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Wednesday 18 May 2016

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des débats
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Mercredi 18 mai 2016

**Standing Committee on
the Legislative Assembly**

Supporting Ontario's Trails
Act, 2016

**Comité permanent de
l'Assemblée législative**

Loi de 2016 sur le soutien
aux sentiers de l'Ontario

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLY**

**COMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE**

Wednesday 18 May 2016

Mercredi 18 mai 2016

The committee met at 1302 in committee room 1.

**SUPPORTING ONTARIO'S TRAILS
ACT, 2016**

**LOI DE 2016 SUR LE SOUTIEN
AUX SENTIERS DE L'ONTARIO**

Consideration of the following bill:

Bill 100, An Act to enact the Ontario Trails Act, 2016 and to amend various Acts / Projet de loi 100, Loi édictant la Loi de 2016 sur les sentiers de l'Ontario et modifiant diverses lois.

The Chair (Mr. Monte McNaughton): Good afternoon, everyone. Welcome to the Standing Committee on the Legislative Assembly. We're here to consider clause-by-clause for Bill 100, An Act to enact the Ontario Trails Act, 2016 and to amend various Acts.

Are there any comments, questions or amendments to any section of the bill, and if so, to which section? Mr. Miller.

Mr. Paul Miller: Obviously, we are agreeable on most of the bill. There are a few contentious issues that will be dealt with here, I'm sure. I think that there has been some flexibility shown by government on some of the amendments, which is good.

On the whole, I certainly hope that it's going to improve the trail system in Ontario. Hopefully, we can minimize the landowners' concerns as to their welcoming arms, which will be good. I think that can happen with a little co-operation.

I would just ask the Chair, when you go through the sections—obviously, it's highlighted—that you notify us of our—sometimes when you do sections as opposed to one at a time, people miss things. So please alert us that we have something in there that we could deal with.

The Chair (Mr. Monte McNaughton): Okay, I will. Thank you.

Mr. Clark.

Mr. Steve Clark: I think that this has been an interesting exercise and I would hope that it would have taught the government that having consultations a couple of years ago isn't really good enough when it comes to the bill.

I still contend that if the minister had taken that original letter I sent him, taken the bill off the order paper and allowed communities to understand the bill better, we would have been in a much better position. I think

that there would have been less angst, certainly from my riding. There wouldn't have been trails that are still closed today, in terms of snowmobile clubs. I was at a snowmobile club on Sunday and we were celebrating a Trillium grant, one of the last capital Trillium grants that might be given out under this government, and there was still some concern. The club that I was at certainly didn't have the challenges that other clubs in my riding did.

I guess that the proof will be in the pudding, right? The proof will be, when this day is over and the bill is brought back to the House and ultimately dealt with, will the government make a commitment to go to some of those communities that this committee didn't travel to? I think there was a will on this side of the table that we should have taken this bill and had a bit of travel, and that didn't take place.

I hope that the government—and I hate to say the word “government” because I got chastised last meeting for directing comments at the government. But let's face it: It is a majority government, and the ministry could very well reach out to those areas that have had trails closed, that have had issues, and try to fix them.

Regardless of how votes are cast today, I think there still is work for the ministry. I wouldn't have them sit back and pat themselves on the back. There's still work to be done, regardless of the amendments that will be presented and passed or defeated this afternoon. Those are my comments.

The Chair (Mr. Monte McNaughton): Thanks, Mr. Clark. Ms. Kiwala.

Ms. Sophie Kiwala: I just wanted to start off by saying thank you to all of the opposition members from both parties. I do think that this is an important bill that will advance recreation and tourism in Ontario, and expand our trail use and access. I am also pleased that we have been consulting on this bill since 2005.

I just wanted to bring out a few of the highlights of the bill. We will be looking at over 80,000 kilometres of trails, which is pretty impressive. The Bruce Trail Conservancy did consult with us consistently throughout the process, among quite a few other organizations. I also want to get on the record as well that we did offer to travel and we had an offer on the table to travel to Kingston for public hearings, but the opposition did not take us up on that.

