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des débats
(Hansard)**

Wednesday 25 October 2006

Mercredi 25 octobre 2006

Speaker
Honourable Michael A. Brown

Président
L'honorable Michael A. Brown

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LEGISLATIVE ASSEMBLY
OF ONTARIO

Wednesday 25 October 2006

ASSEMBLÉE LÉGISLATIVE
DE L'ONTARIO

Mercredi 25 octobre 2006

The House met at 1845.

ORDERS OF THE DAY

MANDATORY BLOOD
TESTING ACT, 2006

LOI DE 2006 SUR LE DÉPISTAGE
OBLIGATOIRE PAR TEST SANGUIN

Resuming the debate adjourned on June 13, 2006, on a motion for second reading of Bill 28, An Act to require the taking and analysing of blood samples to protect victims of crime, emergency service workers, good Samaritans and other persons and to make consequential amendments to the Health Care Consent Act, 1996 and the Health Protection and Promotion Act / Projet de loi 28, Loi exigeant le prélèvement et l'analyse d'échantillons de sang afin de protéger les victimes d'actes criminels, le personnel des services d'urgence, les bons samaritains et d'autres personnes et apportant des modifications corrélatives à la Loi de 1996 sur le consentement aux soins de santé et à la Loi sur la protection et la promotion de la santé.

The Deputy Speaker (Mr. Bruce Crozier): The member for Niagara Centre.

Mr. Peter Kormos (Niagara Centre): Thank you kindly, Mr. Speaker.

Mr. Bas Balkissoon (Scarborough–Rouge River): On a point of order, Mr. Speaker: With your consent, I'd like to recognize Mr. Bruce Miller, the chief administrative officer of the Police Association of Ontario, who is a stakeholder in this particular bill and is here to observe the debate.

The Deputy Speaker: That's not a point of order, but we certainly welcome him because he has a seat here with his name on it, I think. Mr. Kormos.

Mr. Kormos: I was impressed. I had risen and not said a word. I thought somebody was already going to object to something I had said, and I hadn't said anything. It might have been a pre-emptive point of order, an anticipatory point of order. The member from Scarborough–Rouge River told me he was going to do that, and I of course had no quarrel whatsoever.

Look, we all take every opportunity we can to suck up to the police association. It's a given. Come on, friends. It's a given. Mr. Balkissoon did it today in his own right and perhaps on behalf of his colleagues. But it does you

no good. I want you to know that. You can pull out all the PAO trinkets you've got when you're pulled over going through a stop sign, you could just have the decals and business cards laying all over the passenger seat, and it doesn't count at all.

So, at the end of the day, here we are back to Bill 28. My goodness, I have such a short period of time. Yeah, this is good legislation. It's remarkable that it's been almost a year now. It was November 2005 when this bill was introduced for first reading. I recall the day it was introduced. I recall making it clear that New Democrats supported the proposition, that it had to go to committee to make sure the government got it right this time, because what it is is a cleanup of the original bill.

To be very fair, it was Garfield Dunlop, the member for Simcoe North, who initiated this whole proposition as private member's public business. Again, there was a whole lot of concern about it. I think that concern has been addressed and resolved. It's about the right of any worker, especially front-line workers, these emergency response personnel, be they police, firefighters, paramedics—Lord knows, we saw them do stellar work—didn't we, Mr. Bradley, the member for St. Catharines?—down in Port Colborne and Fort Erie during the recent power outage, during the crisis there. They're there to save lives and protect public safety.

Yes, they have a right to protect themselves against communicable diseases—end of story. If somebody bleeds all over them or expels bodily fluids on to them that could communicate these diseases, I agree with the proposition that they've got a right to know whether or not I've infected them with whatever they might have been infected with, and the safest and fastest way to do that, to ensure that those firefighters, police officers, paramedics can be treated properly, is to make sure that the person submits to testing and clears the record.

