed? That is carried.

Sections 45 to 56, we have no amendments before us. We’ll collapse those and deal with them all at once. All those in favour? Those opposed? That is carried.

Moving on to section 56.1, a government motion on page 69.

**Mr. Duguid:** I move that schedule B to the bill be amended by adding the following section:

“56.1 Clause 306(2)(a) of the act is repealed and the following substituted:

“(a) shall refund any overpayment to the owner of the land as shown on the tax roll on the date the adjustment is made; or.”

That’s another consistency change.

**The Chair:** Questions?

**Mr. Hardeman:** I wonder, as we’re going through so many of these consistencies, why we have two acts if everything has to be identical through the whole bill.

**Mr. Duguid:** I could answer that, but I think we’ll just keep going.

**The Chair:** All those in favour of the government motion on 69? All those opposed? That is carried.

Shall section 56.1 carry? Those in favour? That is also carried.

Section 57, a government motion on page 70.

**Mr. Duguid:** I will withdraw that, Mr. Chair.

**The Chair:** That's going to be withdrawn.

Government motion on page 71.

**Mr. Duguid:** I withdraw that, as well, because it's connected to the original one.

**The Chair:** Thank you. Government motion on page 72.

**Mr. Duguid:** We won't withdraw that.

I move that subsection 318(6) of the City of Toronto Act, 2006, as set out in subsection 57(2) of schedule B to the bill, be amended by striking out "10 years" and substituting "seven years."

This is the same as what we did with the Municipal Act.

**The Chair:** Any speakers? Seeing none, all those in favour? Those opposed? That motion is carried.

Shall section 57, as amended, carry? Those in favour? Those opposed? That is carried.

Section 58, there are no amendments before us. All those in favour? Those opposed? That is carried.

Moving on to section 59, a government motion on page 73a and b. There's a revised motion on this, is there?

**Mr. Duguid:** I believe I have the motion here.

I move that section 59 of schedule B to the bill be struck out and the following substituted:

"59. Subsection 329(12) of the act is repealed and the following substituted:

"Definition

"(12) In this section,

"'tax' includes,

"(a) charges that are imposed under section 208 of the Municipal Act, 2001 by virtue of the operation of subsection 429(2) of this act, and

"(b) fees and charges, other than charges described in clause (a), that are imposed under this act and satisfy the conditions set out in paragraphs 1, 2 and 3 of subsection (13).

"Same

"(13) The conditions referred to in clause (b) of the definition of 'tax' in subsection (12) are:

"1. The fees and charges are imposed to raise an amount for at least one of the following purposes:

"i. Promotion of an area as a business or shopping area.

"ii. Improvement, beautification and maintenance of city-owned land, buildings and structures in the area beyond that provided at the city's expense generally.

"iii. Interest payable by the city on money it borrows for the purposes of subparagraph i or ii.

"2. The fees and charges are imposed on owners of land that is included in the commercial or industrial classes within the meaning of subsection 275(1).

"3. The fees and charges have priority lien status and are added to the tax roll."

This is similar to motion 46 that we approved on the Municipal Act.

**The Chair:** Thank you, Mr. Duguid. Mr. Prue?

**Mr. Prue:** Just a question. I notice here that the original section 59 was to change two of the words in

French: "The French version of the definition of 'tax' ... is amended by striking out 'notamment' in the portion before clause (a) and substituting 'en outre'." Here we have a whole new section. I would trust that in this whole new section, the French is correct?

**Mr. Duguid:** One would expect, yes; oui.

**Mr. Prue:** But the original intent of the bill was just to change one word in French, and now we have a whole new section. What has been changed, since I do not have that whole thing in front of me?

**Mr. Duguid:** It was the same in the previous section as well. There was concern that there are three conditions set out in the act. This ensures that the fees and charges included in the definition of "tax" will satisfy those three conditions. It was to clarify that that would take place.

I'd love to give you a more detailed explanation or examples; I really can't. We could get some staff to do it, but it is the same as we did in motion 46.

**The Chair:** Do you need somebody from staff to come forward, Mr. Prue?

**Mr. Prue:** Yes, might as well, if it only takes a minute. If you can just explain, because this is a whole new section.

**Mr. Gray:** Yes, the section is open in the bill, but only to change one word in the French. We took the position that the section is open, so the motion is in order.

**Mr. Prue:** I'm not saying it's not; just tell me what changes have been made in the English version, because I don't have the old English version in front of me.

**Mr. Gray:** As the parliamentary assistant pointed out, the concern with the bill as drafted was that in order for fees and charges to fall within the definition of tax, it wasn't clear that they had to meet all three conditions that are set out now in subsection (13). So the purpose of this amendment is to clarify that you only fall within the definition if you meet each one of the three conditions, not just any one of the three.

**Mr. Prue:** The old one had any one of the three and this one has all three.

**Mr. Gray:** The old one had language that was ambiguous enough that a number of people read it as any one of the three. We didn't actually use "any one of the three." We used words we thought meant all three of the conditions, but people didn't read it that way.

**Mr. Prue:** Now they will.

**Mr. Gray:** Yes.

**The Chair:** Sounds good.

**Mr. Duguid:** The world is saved.

**Mr. Hardeman:** One further question before you leave. Does this in any way increase or decrease the ability for taxes, user fees and licensing fees for the city of Toronto in the act presently?

**Mr. Gray:** No. There's nothing new in this. What this does, if you fall within the definition of "tax"—I mean, there are two main purposes that are achieved. If your building isn't occupied for some portion of the year, these fees and charges will be included in the definition of "tax" so your vacant unit rebate will be somewhat larger, or if you're entitled to a charitable rebate as a

charity that's subject to taxes either directly or through your rent, your charitable rebate will be based not just on the tax, but the tax plus the fees and charges. So your charitable rebate will be a little bit larger, but it's not a new power to impose fees and charges.