Having said all that, we're at this point now. I would also extend to MPP Clark that I'm happy to come to his

riding and continue the conversation about trails. I don't think the conversation is over.

With that, I turn it back over to you, Mr. Chair.

The Chair (Mr. Monte McNaughton): Great. Is there unanimous consent to stand down sections 1 to 3 and deal with schedules first? Agreed? Agreed.

I intend on grouping all sections with no amendments, unless members say otherwise. We're going to group them, and if you don't want me to group them then please let me know.

Any debate on schedule 1, sections 1 to 11?

I'll put the question now: Shall schedule 1, sections 1 to 11, carry? Carried.

I'll move now to schedule 1, section 12. We have government motion number 1. Who's going to read that? Ms. Kiwala.

Ms. Sophie Kiwala: I move that clause (e) of the definition of "eligible body" in subsection 12(1) of schedule 1 to the bill be struck out and the following substituted:

"(e) a municipality,"

The Chair (Mr. Monte McNaughton): Any debate? Shall it carry? Carried.

Moving on to government amendment number 2: Ms. Kiwala.

Ms. Sophie Kiwala: I move that clause (h) of the definition of "eligible body" in subsection 12(1) of schedule 1 to the bill be struck out and the following substituted:

"(h) a corporation incorporated under part III of the Corporations Act or under the Canada Not-for-Profit Corporations Act or a predecessor of that act, and that is a charity registered under the Income Tax Act (Canada);"

The Chair (Mr. Monte McNaughton): Any debate? Shall the motion carry? Carried.

We'll move to PC amendment 2.1. Mr. Clark.

Mr. Steve Clark: I move that subsection 12(3) of the Ontario Trails Act, 2015, as set out in schedule 1 to the bill, be amended by striking out "with or without covenants" in the portion before clause (a) and substituting "with covenants".

1310

The Chair (Mr. Monte McNaughton): Any debate? Shall the amendment carry? Carried.

We'll move to government amendment number 3. Ms. Kiwala.

Ms. Sophie Kiwala: I move that section 12 of schedule 1 to the bill be amended by adding the following subsection:

"Granting of easement voluntary

"(3.1) For greater certainty, the decision to grant an easement under subsection (3) is voluntary."

The Chair (Mr. Monte McNaughton): Any debate? Shall the amendment carry? Carried.

The next two are ruled out of order because they're duplicates, so 3.1 and 3.1.1 are out of order.

We'll move to NDP amendment 3.1.2.

Mr. Paul Miller: I move that section 12 of the Ontario Trails Act, 2015, as set out in schedule 1 to the bill, be amended by adding the following subsection:

"Agreements

"(3.2) For greater certainty, an agreement between the owner of the land and an eligible body that gives the organization the right to use or access all or a portion of the land on a seasonal basis does not constitute an easement for the purposes of this section unless the agreement so specifies."

The Chair (Mr. Monte McNaughton): Any debate? Shall the amendment carry? Carried.

Interjections.

The Chair (Mr. Monte McNaughton): Opposed? All those in favour? All those opposed? I declare the amendment lost.

Mr. Steve Clark: What?

The Chair (Mr. Monte McNaughton): When I say, "Shall it carry?" please speak up so I can hear a no clearly.

We'll move to PC amendment 3.2.

Mr. Steve Clark: I move that section 12 of the Ontario Trails Act, 2015, as set out in schedule 1 to the bill, be amended by adding the following subsections:

"Covenant re uses and activities

"(5.1) An easement shall contain one or more covenants, as may be agreed upon by the owner of the land and the eligible body, stating the uses and activities permitted, restricted or prohibited on the land to which the easement relates and a description of those uses and activities.

"Same

"(5.2) A covenant required under subsection (5.1) has effect for the term of the easement."

The Chair (Mr. Monte McNaughton): Any debate? Shall the amendment carry? Carried.

We'll move to PC amendment 3.3. Mr. Clark.

Mr. Steve Clark: I move that subsection 12(6) of the Ontario Trails Act, 2015, as set out in schedule 1 to the bill, be amended by striking out "any covenants" and submitting "the covenants".

