

No. 111B



N° 111B

ISSN 1180-2987

Legislative Assembly
of Ontario
Second Session, 38th Parliament

Assemblée législative
de l'Ontario
Deuxième session, 38^e législature

Official Report of Debates (Hansard)

Journal des débats (Hansard)

Monday 23 October 2006

Lundi 23 octobre 2006

Speaker
Honourable Michael A. Brown

Président
L'honorable Michael A. Brown

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Published by the Legislative Assembly of Ontario



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Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY
OF ONTARIO

Monday 23 October 2006

ASSEMBLÉE LÉGISLATIVE
DE L'ONTARIO

Lundi 23 octobre 2006

The House met at 1845.

ORDERS OF THE DAY

INDEPENDENT POLICE
REVIEW ACT, 2006 /
LOI DE 2006 SUR L'EXAMEN
INDÉPENDANT DE LA POLICE

Resuming the debate adjourned on October 18, 2006, on the motion for second reading of Bill 103, An Act to establish an Independent Police Review Director and create a new public complaints process by amending the Police Services Act / Projet de loi 103, Loi visant à créer le poste de directeur indépendant d'examen de la police et à créer une nouvelle procédure de traitement des plaintes du public en modifiant la Loi sur les services policiers.

The Acting Speaker (Mr. Michael Prue): My understanding is that in the rotation the official opposition now has the floor.

Mr. Norm Miller (Parry Sound–Muskoka): It's my pleasure to add some comments this evening on Bill 103, the Independent Police Review Act, 2006. I'm going to speak briefly as we wrap up second reading debate.

The purpose of this bill is to establish a new civilian body to administer the police review system and to provide confidence and respect from both public and police in the public complaints system. I would raise questions as to whether this is really necessary, if the point of the bill is to provide confidence.

First of all, the current system we have has been in place for some 10 years. It was put into place in 1997 after extensive consultation and it seems to be working well. There was a Statistics Canada survey done in 2003, and that showed that 80% of the public say they have confidence in our police. Based on that, I really wonder whether this is something we should be spending who knows how much on. There are estimates that it could cost as much as \$9 million in the first year of implementing this new system. Based on that Statistics Canada survey and also based on the experience that I've certainly had in my own constituency, is it really necessary?

We have some questions and concerns: questions about whether this is going to create an unnecessary bureaucracy and, as I say, how much it's going to cost to run

that bureaucracy -- we've seen that happening in some other legislation, like Bill 43, the water bill that was put forward by this government -- and concerns with regard to other aspects of the bill, like third party complaints. Is this going to open up the flood gates to individuals who aren't really necessarily involved in an incident? There are certainly concerns with that. In terms of civilian oversight, no one is opposed, but it already exists in the current system and has been working adequately well.

The North Bay Police Association has noted, "The government is going to spend millions to deal with minor complaints against police when that money would be better spent within the police organizations to provide police departments with civilian members to investigate complaints. Establishing regional centres for the agencies will be costly, and inevitably there will be situations where someone with a complaint about a local service will have to speak to someone at a regional centre hundreds of kilometres away from them. Running the regional centres will involve spending unnecessary public dollars just for the appearance of increased accessibility in limited circumstances, whether the difference is to someone in North Bay if they have to speak to someone in Thunder Bay or Toronto about a complaint."

We're not hearing a lot in terms of this bill from stakeholders, so we think that the best thing to happen with the bill is that it go out to committee and that the government provide ample opportunity for the public and stakeholders like the police forces, the chiefs of police and others who may be interested in Bill 103 to give input to the bill, so that amendments might be made and some of the concerns addressed.

That's pretty much it on Bill 103. I'm not hearing a lot about it, so we're looking forward to seeing it go to committee and get public input.