1850

New Democrats have no quarrel with the bill whatsoever. Again, I'm frustrated with the fact that the government's been dragging its heels on this for almost a year now. We had commenced second reading—Ms. DiNovo, you weren't even elected yet. The bill was introduced November 2005. The government does nothing until June. It calls the bill. I don't even get to complete my lead. I'm completing it now. Then it waits—what?—six more months for wrapping up second reading debate, when people say, "We want this to get to committee"? We want it to get to committee. Well, we've been pleading with the government. We've been exhort-

ing the government to get this bill into committee so it can be dealt with and then brought back for third reading so that firefighters, police officers, paramedics and others who put themselves at risk to save other people's lives can be protected.

So here we go, and I tell you, Ms. DiNovo is going to speak to it tonight. I'm looking forward to her comments, but here we go. I tell you, we're not putting up any other speakers tonight. That's it. If you people want to filibuster it, prolong the bill—well, you have. You've dragged it out for almost a year now. You've dragged it out for almost a year. If you want to drag it out longer, there's no way I can stop you, but I'm telling you, New Democrats are adamant that this bill receive second reading vote today and that it go to committee. Shame on you if you should try to prolong this bill any further at the second reading stage. You've already spent darned near a year on it. Shame on you if you prolong it any further.

The Deputy Speaker: Questions and comments? Further debate?

Mr. John O'Toole (Durham): There are a few comments, as the member from Niagara Centre has said, and you have to hearken back to how long this bill has actually been before the House, because it was introduced by Minister Kwinter back on November 15. One would still have to ask the question: How long is enough time to bring it forward for debate? It is up to the House leaders to decide these sorts of things.

I have to recall the work that has been done already on this by the member from Simcoe North, Garfield Dunlop. I almost have to pause and reflect for a moment on how passionate the member from Simcoe North is and continues to be about this bill.

Our position would be quickly summarized by saying that we obviously have general support of the bill. Hopefully they streamline the important initiative passed by the PC government to help community safety workers deal with unique situations, and that's really where the tire hits the pavement.

Quite frankly, there are issues that we need to have public input on. Disclosure, privacy, personal protection, implied consent and those sorts of issues are sort of legal terms. First responders to, for instance, an accident or an emergency situation need protection from liability, from victims whom they may be, in all best interests, trying to protect—who, in the long term, may have things that they don't want to disclose. Certainly, blood testing is an issue that all of us would probably have strong opinions on. We are dealing with first responders, and I think this bill is important under the Health Protection and Promotion Act.

"A person who came into contact with a bodily substance of another person in certain situations set out in or prescribed under the act may apply to a medical officer of health to have the blood of the other person analyzed for viruses that cause certain communicable diseases. Under the current regulations under the act, the medical officer of health may take seven days attempting

to get a blood sample or other evidence of seropositivity voluntarily"—and this is important—"from the person." So that's the first resolution that must be found.

"If the medical officer of health fails to obtain a blood sample voluntarily"—this is the issue here—"he or she may order that person to provide a blood sample for analysis, with or without first holding a hearing, and without notice to the person who will be subject to the order. The medical officer of health's decision may be appealed to the chief medical officer of health or the Health Services Appeal and Review Board."

That, in essence, is really where you get into the technicalities of why these bills need to have hearings, to make sure that we don't infringe on people's rights while protecting public rights. These are things best resolved.

When our member Garfield Dunlop from Simcoe North brought Bill 105 forward for third reading—a vote of 80 to 2; only a couple of members voted against it. We are entitled to have free votes on private members' bills, which is interesting. They should all be free votes, but I guess we have to deal with that at another time, under democratic renewal.

Bill 28 is intended to enable police officers, other safety workers and victims of crime—this is important; victims of crime often are the neglected entity. But most important are the front-line service providers. I think I say this without trying to provoke responses: Police, fire and ambulance people, as part of their duty of service to their fellow man, need to have the security of protection. That's why we are 99.9% in support of the bill—and not in any way delay, as the member for Niagara Centre might feign to be.

The current time for the processes to be completed would be interrupted for up to seven to 19 days. I think sometimes we have to put a priority on these things, because it could be someone's life: the victim or the first responder. I had a son in the armed forces who was involved in things that—perhaps those people defending country or community put themselves and their families at risk, and we need to do everything in our power to protect that and respect that.