The Clerk of the Committee (Mr. Trevor Day): "Substituting."

Mr. Steve Clark: Sorry. Substituting.

The Chair (Mr. Monte McNaughton): Any debate? Shall the amendment carry? Carried.

We'll move to PC amendment 3.4. Mr. Clark.

Mr. Steve Clark: I move that the French version of subsection 12(6) of schedule 1 to the bill be amended by striking out "ils sont enregistrés" and substituting "la servitude est enregistrée".

The Chair (Mr. Monte McNaughton): Any debate? Shall the amendment carry? Carried.

We'll move to PC amendment 3.5. Mr. Clark.

Mr. Steve Clark: I move that subsection 12(8) of the Ontario Trails Act, 2015, as set out in schedule 1 to the bill, be struck out and the following substituted:

"Assignment

“(8) An eligible body shall not assign any easement granted to it under this act.”

The Chair (Mr. Monte McNaughton): Any debate? Mr. Miller?

Mr. Paul Miller: Mr. Vanthof would like to say something on this.

Mr. John Vanthof: We are very much in favour of this clause, the reason being that if easements are allowed to be transferred within bodies, it very well will result in the landowners not entering into the agreement at all. Speaking as a landowner who has a trail on his property, if at a certain time I wanted to enter into a certain agreement because of a bridge or something, that's why the easements are necessary. But if I wasn't in control of who had those easements, I wouldn't give the easement in the first place, and I want that on the record.

If this doesn't pass, it will actually hurt the trail system instead of help it. That's very important because the one issue that's keeping a problem with this bill is that, fine, the trail organizations have been consulted, but the actual property owner? It's impossible to consult them all.

There's nothing more important to a property owner than control of his or her property. If they're going to sign an easement, and there is a possibility of that easement being transferred without their strict permission, they're not going to give an easement in the first place. I would advise them to do that and I will speak to that in the House if this doesn't pass.

Mr. Paul Miller: So I—

The Chair (Mr. Monte McNaughton): Sorry, we've got to move to Mr. Clark, Ms. Kiwala and then Mr. Miller.

Mr. Paul Miller: No, it's just a point of information: I want a recorded vote on this.

Mr. Steve Clark: Well, I appreciate the support from the New Democrats and I'm glad that we're having a recorded vote on this amendment. This is a critical amendment to Bill 100, and I think it really culminates what we've heard from property owners in all corners of the province. I do appreciate the offer earlier from the parliamentary assistant to come to my riding, but the motion that we put forward was to travel up north. I appreciate that we have two northern members from the NDP on this side of the table.

This is a big deal. This amendment would clearly afford, in my opinion, the ultimate protection to property owners as they can veto the transfers. I think it's consistent with what many property owners have expressed to me privately, that they hope that the government would consider supporting this amendment. It would be a real, clear sign that they're willing to work with property owners moving forward. I want to thank the New Democrats for supporting this PC amendment.

The Chair (Mr. Monte McNaughton): We'll move to Ms. Kiwala.

Ms. Sophie Kiwala: Thank you, Mr. Chair. The motion 3.6 does this as well but is more flexible. Also, the clause would prevent the assignment of an easement

from one eligible body, for example the Bruce Trail, to another eligible body, the Ontario Heritage Trust. There are other methods by which one can grant easements currently in provincial law. These include right-of-way easements and conservation easements. By disallowing the assignment of trail easements, eligible bodies would be forced to use more cumbersome and time-consuming methods. I think, in general, it's against the spirit of the bill to expand the trail system in Ontario.

The Chair (Mr. Monte McNaughton): Mr. Mantha.

Mr. Michael Mantha: My concern is, once again, that we have some trails that are closed right now because of clarity. This will provide some clarity as far as where the responsibility is going to be, who is going to be impacted, whose responsibility it is and who is going to be informed.

During this whole process, the one thing that I have been highlighting during my comments that I've been making is that nobody is against this particular piece of legislation. What they're looking for is clarity. This provides that clarity for individuals so that there is certainty as far as who is going to be involved in the decisions that are going to be made and when those decisions are going to be made.