1850

One other local note on the riding of Parry Sound–Muskoka to do with policing costs: I note that the district municipality of Muskoka, in January of this year, wrote to Michael Bryant and the Ministry of the Attorney General considering the OPP staff complement in Muskoka. It was Gord Adams, the district chair, who wrote:

"There has been considerable media coverage of provincial government announcements increasing the number of police officers throughout Ontario. I understand that no additional officers have yet been placed in Muskoka. Therefore, I have been asked to contact you,

Minister, and inquire when the OPP staff complement will be reviewed in the detachments covering Muskoka.”

They look forward to a return response on that. That’s one Muskoka issue that I just wanted to get on the record when speaking to this bill, Bill 103.

We’ll wrap up now and look forward to the committee hearings and public input on Bill 103.

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

Ms. Andrea Horwath (Hamilton East): I too want to make a few remarks about Bill 103, An Act to establish an Independent Police Review Director and create a new public complaints process by amending the Police Services Act. I want to speak to it in a couple of specific contexts because I in fact agree with the previous member, insofar as New Democrats think the bill needs to go through the next phase, the next process, which is committee hearings. In our opinion, it’s certainly moving in the right direction, but there are some things that remain outstanding, not only in terms of Justice LeSage’s report, the recommendations that he brought down in 2005 after the review that was requested by the provincial government around police complaints processes -- there were some 27 recommendations made. So there are some specifics that we would like to see the government deal with and that can happen through the committee process. We’re certainly looking forward to that.

Before indicating a couple of issues in particular that I’d like to see fleshed out to a greater extent in the committee process, I wanted to raise two or three things that have happened in my own community that, for me, really speak to the reason why there needs to be reform in this area. I chose three particular incidents. One is currently in the newspapers today in my community and has been for the last week or so. Another is an incident that occurred earlier this spring and that I know other members of the Legislature have been made aware of. It didn’t occur in my community, but a constituent from my community was involved in the issue. The third issue is one that did occur in my constituency quite some time ago, over a year ago now. I wanted to raise them as illustrations of why we need to move forward with some kind of reform in the area of police review.

The first is the case of a fellow named Michael Dixon. This gentleman was moving to Hamilton from another community. He had just purchased his home and was in the process of moving, was still working and trying to get things arranged in his new home in Hamilton and happened to be travelling back to Hamilton from another community late on the night of the blackout in 2003. What occurred that evening after he got off the bus in Hamilton was that he happened to be going past the scene where a crime had occurred earlier that evening and where a report had been called into the police that there had been a break-in at a jewellery store and the suspect was a white, bald man seen fleeing from the scene of the crime.

Mr. Dixon is not bald and Mr. Dixon is not white. However, notwithstanding that, he was chased down by

the police as they saw him in the vicinity of that crime area, and has been going through a horrendous ordeal for the last three years, not only trying to prove his innocence, but trying to get some modicum of justice from our local police department.

I am not saying by any stretch that our police department is dilatory in its job to try to protect the people and the property of the community of Hamilton -- not at all. What I am saying, though -- it’s very clear, and in fact the police chief has finally apologized to this gentleman -- is that in the process of trying to find a suspect, trying to find somebody so that they could say, “We’ve done our job. This is the guy who’s done the crime,” the police, unfortunately, failed to undertake some very basic steps and procedures around determining whether or not Mr. Dixon had an appropriate alibi, which in fact he did; they just didn’t bother to follow up on it. Not only did they not bother to follow up on it that evening or within the first couple of days that they had him in jail, but even after it was requested, during the process of the court proceedings in terms of him answering to the charges alleged against him, that the alibi be checked, still the police force did not bother to check the alibi. That’s bad enough, but then, to make things worse, when he tried to make a complaint about the police department’s process and procedure and lack of follow-up, and the harm that was done to him as a result of inappropriate police procedure, the staff sergeant refused to take the complaint, refused to allow Mr. Dixon to make the complaint.