**Mr. Hardeman:** Okay. Thank you.

**The Chair:** All those in favour of the motion on 73a and b? Those opposed? That motion is carried.

**1830**

Shall section 59, as amended carried? Those in favour? Those opposed? That is carried.

There are no amendments before us on sections 60 and 61. We'll deal with them together. All those in favour? Those opposed? That is carried.

Section 62: There is a government motion on page 74.

**Mr. Duguid:** I move that clause 350(7.1)(c) of the City of Toronto Act, 2006, as set out in subsection 62(3) of schedule B to the bill, be struck out and the following substituted:

"(c) any interest or title acquired by adverse possession by abutting landowners, including the crown in right of Ontario, before registration of the notice of vesting."

This amendment is for consistency with motion 47 in the Municipal Act.

**The Chair:** Any speakers, any questions? Seeing none, all those in favour? Those opposed? That motion is carried.

Shall section 62, as amended, carry? Those in favour? Those opposed? That is carried.

No amendments on sections 63 to 77. We'll collapse those and deal with them all at once. All those in favour? Those opposed? They are carried.

Moving on to section 78, there is a government motion on pages 75a and b.

**Mr. Duguid:** I move that section 78 of schedule B to the bill be amended by adding the following as section 420.2 of the City of Toronto Act, 2006:

"Deemed bylaw re powers and duties

"420.2(1) This section applies if a person or body, other than a city board, ceases to be authorized to exercise powers or perform duties on behalf of, or in relation to, the city by virtue of the coming into force of any provision of,

"(a) the Stronger City of Toronto for a Stronger Ontario Act, 2006; or

"(b) schedule B to the Municipal Statute Law Amendment Act, 2006.

"Same

"(2) On the day on which the applicable provision comes into force, the city is deemed to have passed any bylaw necessary under this act to give the person or body any power or duty,

"(a) that the city is capable of giving to the person or body under this act; and

"(b) that the person or body was authorized to exercise or perform, on behalf of or in relation to the city, immediately before that day.

"Same

"(3) If the deemed bylaw is a delegation bylaw, it is ... deemed to provide that both the city and the delegate can exercise the delegated powers.

"Amend or repeal

"(4) The city may amend or repeal the deemed bylaw."

This motion corresponds with motion 50 that we passed under the Municipal Act regarding the transition of authority.

**The Chair:** Thank you, Mr. Duguid. Any questions?

**Mr. Hardeman:** I do believe that in the second from the last line on the first page, we missed the word "also."

**The Chair:** I caught that too, but I didn't think it changed—but if you would like to reword that—

**Mr. Hardeman:** "It is also deemed," as opposed to—I think you read, "it is deemed."

**Mr. Duguid:** I'm sorry. Which one is that?

**Mr. Hardeman:** As opposed to it, "it is also deemed."

**Mr. Duguid:** I'll reread it, then:

"Same

"(3) If the deemed bylaw is a delegation bylaw, it is also deemed to provide that both the city and the delegate can exercise the delegated powers."

**The Chair:** Thank you, Mr. Duguid. Any questions on 75a and b? Seeing none, all those in favour? Those opposed? That motion is carried.

Shall section 78, as amended, carry? Those in favour? Those opposed? That is carried.

Sections 79 to 88 have no amendments. We'll deal with them at once. All those in favour? All those opposed? That's carried.

Going on to section 88.1, a government motion on page 76.

**Mr. Duguid:** I move that schedule B to the bill be amended by adding the following section:

"88.1 Clause 451(3)(a) of the act is amended by striking out 'subsection 128(4)' and substituting 'section 128.'"

This is a consequential amendment that corrects a reference that is no longer accurate—the Highway Traffic Act issue we talked about previously.

**The Chair:** Thank you. Any speakers? Seeing none, all those in favour? Those opposed? That motion is carried.

Shall section 88.1 carry? Those opposed? That is carried.

Section 89: There's a government motion on page 77.

**Mr. Duguid:** I move that clause (b) of the definition of "social housing program" in subsection 453.1(1) of the City of Toronto Act, 2006, as set out in section 89 of schedule B to the bill, be amended by striking out "the City of Toronto Non-Profit Housing Corporation" and substituting "Toronto Housing Company Inc. or Toronto Community Housing Corporation."

Mr. Prue would be familiar with this. This just helps the city with regard to all the different evolution of their corporations, corporate structures of their social housing program. It's a technical amendment dealing with the definition of "social housing program."

**The Chair:** Any questions? Seeing none, all those in favour? Those opposed? That motion is carried.

Shall section 89, as amended, carry? Those in favour? That's carried.

Shall section 90 carry? Carried.

Shall section 91 carry? That is carried also.

Table 1, column 3 on pages 78a and 78b.

**Mr. Duguid:** I'm trying to figure out how I'm going to read this, but I'll do my best.

I move that table 1 of schedule B to the bill be amended,

(a) by striking out "12" in column 3 of the item relating to The City of Toronto Act, 1973 and substituting "All/La totalité"; and

(b) by adding the following items:

There are a number of columns here, Mr. Chair. Should I read them column by column going down, or should I read them across?