Again, I want to stress the point that this is a very important amendment as far as clarity, which will enhance and maintain the harmonious relationship that has been there for many, many years between landowners and individuals who use those trails.

The Chair (Mr. Monte McNaughton): Any further debate? Mr. Vanthof?

Mr. John Vanthof: Short point: This amendment doesn't preclude one body striking an easement with a landowner, and then if another body wants to take that easement over, it doesn't preclude the landowner striking an easement again with the second body. The issue is that the movement of easement, the right to use land, is transferred without the actual consent of the landowner. That's the issue. By removing the consent of the landowner for transfer, you are going to remove the landowner from the initial offer of easement.

The Chair (Mr. Monte McNaughton): Any further debate? Ms. McMahan?

1320

Ms. Eleanor McMahan: Two things, Mr. Chair. I want to appreciate the passion and substance of my colleagues, and this is a good conversation for us to be having.

Two general comments: The first is that 3.6, the next motion, will address this. Just by way of adding some specificity, the Bruce Trail is in my riding and I know that this is an issue that is of great interest and concern to them. I'm confident that we can find a way here to promote the use of trails—which is what the spirit of this legislation does—and the concerns of landowners. I think colleagues will see the next amendment does that.

The Chair (Mr. Monte McNaughton): Any further debate? Are members ready to vote?

Mr. Paul Miller: Recorded vote.

Ayes

Clark, Paul Miller.

Nays

Anderson, Dhillon, Kiwala, McMahon, Wong.

The Chair (Mr. Monte McNaughton): I declare the amendment lost.

We'll move to PC amendment 3.6. Mr. Clark?

Mr. Steve Clark: I wish that I didn't have to move this. I wish the previous amendment would have passed but we'll try this.

I move that subsection 12(8) of the Ontario Trails Act, 2015, as set out in schedule 1 to the bill, be struck out and the following substituted:

"Assignment

"(8) An easement shall contain one or more covenants, as may be agreed upon by the owner of the land and the eligible body, with respect to the assignment of the easement to another eligible body.

"Same

"(8.1) An easement may be assigned by an eligible body only to another eligible body and only if the following requirements are met:

"1. The eligible body gives the owner of the land reasonable notice of the assignment.

"2. The assignment is in writing.

"3. The assignment is made in accordance with the covenant or covenants referred to in subsection (8).

"Same, registration

"(8.2) An assignment under subsection (8.1) must be registered on title to the land."

The Chair (Mr. Monte McNaughton): Any debate on this amendment?

Mr. Paul Miller: Recorded vote, please.

The Chair (Mr. Monte McNaughton): Are all members ready to vote?

Ayes

Anderson, Clark, Dhillon, Kiwala, McMahon, Wong.

Nays

Paul Miller.

The Chair (Mr. Monte McNaughton): I declare the amendment carried.

We'll move to government amendment number 4.

Ms. Sophie Kiwala: We're not going to move this one; we will withdraw.

The Chair (Mr. Monte McNaughton): Okay, withdrawn.

We'll move to PC amendment number 5.

Mr. Steve Clark: I move that subsection 12(10) of the Ontario Trails Act, 2015, as set out in schedule 1 to the

bill, be amended by striking out "any covenants" and substituting "the covenants".

The Chair (Mr. Monte McNaughton): Any debate? Shall the amendment carry? Carried.

We'll move to PC amendment number 6. Mr. Clark.

Mr. Steve Clark: I move that subsection 12(13) of the Ontario Trails Act, 2015, as set out in schedule 1 to the bill, be amended by striking out "any covenants" and substituting "the covenants".

The Chair (Mr. Monte McNaughton): Any debate? Shall the amendment carry? Carried.

We'll move to PC amendment number 7.

Mr. Steve Clark: I move that the French version of subsection 12(13) of the Ontario Trails Act, 2015, as set out in schedule 1 to the bill, be amended by striking out "la servitude ou l'engagement est enregistré" and substituting "la servitude est enregistrée".

The Chair (Mr. Monte McNaughton): Any debate on this amendment? Shall the amendment carry? Carried.