I’m sure the Hamilton police department has learned a great deal from this incident. But the issue becomes, if we have a system in place that makes sure that these kinds of incidents are reviewed and that there’s a neutral third party that has nothing to do with the administration of the police department in any community, not just the community of Hamilton, it gives people an understanding of their ability to access justice from the very justice system that’s supposed to protect the rest of the community. So Mr. Dixon’s case is very clearly one where, had this procedure, had this proposed system been in place, it wouldn’t have taken Mr. Dixon three years to get not only an apology, but even just a basic investigation into the way that he was wronged that fateful night in 2003 when there was a blackout in the province of Ontario. That’s the first example.

Another example is one of a young man who, in March of this year, was dealt with in an inappropriate manner from his perspective. If you read the transcripts of the incident as it occurred, he was not dealt with in a way that was fair-handed from his perspective and, in fact, doesn’t appear to have been dealt with in a fair-handed manner by the Ontario Provincial Police, in an incident that occurred in the city of Burlington.

I raise this because, once again, this is a situation where the person who has the complaint, who has the concern, has not had the complaint or concern followed up. This particular person was of South Asian descent. The first, Mr. Dixon, was Afro-Canadian, a black person. This person, Mr. Dhillon, is actually a South Asian

person. He, as well, had some real concerns about the way he was dealt with, whether or not it was a fair-handed process with the police, and had significant difficulty in getting his voice heard, his concerns raised and his complaint taken seriously.

These examples simply highlight the fact that there is a problem with people being able to get accountability -- if you want to put it that way -- to get a response from existing police services under the current regime. Certainly, New Democrats are very concerned and look forward to the alteration of that regime to make it more responsive and make the process more transparent and accessible for people that have complaints about police.

The third and final one that I wanted to raise is a specific example that occurred in my riding maybe just a year and a quarter or so ago. This is a situation where a young person, a young fellow, was chased down by police and a taser was used on him. There's all kinds of issues around tasers and the use of tasers. I've done some looking into that issue myself, because I have some real concerns about protocols around the use of tasers. Nonetheless, the big issue here was certainly, and it's problematic, that this young, 15-year-old boy was chased down into an alley and tasered by police for kicking a can that hit a car that was, in fact, an unmarked police car. There was an overreaction, in my opinion -- but it's only my opinion -- of police in the way that they dealt with that matter and tasered this 15-year-old boy.

The issue for me is not so much the fact that this -- yes, it's horrendous and it's a terrible thing that occurred and it was, in my mind, inappropriate. However, how it relates to this bill that is before us is the fact that the young fellow's mom was absolutely apoplectic when she found out what happened to her son, but was not treated in a fair-minded way by police, insofar as her objections, complaints and concerns were kind of put to the side.

1900

As I continued to try to advocate for this woman, it became clearer and clearer that the exercise was about the police justifying their behaviour, not about the police taking a sober look at what they had done to determine in a real way whether or not they had taken the right steps to address the situation and whether the force being used was appropriate to not only the situation but the young person involved. At issue, then, is the extent to which the mom felt that her complaint about the way her son was being treated was being taken seriously by police or being dealt with effectively by police. She was not getting any input or any response back whatsoever to indicate that in fact the complaint she was raising was anywhere in a continuum of steps that needed to take place to resolve the complaint. So basically the complaint gets made and it gets put into some ethereal place where there are no yardsticks, there are no signposts, there's no way for that person to find out what stage the complaint is at, where it is, when they can expect a response, who is investigating it, how they get input into the various processes that go on during the investigation and deter-

mination of whether or not the complaint is valid. That is problematic.

So there are three examples: one a young fellow tasered, two where there perhaps are race issues involved, certainly all three where the complaints process is simply falling apart. Bill 103 purports to deal with that, and we certainly think that's something that needs to be dealt with. We look forward to some real changes in the way that police complaints are made; again, not to vilify police and not to in any way say or suggest that all police are doing things that are overzealous in terms of abuse of power -- certainly not -- but simply to make sure that we have a system in place where our citizens and our communities can feel that when they do have concerns, those concerns are taken seriously and there is a transparent and verifiable process and procedure that can be taken up to make sure their complaints are being addressed efficiently and effectively.