**Mr. Prue:** Read them across. They won't make any sense the other way.

**Mr. Duguid:** I guess that's the only way to do it.

“

1871-72	77	All/La totalité	An Act to amend the Municipal Institutions Act of Upper Canada, so far as the same relates to the Corporation of the City of Toronto
1884	59	All/La totalité	An Act respecting the City of Toronto
1885	73	All/La totalité	An Act respecting the City of Toronto
1888	47	All/La totalité	An Act respecting the Incorporation of the Village of East Toronto
1892	78	All/La totalité	An Act to confirm By-laws Numbers 76 and 77 of the Town of North Toronto, and for other purposes
1898	54	All/La totalité	An Act respecting the City of Toronto
1900	68	All/La totalité	An Act to incorporate the Town of East Toronto
1908	79	All/La totalité	An Act respecting the Town of East Toronto
1909	114	All/La totalité	An Act respecting the Town of North Toronto
1916	96	All/La totalité	An Act respecting the City of Toronto
1917	77	All/La	An Act to

		totalité	incorporate the Town of Mimico
1932	89	All/La totalité	The Township of Scarborough Act, 1932
1935	99	All/La totalité	The County of York Act, 1935
1937	106	All/La totalité	The County of York Act, 1937
1941	81	All/La totalité	The City of Toronto Act, 1941
1960	170	All/La totalité	The City of Toronto Act, 1960
1989	Pr34	All/La totalité	City of Toronto Act, 1989 (No. 2)
1990	Pr12	All/La totalité	City of Toronto Act, 1990 (No. 2)
1991	Pr11	All/La totalité	City of Toronto Act, 1991 (No. 2)
1993	Pr24	All/La totalité	City of North York Act, 1993

”

This is just the consolidation of a number of acts that were part of the city of Toronto—

**Mr. Prue:** And that's la totalité.

**Mr. Duguid:** La totalité. There were over 230 acts, I think, in all, repealed and consolidated. This is an act—thank God I didn't have to read all 230.

**The Chair:** You're fluently bilingual in one word now, anyway.

**Mr. Duguid:** Totalité. I got better as I went along.

**The Chair:** Mr. Hardeman?

**Mr. Hardeman:** I lost track of it when you got about halfway.

**Mr. Duguid:** It must have been my French that confused you.

**The Chair:** Okay. Are there any serious questions?

**Mr. Hardeman:** I think it's generally—it's on this one, but this is, I believe, the last amendment on the City of Toronto Act. I'm just wondering if I could be assured, or question why, with the changes that we made to make the City of Toronto Act consistent with the Municipal Act, if it's not materially different, the choice was not made by government to make the new Municipal Act consistent with the City of Toronto Act?

**1840**

**Mr. Duguid:** Most of it was a question of drafting. As we went through the Municipal Act, we'd sometimes find improvements to wording and our legal staff would advise that it was better to word it this way. There are other issues as well, but for the most part, it was just better wording required.

**Mr. Hardeman:** But when the city of Toronto wakes up tomorrow or next week when the act goes into force on January 1—when they wake up January 2—none of these amendments we made to the City of Toronto Act are going to materially change the City of Toronto Act.

**Mr. Duguid:** I'm not aware of any amendments. There are a few that include things that may have been omitted unintentionally. In a sense, maybe it will be improved. I'm not aware of anything that would be of concern to the city in regard to these changes.

**Mr. Hardeman:** Thank you.

**The Chair:** Are there any further speakers? Seeing none, those in favour of the government motion on 78a and 78b? Those opposed? They're carried.

Shall table 1, as amended, carry? Those in favour? That's carried.

Shall schedule B, as amended, carry? Those in favour? That also is carried.

Moving on now to schedule C: Sections 1 to 39 have no amendments before us. We'll collapse them and deal with them all at once. Those in favour? Those opposed? They are carried.

Moving on to section 40: There's an NDP motion on page 79.

**Mr. Prue:** I move that subsection 14(2.1) of the Ombudsman Act, as set out in section 40 of schedule C to the bill, be struck out and the following substituted:

"Application

"(2.1) Subsections (2.2) to (2.6) apply if a request is made under section 239.1 of the Municipal Act, 2001 or clause 190.1(1)(b) of the City of Toronto Act, 2006."

**The Chair:** Thank you, Mr. Prue. Are you speaking to the motion?

**Mr. Prue:** I will; I'm not sure whether it would be in order. I understood that this was a consequential amendment of eliminating the ability of municipalities to appoint their own auditors. I remember speaking to this motion and having it defeated. If the clerk will tell me it's in order, I'll explain what it was supposed to do.

**The Chair:** Thank you, Mr. Prue. I'll just get that confirmed.

**Mr. Prue:** I understand from the solicitors that this was the same as section 102 of schedule A.

**The Chair:** Mr. Prue, I've been informed that, unfortunately, it would be deemed out of order.

**Mr. Prue:** That's what I wanted you to say.

**The Chair:** You get marks for honesty.

**Mr. Prue:** Well, of course.

**The Chair:** Okay? So it's out of order.

We move on to page 80, which is a government motion.

**Mr. Duguid:** I move that clause 14(2.4)(b) of the Ombudsman Act, as set out in section 40 of schedule C to the bill, be amended by striking out "18(3)" and substituting "18(3) and (6)."

I'm told this is a technical amendment that clarifies how subsection 18(6) of the Ombudsman Act is applicable to the Ombudsman's meeting investigation function.

**The Chair:** Thank you, Mr. Duguid. Any questions?

**Mr. Hardeman:** I'm sure it has to do with all the numbers in it, but why was the previous one out of order and this one isn't?

**The Chair:** The previous motion was dependent on Mr. Prue's previous motions passing, which they didn't. This motion is not dependent.

Any speakers? Seeing none, all those in favour? Those opposed? That motion is carried.

Shall section 40, as amended, carry? All those in favour? That is also carried.

Sections 41 to 46 have no amendments. We'll deal with them all at once. Those in favour? Those opposed? That is carried.

Moving on to section 47, which is on pages 81a and b: a government motion.