We'll move to PC amendment number 8. Mr. Clark?

Mr. Steve Clark: I move that subsection 12(14) of the Ontario Trails Act, 2015, as set out in schedule 1 to the bill, be amended by striking out "any covenants" and substituting "the covenants".

The Chair (Mr. Monte McNaughton): Any debate? Shall the amendment carry? Carried.

We'll move to PC amendment number 9.

Mr. Steve Clark: I move that the English version of clause 12(15)(b) of the Ontario Trails Act, 2015, as set out in schedule 1 to the bill, be amended by striking out "any covenants" and substituting "the covenants".

The Chair (Mr. Monte McNaughton): Any debate on the amendment? Shall the amendment carry? Carried.

We'll move to NDP amendment number 10. Mr. Miller?

Mr. Paul Miller: Recorded vote, please.

I move that section 12 of the Ontario Trails Act, 2015, as set out in schedule 1 of the bill, be amended by adding the following subsection:

"Interpretation

"(17) For greater certainty, nothing in this section shall be interpreted so as to give an eligible body the right or power to reserve or create an easement on an owner's land except in accordance with subsection (3) or (4)."

The Chair (Mr. Monte McNaughton): Any debate on this amendment? Mr. Clark?

Mr. Steve Clark: I just want to support this motion. I think it provides a greater certainty that it's the landowner's decision to agree or disagree to an easement. So I'll be supporting this motion.

The Chair (Mr. Monte McNaughton): Any further debate? Are the members ready to vote? Ms. Kiwala?

Ms. Sophie Kiwala: There is further debate, yes. The amendment would restrict the ability of one eligible body to assign an easement to another eligible body. Transfers are not dealt with in subsections 3 or 4. This legislation is supposed to support increased access to trails—it's the

whole nature of the bill—in Ontario. Therefore, the amendment is against the spirit of the bill.

The Chair (Mr. Monte McNaughton): Any further debate? Mr. Vanthof?

Mr. John Vanthof: Yes. I would like to disagree with that interpretation, because if you read it, “nothing in this section shall be interpreted so as to give an eligible body the right or power to reserve or create an easement.” So it doesn’t say anything about transferring an existing easement; it’s about creating a new one.

One of the issues that is running rampant in the countryside is that giving the ability of—again, a personal example: I signed an agreement with the Ontario Federation of Snowmobile Clubs for seasonal use of my land. I do that in good faith. But there are those that think that signing an annual agreement is a slippery slope to an easement.

All that this amendment does is to clarify once more that this isn’t. So even if I sign a yearly agreement for 10 years or a 10-year agreement to allow the use of my land, that does not constitute an easement unless I volunteer to create an easement. This is just a clarification. It does not restrict. Although I’m not in favour of transferring easements from one body to another, this does not do that.

The Chair (Mr. Monte McNaughton): Any further debate? Are members ready to vote? It’s a recorded vote.

Ayes

Clark, Paul Miller.

Nays

Anderson, Dhillon, Kiwala, McMahon, Wong.

The Chair (Mr. Monte McNaughton): I declare the amendment lost.

Shall schedule 1, section 12, as amended, carry? Carried.

Shall schedule 1, sections 13 to 16, carry? Carried.

Shall schedule 1, as amended, carry? Carried.

We’re going to move to schedule 2. Shall schedule 2, sections 1 and 2, carry? Carried.

Shall schedule 2 carry? Carried.

We move to schedule 3. Shall schedule 3, sections 1 and 2, carry? Carried.

Shall schedule 3 carry? Carried.

Shall schedule 4, sections 1 and 2, carry? Carried.

Shall schedule 4 carry? Carried.

Shall schedule 5, sections 1 to 7, carry? Carried.

Shall schedule 5 carry? Carried.

Shall schedule 6, sections 1 to 3, carry? Carried.

Shall schedule 6 carry? Carried.

We’re going to return to sections 1, 2 and 3 of the bill. Shall sections 1 to 3 carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 100, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

No further business. This committee stands adjourned.

The committee adjourned at 1330.

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