The bill shortens the length of time the process takes from application to order, and transfers the power to make an order from a medical officer of health to the Consent and Capacity Board. Under the bill, a person will still apply to a medical officer of health to have the blood of another person analyzed for a virus, under the health act. The medical officer of health is empowered to request a blood sample for analysis or other evidence of seropositivity. If the person is requested to provide a blood sample or other evidence and does not provide it voluntarily within two days after the request is made, the medical officer of health must refer the application to the Consent and Capacity Board. So there is a process here.

I think I need to put those things on the record, respecting, first, our member for Simcoe North, Garfield Dunlop; and the will of this House under a free vote of 80 to 2, where it was supported. The member for Niagara Centre mentioned that this has been before us for over a

year—November 15, 2005—by Minister Kwinter. We'd like to get on with doing the business of the House.

With that, on behalf of John Tory and Garfield Dunlop, who is very much in ownership of this, I respectfully submit those comments as our observations on Bill 28.

The Deputy Speaker: Questions and comments? Further debate?

Ms. Cheri DiNovo (Parkdale–High Park): I've shared with this House before that my husband was a member of the Kitchener-Waterloo force and in that capacity had a couple of close calls himself, which this bill would certainly have helped to ameliorate in terms of the total and, of course, all-encompassing fear that one has when one is in contact with sera that are questionable, and also in a situation where you're asked to decide whether to be a good Samaritan or not and have to make that call. So I think of him as I speak.

I also had the pleasure last week of hearing one of our great Canadians, a great general, a great military man and a great humanitarian, Roméo Dallaire. He shared a story from his experience in Rwanda. The story was this: He, as we all know, was in charge of a United Nations force there. It represented troops from various countries around the world, and they went in one of the killing fields. In this particular killing field was a group of young women who had been raped and tortured, were in various stages of dying and had been literally shovelled into a pit. It then came down to General Dallaire and his troops to decide whether they were going to jump into this pit to help these women or not, keeping in mind that the backdrop of this is that a good third of them were probably HIV-positive.

1900

General Dallaire recounts the story, saying that he talked to troops from various countries about what they thought was acceptable risk, whether it was better, with the forces they had, to risk the life and safety of the troops, since these women would probably die anyway, or to jump in and try to help. He said that most of the forces of the world decided to walk on by, but he said he was particularly proud that the Canadian Forces there decided without hesitation that they would help, and they did, at great risk to themselves.

I think this bill behooves us, as Canadians, to uphold the role we have internationally, nationally and provincially as good Samaritans for the world. So, as New Democrats, we support this bill.

I also support this bill because, in my riding of Parkdale–High Park, I represent police, firefighters, paramedics, nurses, health care workers, correctional workers and also social workers, seniors, teachers, parents, children themselves, all of whom might be at risk if they help someone who might have HIV/AIDS or Hepatitis B or C. Again, I draw attention to the families of these good Samaritans and how they must suffer and wait, and that's why this bill was brought in.

I certainly give a nod to our honourable member Mr. Dunlop, who brought in the original bill. We remember 105 as a private member's bill that was enacted in 2003.

Now that we've lived and worked with that act for a while, clearly there are some additions and amendments that need to be made, and that's what Bill 28 does.

I just draw the House's attention to some of those problems. These are problems, of course, in the enactment of this bill, one of them being that medical officers of health are put in a somewhat conflicted role. They've expressed serious reservation about having the responsibility to order persons to provide blood samples. They believe this is inconsistent with their job as physicians. So they've suggested, among others, that this go to another body. What this bill suggests is that it go to the Consent and Capacity Board.

We've also heard, over the course of the years this bill has been in force, from other folk in the community about the length of time it takes, and this is horrendous. It's horrendous that it could take over three months to get a sample analyzed. Imagine again the families, those concerned, having to wait in fearful anticipation of what that result will be.

Also, of course, there are serious concerns about privacy in asking for an order for mandatory blood testing. All of those, hopefully, have been taken into account with Bill 28.