**Mr. Duguid:** I move that subsections 47(1) to (4) of schedule C to the bill be struck out and the following substituted:

"47(1) Subsections 28(4), (4.1), (4.2), (4.3), (4.4) and (5) of the Planning Act are repealed and the following substituted:

"Community improvement plan

"(4) When a bylaw has been passed under subsection (2), the council may provide for the preparation of a plan suitable for adoption as a community improvement plan for the community improvement project area and the plan may be adopted and come into effect in accordance with subsections (5) and (5.1).

"Same

"(5) Subsections 17(15), (17), (19) to (19.3), (19.5) to (24), (25) to (30.1), (44) to (47) and (49) to (50.1) apply, with necessary modifications, in respect of a community improvement plan and any amendments to it.

"Same

"(5.1) The minister is deemed to be the approval authority for the purpose of subsection (5).

"Same

"(5.2) Despite subsection (5), if an official plan contains provisions describing the alternative measures mentioned in subsection 17(19.3), subsections 17(15), (17) and (19) to (19.2) do not apply in respect of the community improvement plan and any amendments to it, if the measures are complied with.'

"(2) Subsection 28(7.3) of the act is amended by adding 'or section 333 of the City of Toronto Act, 2006, as the case may be' after 'Municipal Act, 2001.'

"(3) Subsection 28(8) of the act is repealed."

This motion would remove the requirement for the minister to approve the use of financial incentives by municipalities within the context of the community improvement plan. That's really what it does.

**The Chair:** Thank you. Any speakers?

**Mr. Hardeman:** I guess my question would be, is this a new section that's being added under the community improvement plan that presently doesn't exist?

**Mr. Duguid:** Just hang on one second; I'll be right with you on that. Let me just have another look.

Yes. The minister would have had to, in the past, approve the use of financial incentives by municipalities within the context of a community improvement plan, so the minister will no longer need to approve those incentives, although it does say that the municipal approval

authority would be maintained with regard to the public process a municipality would have to undertake, or a community improvement plan. So the minister, through regulation, would have to outline what their public process would have to be in undertaking this change but no longer would be able to say yes or no to it.

**Mr. Hardeman:** Under this amendment, then, the minister would no longer have a say without using regulatory powers to deal with the bonusing in community improvement areas?

**Mr. Duguid:** The bonusing?

**Mr. Hardeman:** Yes, because this is spending money to encourage redevelopment of community improvement areas.

**Mr. Duguid:** Right.

**Mr. Hardeman:** So, in fact, that's the opportunity for municipalities to use the bonusing process to encourage people to invest in that area. This amendment takes away the requirement of the minister to deal with that. Is that right?

**Mr. Duguid:** Well, I don't want to say for sure, because this has to do with community improvement plans, which are similar to bonusing, but I don't want to give you a definitive "yes" to that. I'd better get a staff person to make that statement.

**The Chair:** If you could just identify yourself quickly, that would be great.

**Mr. Irvin Shachter:** Irvin Shachter, legal services branch, Municipal Affairs and Housing.

The proposed motion does two things. First of all, it removes the minister's authority with respect to having to approve CIPs that contain financial incentives. It also cleans up the provision as a consequence of the removal of that authority. The minister's approval would be maintained, because there is a requirement that a municipality would have to consult with a minister when it is putting together its CIP.

1850

**Mr. Hardeman:** This still requires a certain amount of ministerial approval, but this amendment is removing the minister's need to approve.

**Mr. Shachter:** The provision would remove the minister's authority in approving CIPs that have financial incentives, but the municipality would still be required to consult with the minister in preparing their CIPs.

**The Chair:** Okay? All those in favour of the motion on 81a and b? Those opposed? That motion is carried.

Shall section 47, as amended, carry? Those in favour? Those opposed? That is carried.

Sections 48 to 71 have no amendments. We'll collapse them and deal with them all at once. Those in favour? Those opposed? They are carried.

Shall schedule C, as amended, carry? Those in favour? Those opposed? That is carried.

Moving on now to schedule D, section 1: There's a government amendment on page 82.

**Mr. Duguid:** I move that section 1 of schedule D to the bill be amended by adding the following subsection:

"(2) Subsection 11.4(3) of the act is amended by striking out 'subsection 128(4)' and substituting 'section 128.'"

This is a numbering change consequential to changes to section 128 of the Highway Traffic Act through Bill 130.

**The Chair:** Any questions? Seeing none, all those in favour? All those opposed? That motion is carried.

Shall section 1, as amended, carry? Those in favour? Those opposed? That is carried.

Moving on to section 1.1: There's a government motion on page 83.

**Mr. Duguid:** I move that schedule D to the bill be amended by adding the following section:

"1.1 Subsection 11.4(3) of the City of Hamilton Act, 1999 is amended by striking out 'subsection 128(4)' and substituting 'section 128.'"

It's similar to the previous motion, Mr. Chair.

**The Chair:** All those in favour of the government motion on page 83? Those opposed? That motion is carried.

Shall section 1.1 carry? Those in favour? Those opposed? That's carried.

Section 2: There's a government motion on page 84.

**Mr. Duguid:** I move that section 2 of schedule D to the bill be struck out and the following substituted:

"2. Subsection 12.4(3) of the City of Ottawa Act, 1999 is amended by striking out 'subsection 128(4)' and substituting 'section 128.'"

It's the same as the previous two.

**The Chair:** Any questions? Seeing none, all those in favour? All those opposed? That motion is carried.

Shall section 2, as amended, carry? Those in favour? Those opposed? That motion is carried.

Going on to section 3: A government motion on page 85a and b.