There are two things that I think need to be really addressed in terms of this bill and where we end up, hopefully after the committee process. It's great to put the new system in place, it's great to put an independent police review director and an oversight body in place -- it's extremely important and we would support that -- but let's make sure that we don't cripple the organization by not allocating it the appropriate and necessary resources to do its job. That's the first thing. Let's make sure, if we're going to put this new system in place, that we support it, we invest in it, and we make sure that it has all of the tools, particularly the financial ability, to take seriously these complaints and act upon them in a way that restores confidence in the public in terms of the fairness of the process.

The other issue is one that's quite disconcerting, and that is that the government, in section 97 of this bill, specifically and purposely indicates that the Ombudsman will not have oversight over the decisions that come from this particular body. Members of this Legislature will know that I have a couple of private members' bills currently on the order paper because I believe that the Ombudsman is in fact a perfect tool for us as legislators to turn to as an independent, unbiased oversight body to look at any number of government systems. Members might know that the children's aid society is one of the most important ones, I think, where the Ombudsman needs to have oversight. Of course, we know that we've got some concerns around long-term-care facilities, the broader health and hospital system, as well as the MUSH sector, which is municipalities, school boards and other areas. There needs to be some consideration of oversight in those areas so that exactly these kinds of systemic problems that come up can be dealt with. However, it's very disconcerting that this new body is going to be established and that it is specifically indicated in the bill, in section 97, that the Ombudsman will absolutely not have oversight over this body.

Members will know that our Ombudsman, André Marin, a very effective and a very vocal Ombudsman, was disturbed himself to find out that that oversight is not

being allowed for him in this bill. It's the very principle of, who guards the guards? Who is it that makes sure, when we put systems in place to oversee areas where there is a great amount of power given to a certain organization or group -- for example, the police, being probably the most powerful; maybe children's aid societies have more power than police, some would say. Nonetheless, who is to make sure that the body that looks after that situation, the oversight of that system, is in fact effective, is in fact doing the job, is in fact making sure that all of the appropriate forces are being brought to bear to make that system an effective one and one that's responsive and accountable to the citizens of Ontario?

If I could just wrap up by saying that, yes, there are examples, I am sure, in every single community where complaints have not been dealt with to the satisfaction of our constituents. And whereas, as a New Democrat, I believe that Bill 103 goes in the right direction, I certainly look forward to this going to committee so that we can deal with a number of issues, and other stakeholders can come to the table and deal with some of those issues. But I think the two important ones off the top of my head at this point in time are oversight provisions and perhaps getting rid of that section 97, which removes the oversight capability from the Ombudsman in this regard, as well as ensuring that the oversight body, with all of its arms, is appropriately funded and has the tools it needs to do the job properly. At the very least, not only do we owe this to our constituents and the people of Ontario, but we owe it to the police officers and the police forces that are trying to do a good job across communities from one end of this province to the other.

The Acting Speaker: Questions and comments? Further debate? Is there any other member who wishes to debate?

Seeing none, Mr. Bryant has moved second reading of Bill 103, An Act to establish an Independent Police Review Director and create a new public complaints process by amending the Police Services Act.

Is it the pleasure of the House that the motion carry? I heard a no.

All those in favour will please say "aye."

All those opposed will please say "nay."

In my opinion, the ayes have it. Carried.

Shall the bill be ordered for third reading? I heard a no.

Hon. James J. Bradley (Minister of Tourism, minister responsible for seniors, Government House Leader): We'd like to refer the bill to the standing committee on justice policy.

The Acting Speaker: The bill is therefore referred to the standing committee on justice policy.

Hon. Mr. Bradley: I move adjournment of the House.

The Acting Speaker: Mr. Bradley has moved adjournment of the House.

Shall the motion carry? I heard a no.

All those in favour, please say "aye."

All those opposed, please say "nay."

Carried.

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

The House adjourned at 1909.

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