I want to draw the House's attention to another bill that was also brought in in November 2005. Shelley Martel, our honourable member from Nickel Belt, brought in a bill about safe needles, called the Safe Needles Save Lives Act. It will be introduced again at a press conference next week. We may not be aware that 33,000 health care workers suffer needle-stick injuries every year and that it costs the taxpayer over \$60 million to deal with those, when it could be very easily dealt with.

In 2001, the federal Needlestick Safety and Prevention Act came into effect in the United States. Recent data indicate that the US law actually works. In an article published in 2003, researchers at the University of Virginia's International Health Care Worker Safety Center compared needle-stick injuries among nurses prior to and after passage of the law, and the results were dramatic. With only one quarter of workplaces in compliance with the new law, there was a 51% reduction in injuries.

How does this bill work? We now have safety-engineered medical sharps that are available to replace conventional devices, and they cost on average only pennies more than existing sharps. In the acute health care sector alone, an estimated \$4 million would be saved through this conversion process.

The honourable member Ms. Martel is bringing in this bill. I hope it gets even a quarter as much attention as the bill before us, Bill 28, because certainly that will also help make the lives of all those good Samaritans in Canada—of course, I draw your attention to those who do this for a living: police, firefighters, paramedics, nurses, health care workers of all sorts, corrections workers. Again, this is a real concern.

As New Democrats, we had a concern that stakeholders' input be there, and that the process to pass this bill be transparent and also accountable to them, the ones

whose lives it's going to affect the most. So this is where the committee comes in, and we hope, of course, that it goes to committee as soon as possible.

I just wanted to use a few minutes to talk about the process itself. You heard our honourable member Mr. Kormos talk about how long it's taken to get to this point. One has to ask oneself—a majority government, a nine-page bill introduced a year ago. One wonders how many families have spent sleepless nights over the course of that year, how many individuals wondering when that sample's going to come back and how it's going to test, when this bill could have been passed a long time ago.

It also points to another process question: how private members' bills are dealt with at all. We have two hours on Thursday morning, and certainly a lot of creativity is clearly enacted in private members' bills. We see that Mr. Dunlop himself, who initiated this whole process back in 2001, introduced it as a private member's bill. I've just discussed Ms. Martel's bill and the impact that could have, and one hopes that this bill gets a fair hearing so that lives can be saved. But one has to ask oneself, when it takes a majority government a year to bring in their own bill, what chance does Ms. Martel's bill, or any other bill, have to express the need and the will of the citizenry in this province? Again, we're not talking about something unimportant here, we're talking about lives. We're talking about the lives of those good Samaritans, and the value of those lives of those good Samaritans.

So do we support Bill 28? Of course we do. We've supported it since the beginning. We wish it had passed a long time ago. We wish that we'd save families countless hours of worry and concern. Do we support it? Of course we do. We'd love to see it go to committee as soon as

possible. I'd also like to see Ms. Martel's bill about safe needles saving lives get a fair hearing and some attention and, ultimately, be passed into law.

With that, I won't take any more of the House's time. Clearly we have done too much of that already on this bill. I was reading Hansard and, much to my amusement, discovered that much was discussed the last time this bill was brought forward, and little of it had to do with Bill 28. So I will spare the House that and will cede my time. Let's pass the bill, let's pass it fast, and let's also give Ms. Martel's bill some time of day as well.

The Deputy Speaker: Questions and comments? Further debate? Does any other member wish to speak?

Mr. Kwinter has moved second reading of Bill 28. Is it the pleasure of the House that the motion carry? Carried.

Shall the bill be ordered for third reading?

Hon. James J. Bradley (Minister of Tourism, minister responsible for seniors, Government House Leader): I'd like the bill referred to the committee on regulations and private bills.

The Deputy Speaker: The bill shall therefore be referred to the committee on regulations and private bills.

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

The Deputy Speaker: The government House leader has moved adjournment of the House. Is it the pleasure of the House that the motion carry?

All those in favour, say "aye."

All those opposed, say "nay."

In my opinion, the ayes have it.

This House is adjourned until 10 of the clock tomorrow morning.

The House adjourned at 1909.

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