**Mr. Duguid:** I move that section 3 of schedule D to the bill be struck out and the following substituted:

"3(1) On the first day that this subsection and subsection 6(2) of schedule B to the Stronger City of Toronto for a Stronger Ontario Act, 2006 are both in force, clause 128(1)(d) of the Highway Traffic Act is repealed and the following substituted:

"(d) the rate of speed prescribed for motor vehicles on a highway in accordance with subsection (2), (5), (6), (6.1) or (7);"

"(2) If subsection (1) comes into force before subsection 6(2) of schedule B to the Stronger City of Toronto for a Stronger Ontario Act, 2006 comes into force, clause 128(1)(d) of the act, as re-enacted by the Statutes of Ontario, 2006, chapter 11, schedule B, subsection 6(2) is repealed.

"(3) Subsection 128(2) of the act is repealed and the following substituted:

"Rate of speed by bylaw

"(2) The council of a municipality may, for motor vehicles driven on a highway or portion of a highway under its jurisdiction, by bylaw prescribe a rate of speed different from the rate set out in subsection (1) that is not

greater than 100 kilometres per hour and may prescribe different rates of speed for different times of day.’

“(4) Subsection 128(3) of the act is repealed and the following substituted:

“‘Same

“(3) The act of speed set under subsection (10) may be any speed that is not greater than 100 kilometres per hour.’

“(5) Subsections 128(3.1) and (4) of the act are repealed.

“(6) Clause 128(5)(b) of the act is repealed and the following substituted:

“(b) for motor vehicles driven, on days on which school is regularly held, on the portion of a highway so designated, prescribe a rate of speed that is lower than the rate of speed otherwise prescribed under subsection (1) or (2) for that portion of highway, and prescribe the time or times at which the speed limit is effective.’

“(7) Subsection 128(6) of the act is repealed and the following substituted:

“‘Rate on bridges

“(6) If the council of a municipality by bylaw prescribes a lower rate of speed for motor vehicles passing over a bridge on a highway under its jurisdiction than is prescribed under subsection (1), signs indicating the maximum rate of speed shall be posted in a conspicuous place at each approach to the bridge.’

“(8) Clause 128(6.1)(b) of the act is repealed and the following substituted:

“(b) prescribe for any class or classes of motor vehicles a lower rate of speed, when travelling down grade on that portion of the highway, than is otherwise prescribed under subsection (1) or (2) for that portion of highway.’

“(9) Subsections 128(6.3) and (6.4) of the act are repealed.

“(10) If subsection (9) comes into force on the same day or before subsection 6(5) of schedule B to the Stronger City of Toronto for a Stronger Ontario Act, 2006 comes into force, subsection 24(5) of schedule C is of no effect.”

What this complex motion does is it restores municipal authority to designate school zones and to erect enforceable school zone signs which are recognizable and important for consistency and driver compliance with lower speed zones in school areas and to promote greater safety for schoolchildren.

It also amends subsection 128(3) of the Highway Traffic Act to remove the inconsistency left in the subsection by Bill 130 by removing the requirement that rates of speed in construction zones be in 10-kilometre-per-hour increments with a lower limit of 40 kilometres. If this isn’t made, the municipality would not be able to use school zone signs to indicate the area is a school zone. Instead, it would be required to post standard speed limit signs with no distinction that the roadway is in front of a school. It could create a safety risk and some inconsistency. It ensures that municipalities retain the authority to use signage under the Highway Traffic Act.

I know it’s complicated, but what I’ve done is I’ve read out the explanation that staff has provided to us.

**The Chair:** Just to confirm, the clerk has asked that the first line on page 85b—the word you used was “the act of speed.”

**Mr. Duguid:** “Same

“(3) The rate of speed....”

**The Chair:** Yes. Thank you. Any speakers?

**Mr. Prue:** Yes, I just have a question. I’m in total agreement with all the stuff about the school zones and the buses and how fast you can go. On the first page, the “rate of speed by bylaw,” it talks about vehicles driven on a highway or a portion; it doesn’t say anything about the schools. Would this give, as an example, the city of Toronto, which has that portion of the Queen Elizabeth Way between the end of the Gardiner at the Humber bridge and the 427, which is, I believe, now a municipal highway as opposed to the QEW from that point, from 27 on—would that give permission for them to set a different rate of speed, and under the circumstance, is this a good thing?

**Mr. Duguid:** I’m not going to touch that question because transportation staff, I believe, as still here. Am I correct? I’m going to ask them to come up and respond to that quickly.

**Mr. Prue:** You can tell me if I’m reading it totally wrong or whether that would be allowed.

**Ms. Mary Preiano:** My name is Mary Preiano. I’m counsel with the Ministry of Transportation’s legal branch. What this does, essentially, is allow a municipality to set a rate of speed on highways that are under its own jurisdiction in any increments that it determines is feasible, as long as that rate of speed doesn’t exceed 100 kilometres per hour.

**Mr. Prue:** Yes, but the example is, I’m given to understand, a number of years ago, when the Conservatives were in power, they downloaded the QEW. They downloaded it to the municipality, and also sections of Highway 27 to the municipality. Where those go through the city of Toronto, can the city of Toronto, under this, set a different rate of speed on the highway, which is 100 kilometres an hour all the way from Niagara Falls or Fort Erie, and could they change the rate of speed for that section between the 427 and where the Gardiner starts? And, if so, is this a good thing?

**1900**

**Ms. Preiano:** If the highway were under the municipality’s jurisdiction, then it could, yes.

**Mr. Prue:** And is this a good thing?

**Ms. Preiano:** I’m not free to answer that.

**The Chair:** Thanks for the answer. Mr. Prue?

**Mr. Prue:** It may be a good thing; it may not. All these things are very complex. In the west end you have Highway 27, which has been downloaded. You have that portion of the Gardiner, which has been downloaded. I’m sure that every other municipality around the province has some highways that are like this, that run through. I just wonder about the hodgepodge sometimes where you have a highway that is eminently capable of taking

speeds at 100 kilometres an hour. If a municipal council, for whatever reason, were to choose 50, and they could—I'm not sure it's particularly a good thing that's being proposed here. It will increase irritability among drivers. They'll have to slow down if Howard Moscoe gets his way and puts a toll there; I don't know. I just ask the government if you think this is a good thing to be doing that.

**Mr. Duguid:** My understanding is—and I think staff know this issue better than I do; it's a transportation issue. The municipalities can decrease the rates of speed on their own roads, but they have to do it in certain increments. I think what this does is accommodate downgrades where they may want to slow down traffic by downgrades of 6% or more, and it's in school zones. I think that's what this motion does. But I'd have to defer to transportation staff on this particular motion, because I'm not as familiar with it as I'd like to be.

**Ms. Preiano:** That's correct. Municipalities currently have the authority to determine rates of speed on highways under their jurisdiction. Under the existing framework in the Highway Traffic Act, the rates of speed must be in 10-kilometre increments, and the lowest limit that they can prescribe is 40 kilometres per hour other than in traffic-calming areas, which would be 30 kilometres per hour. So this removes the requirement to set speed limits in 10-kilometre increments, and it has no lower limit.

**The Chair:** Any further questions? All those in favour of the government motion on pages 85a and b? Those opposed? That motion is carried.

Shall section 3, as amended, carry? Those in favour? Those opposed? That is carried.

Section 4: Shall section 4 carry? Those in favour? Those opposed? That's carried.

Section 5: We have a PC motion on page 85d, which previously was page 54.

**Mr. Hardeman:** I move that subsection 5(1) of schedule D to the bill be struck out and the following substituted:

“5(1) Section 20 of the Line Fences Act is amended by adding the following subsection:

“‘Right to cross former railway right-of-way

“(2) The owner of land that is bisected by a former railway right-of-way, and any other person with the consent of that owner, may cross the former right-of-way, at any time and without giving any notice, to get from one part of the property owner's land to the other part of the property owner's land.”

**The Chair:** The version we have does not have “property owner.” So I just want to confirm the last line, Mr. Hardeman: “to get from one part of the”—

**Mr. Hardeman:** Yes, “to get from one part of the owner's land to the other part of the owner's land.”

**The Chair:** Okay, that's the copy we have too. Thank you. Are you speaking to it?

**Mr. Hardeman:** I read too many words.

This is a resolution to clarify the concerns of the Ontario Federation of Agriculture when it made a pres-

entation to make sure that as the ownership of the right-of-way transfers from one property owner to another—from the railway to either the municipality or from the municipality through to someone else for other purposes—that the owner who has a farm on either side is not restricted from getting from one piece of the property to the other.

In rural Ontario, these properties are not considered to be separate properties because the back portion of the farm generally has absolutely no other access to it other than across the railroad, so they don't have the ability to use it for different purposes. It always has to be combined through the railroad crossing. As long as it's a railroad, under the old railroad act, when the railroad was put through there that access was guaranteed to the property owners.

As we deal with this line fences problem along the railroad to alleviate some of the cost of building fences the total length of the railroad, which was also part of the agreement, the federation of agriculture's concern was that we were also moving their ability to access the back part of their property, and this would allow that, regardless of what happened to the railroad right-of-way that the farmer had no control over. They would be able to move across it freely, as they always have been able to do.

**The Chair:** Any further speakers? Seeing none, all those in favour of the motion on section 5? All those opposed? That motion loses.

Page 86, there's a government motion on the same section, Mr. Duguid.

**Mr. Duguid:** I move that the definition of “farming business” in subsection 20(2) of the Line Fences Act, as set out in subsection 5(1) of schedule D to the bill, be struck out and the following substituted:

“‘farming business’ means a business in respect of which,

“(a) a current farming business registration is filed under the Farm Registration and Farm Organizations Funding Act, 1993, or

“(b) the Agriculture, Food and Rural Affairs Appeal Tribunal has made an order under subsection 22(6) of the Farm Registration and Farm Organizations Funding Act, 1993 that payment or filing be waived; (‘entreprise agricole’)”

**The Chair:** Are you speaking to the motion?

**Mr. Duguid:** This amends the definition of “farming business” to clarify that all farming businesses qualified through the Farm Registration and Farm Organizations Funding Act, and those farming businesses which for reasons of religious conviction have had the payment of a registration fee or filing of a registration waived by order of the Agriculture, Food and Rural Affairs Appeal Tribunal are included in those farming businesses for which the qualifying owner of an adjacent abandoned rail right-of-way is responsible for fencing the lateral boundary. This was an issue raised by the Ontario Federation of Agriculture in its submission.

**The Chair:** Mr. Hardeman, did I see your hand?

**Mr. Hardeman:** Yes. If the parliamentary assistant could clarify for me, if the payment for filing is waived, what payment for what filing?

**Mr. Duguid:** All farming businesses qualify through the Farm Registration and Farm Organizations Funding Act. I suppose they have to file under that, but some farm businesses, for religious conviction reasons, don't make payment or register or file. The Ministry of Agriculture, Food and Rural Affairs will waive it under those circumstances, but given that the legislation was defining "farming businesses" as having been registered under the Farm Registration and Farm Organizations Funding Act, the federation was concerned that some businesses may not be caught in that, those that didn't file for religious conviction reasons.

Again, I'm not an expert on this stuff at all, but I believe that there are some types of farmers, maybe Mennonite farmers—I can't say for sure, but I think that's what it applies to.

**Mr. Hardeman:** I agree. I'm somewhat versed in who pays to file and so forth. The parliamentary assistant is right that there are certain people who, for whatever reason, decide they do not want to file. They can apply to the tribunal to have the fees waived. So under this section they would now apply under the Line Fences Act to have the right to have the municipality put up half the fence.

**1910**

My concern is that there's a third group of people for whom there is no law that says, "If you don't want the benefits, you don't have to register and you don't have to apply to have your fee waived, but your land is still agricultural land." Now, because of this definition, they would not be covered under the railroad Line Fences Act to have the assistance of the municipality to build half the cost of the fence, as we look at this. It seems to me that you need a third group of farmers or farmland that would qualify for this section. Because of mentioning the other two, we now have the third class that would not apply.

If my land that I own was along the railroad track, I would be one of those. Not that I want to be applying for it, but the truth is, it's farmland that I do not register as a farmer. I do not want the benefits that the government provides for the registration, but if there was a railroad running along the property, I would want to be able to have the owners on both sides to help with the cost to put up the fence. I think we're missing a section in this bill that deals with those types of farmers.

**The Chair:** Any further speakers? If not, those in favour of the government motion on page 86?

**Mr. Hardeman:** A recorded vote.

**Ayes**

Brownell, Duguid, Peterson, Racco.

**Nays**

Hardeman.

**The Chair:** That carries.

Shall section 5, as amended, carry? Those in favour? Those opposed? That is carried.

Sections 6 to 12 have no amendments. Let's collapse and deal with them as one. All those in favour? Those opposed? They are carried.

Section 13, government recommendation on page 86d.

**Mr. Duguid:** We're just recommending that the committee vote this particular section down. The site plan control authority for the city of Ottawa will continue to be maintained in the Planning Act.

**The Chair:** Any speakers to that?

Those in favour of section 13? Those opposed to section 13? That loses.

Section 14 has no amendments. Those in favour of section 14? Those opposed? That is carried.

Section 15 has one amendment to be distributed.

Does everyone have the motion in front of them? This is a PC motion, Mr. Hardeman.

**Mr. Hardeman:** I move that section 15 of schedule D of the bill be amended by adding the following sub-section:

"(1.1) Clause 3(2)(c) of the act is repealed."

**The Chair:** I've been informed by the clerk that this section is not open and would need unanimous consent to allow this. Do we have unanimous consent?

**Mr. Prue:** Granted.

**The Chair:** No objection, Mr. Hardeman.

**Mr. Hardeman:** It relates to the presentation that was made by Shoppers Drug Mart about the inconsistency of the opening in the act for this based on the size of the pharmacy, not just the portion of the building that was pharmacy but the fact that the total square footage of the store was restricted as to which ones could open and which could not. This just asks to repeal that. It still has the same implications for pharmacies to be open, but the Shoppers Drug Mart people and a lot of other people in that business feel it's unfair to have certain sizes of stores being restricted. They did a survey and, again, the numbers were quite telling. The majority of the population, regardless of the size of the store—85% of those who were surveyed, when they shopped in the drugstore, regardless of its size, when they went there when others were closed on public holidays, went to fill a prescription or purchase non-prescriptive health care needs. So it seems to be restricting businesses for the wrong purpose. That's why we put forward this amendment, to just remove that part that restricts a certain size of drugstore as opposed to what they sell. It would still maintain the connection that the primary purpose for the store has to be as a pharmacy, not as a large multi-purpose store.

**The Chair:** Any further speakers? Seeing none, all those in favour of the PC motion—sorry, Mr. Prue.

**Mr. Prue:** I just want to ask some questions. I'm a little bit worried about this. The deputant talked about towns that only have one drugstore and that drugstore is a Shoppers Drug Mart. I can be in full agreement, but I am worried about this motion and the negative effect it may have on smaller pharmacies, which have a difficult enough time competing already with the likes of

Shoppers Drug Mart and other big chains. Sometimes their major business is done on those days when the big chains are not allowed to operate.

We had a debate around the small drugstores during this session, and it was very contentious, with the number of small drugstores that may be forced to close because of the profit margin. That was more about the profit margin than this particular section. It was said that if those smaller drugstores were not able to compete, if they could not get the monies that they needed—they're not like the big guys; they're not like Shoppers Drug Mart—then they may be forced to close and, if they did so, a lot of small towns would have no drugstore at all.

I don't know. I'm just very nervous about this. I'm very nervous if it causes small drugstores in small towns to fold up and say, "We're out of here." If that would be the effect of the bill, even if it happened only in a few places across Ontario, those would be towns where there would no longer be an opportunity to have a drugstore and to get medically necessary drugs. If the mover can assure me that it's not going to in any way potentially drive out any small drugstores doing business, particularly in rural and northern Ontario, as a result of this, then I might concur. If not, it's a toughie.

**The Chair:** Any further speakers?

**Mr. Hardeman:** I would just like to point out that I share the concern about the smaller drugstores. I think the government's legislation that deals with the changes in the drug industry is going to have a major impact on some of the smaller rural pharmacies that can't operate on the margins and so forth that are being put forward.

This resolution, in my mind, if it has a negative impact—I just say "if" it has a negative impact—it will not be on other drugstores. The drugstores are part of where they sell other things too. In any municipality, town or village in Ontario where presently the only drugstore that's allowed to open is a smaller one, I think that wouldn't last long, because the rest of the time, if we get rid of the statutory holidays, they're competing against that same store that now supposedly can't open.

It's in the big towns, in the big cities, where the concern and the reason for this prohibition was put in place, where large establishments—dare I say the word "Wal-Mart"?—were having their big plaza opened strictly on the basis that they also sold drugs. This doesn't change the fact that they would then have to be primarily in the drug sales as opposed to general sales. We don't see this as in any way negatively impacting the smaller stores and smaller centres that are staying open now on those holidays.

**1920**

I suppose if a store's existence is based on being able to sell on holidays when the other store is forced to close, I don't think they would be able to sell drugs for very long. So I think this has more to do with the larger centres where these stores want to provide services but they can't if their competitors are going to be open when they can't be. Most of them are already open anyway

because they are within the square footage. It's just that if they want to provide a better service and larger service to their community, they can't do that because then they would have to close.

We think it's a positive step forward in allowing drugs to be sold 365 days of the year.

**The Chair:** Any further speakers? Seeing none, all those in favour of the PC motion on page 86e? Those opposed? That motion loses.

Shall section 15 carry? Those in favour? Those opposed? That is carried.

Section 15.1: There's a government motion on page 87.

**Mr. Duguid:** I move that schedule D to the bill be amended by adding the following section:

"15.1 Subsection 13.4(3) of the Town of Haldimand Act, 1999 is amended by striking out 'subsection 128(4)' and substituting 'section 128.'"

This is a consequential amendment that corrects a reference that is no longer accurate. It's to do with the Highway Traffic Act and some of the changes that we've made to it. Without this consequential amendment to refer to section 128, the Highway Traffic Act reference in subsection 13.4 of the town of Haldimand Act will no longer be accurate. So it's required to correct an inconsistency created by the bill.

**The Chair:** Any further speakers? Seeing none, all those in favour? All those opposed? That motion is carried.

Shall section 15.1 carry? Those in favour? Those opposed? That motion is carried.

Section 15.2: There's a government motion on page 88.

**Mr. Duguid:** I move that schedule D to the bill be amended by adding the following section:

"15.2 Subsection 13.4(3) of the Town of Norfolk Act, 1999 is amended by striking out 'subsection 128(4)' and substituting 'section 128.'"

The same as previous.

**The Chair:** Any speakers? Seeing none, all those in favour? Those opposed? That carries.

Shall section 15.2 carry? Those in favour? Those opposed? That's carried.

Section 16: There's a government motion on page 89.

**Mr. Duguid:** I move that subsection 16(2) of schedule D to the bill be amended by striking out 'Sections 1 to 15' and substituting "Sections 1 to 15.2."

Again, this is a motion that is consequential to our previous amendments.

**The Chair:** Any speakers? Seeing none, all those in favour? Those opposed? That motion is carried.

Shall section 16, as amended, carry? Those in favour? Those opposed? That's carried.

Shall schedule D, as amended, carry? Those in favour? Those opposed? That's carried.

Moving on to schedule E: no amendments in sections 1 to 8. We'll collapse those. Those in favour? Those opposed? That is carried.

Shall schedule E carry? Those in favour? Those opposed? That is carried.

We'll go back to the beginning of the bill now.

Shall section 1 carry? Those in favour? Those opposed? That's carried.

Shall section 2 carry? Those in favour? Those opposed? That's carried.

Shall section 3, short title, carry? Those in favour? Those opposed? That's carried.

Shall the title of the bill carry? Those in favour? Those opposed? That's carried.

Shall Bill 130, as amended, carry? Those in favour? Those opposed? That's carried.

Shall I report the bill, as amended, to the House? Those in favour? Those opposed? That is carried.

We are adjourned. Thank you very much.

*The committee adjourned at 1925.*





## **CONTENTS**

Monday 11 December 2006

**Municipal Statute Law Amendment Act, 2006**, Bill 130, *Mr. Gerretsen / Loi de 2006*  
**modifiant des lois concernant les municipalités**, projet de loi 130, *M. Gerretsen* ..... G-1011

### **STANDING COMMITTEE ON GENERAL GOVERNMENT**

#### **Chair / Président**

Mr. Kevin Daniel Flynn (Oakville L)

#### **Vice-Chair / Vice-Président**

Mr. Jim Brownell (Stormont–Dundas–Charlottenburgh L)

Mr. Jim Brownell (Stormont–Dundas–Charlottenburgh L)  
Mr. Vic Dhillon (Brampton West–Mississauga / Brampton-Ouest–Mississauga L)  
Mr. Brad Duguid (Scarborough Centre / Scarborough-Centre L)  
    Mr. Kevin Daniel Flynn (Oakville L)  
    Mr. Jerry J. Ouellette (Oshawa PC)  
Mr. Tim Peterson (Mississauga South / Mississauga-Sud L)  
    Mr. Lou Rinaldi (Northumberland L)  
    Mr. Peter Tabuns (Toronto–Danforth ND)  
Mr. John Yakabuski (Renfrew–Nipissing–Pembroke PC)

#### **Substitutions / Membres remplaçants**

Mr. Ernie Hardeman (Oxford PC)  
Mr. Kuldip Kular (Bramalea–Gore–Malton–Springdale L)  
Mr. Michael Prue (Beaches–East York / Beaches–York-Est ND)  
    Mr. Mario G. Racco (Thornhill L)

#### **Also taking part / Autres participants et participantes**

Ms. Elaine Ross, senior counsel, Mr. Irvin Shachter, senior counsel, Mr. Scott Gray, counsel,  
municipal law section, Ministry of Municipal Affairs and Housing;  
Ms. Mary Preiano, counsel, legal services branch, Ministry of Transportation

#### **Clerk / Greffière**

Ms. Susan Sourial

#### **Staff / Personnel**

Ms. Cornelia Schuh, legislative counsel,  
Ministry of the Attorney General