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Standing committee on justice and social policy

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Lundi 17 mai 2004

Comité permanent de la justice et des affaires sociales

Loi de 2004 sur l'engagement d'assurer l'avenir de l'assurance-santé

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON JUSTICE AND SOCIAL POLICY

Monday 17 May 2004

COMITÉ PERMANENT DE LA JUSTICE ET DES AFFAIRES SOCIALES

Lundi 17 mai 2004

The committee met at 1546 in committee room 1.

COMMITMENT TO THE FUTURE OF MEDICARE ACT, 2004 LOI DE 2004 SUR L'ENGAGEMENT D'ASSURER L'AVENIR DE L'ASSURANCE-SANTÉ

Consideration of Bill 8, An Act to establish the Ontario Health Quality Council, to enact new legislation concerning health service accessibility and repeal the Health Care Accessibility Act, to provide for accountability in the health service sector, and to amend the Health Insurance Act / Projet de loi 8, Loi créant le Conseil ontarien de la qualité des services de santé, édictant une nouvelle loi relative à l'accessibilité aux services de santé et abrogeant la Loi sur l'accessibilité aux services de santé et modifiant la Loi sur l'assurance-santé.

The Vice-Chair (Mr Jeff Leal): We'll bring this meeting of the standing committee on justice and social policy to order. We're here to consider Bill 8, An Act to establish the Ontario Health Quality Council, to enact new legislation concerning health service accessibility and repeal the Health Care Accessibility Act, to provide for accountability in the health service sector, and to amend the Health Insurance Act.

I understand the government wishes to raise an issue. Mr McMeekin, please.

Mr Ted McMeekin (Ancaster-Dundas-Flamborough-Aldershot): As I understand it, some of the amendments arrived 10 minutes late, beyond the official filing, and I understand there may well be some others that might be put as we move through. In the interest of flexibility, I'd like to move that all motions that have been, to this point in time, received be part of the debate and, frankly, in the interest of flexibility, anything else that might be proposed up to the time that section is in fact to be discussed. I'll move that, Mr Chairman.

Mr Peter Kormos (Niagara Centre): On a point of order, Chair: It seems to me that a motion like that should be submitted in writing.

The Vice-Chair: I understand, in consultation with the clerk, we could do this by unanimous consent or we could ask for a specific motion to honour Mr McMeekin's—

Mr Kormos: You have a motion and I'm saying the motion isn't in order. The motion should be in writing.

The Vice-Chair: Mr McMeekin, do you have your motion?

Mr McMeekin: As part of the process—I think many members of the committee were surprised to learn this—I'll certainly write it out if that's helpful to the member opposite.

The Vice-Chair: Mr Kormos, maybe we'll just take a short recess until we get it written out and photocopied to distribute to everyone.

Mrs Elizabeth Witmer (Kitchener-Waterloo): Before we do, am I to understand that the two motions that we have that contain drafting errors and that I'm going to be filing would be included within your motion?

The Vice-Chair: I understand that's correct.

Mrs Witmer: Good. That's fine.

The Vice-Chair: Mr McMeekin, if you could just draft that quickly and we'll get it photocopied for circulation.

Mr McMeekin: I will.

The Vice-Chair: We'll have a five-minute recess.

The committee recessed from 1548 to 1603.

The Chair: Mr McMeekin, could you read this into the record?

Mr McMeekin: Yes, Mr Chair. I move, seconded by Mr Fonseca, that any amendments received up to and including the time of a vote on each section be introduced and considered by the standing committee on justice and social policy.

The Chair: Any debate?

Mr Kormos: Yes, Chair. Let's understand that I'm not aware of any constituency out there, any organization, any individual, any group or any participants in the delivery of health care who have been clamouring for Bill 8 to be passed. I have been fortunate to, from time to time, drop into the committee, which has been incredibly competently served by Shelley Martel on behalf of the NDP, and I've listened to participant after participant express opposition to this legislation. Indeed, the widest and most frequent opinion is that the government should abandon this bill entirely.

I am further distressed by the advice I've received from persons who have reviewed the anticipated amendments from the government, that there is no amendment that addresses the frequent concern expressed by participants in the hearings about the lack of dispute resolution when there is an impasse in the negotiation of an accountability agreement between the government and a given hospital.

As I had occasion to note last week in the committee, it seems to me that the government is given the upper hand because all the government has to do is make extraordinary demands of a hospital and, when the time frame expires, the government can unilaterally impose whatever it wishes upon that hospital.

It seems to me that the prospect of dispute resolution is no longer new stuff by any stretch of the imagination. The dispute resolution process recommended by any number of participants in the hearings was a pretty straightforward one. I know there are people on the government side who are familiar with it. It struck me as being basically the sort of mediation-arbitration—the med-arb—type of model, and it seems to me eminently sensible that that would be introduced as an amendment.

The problem is, of course, that the government's amendments were not delivered in time and the committee took it upon itself to set a time period within which amendments had to be produced, tabled, filed, served upon the clerk. The government, with all of its infinite resources—well, not quite, but it seems like infinite—couldn't get their amendments in on time. New Democrats are incredibly concerned about that.

This being a debatable motion, New Democrats propose to debate it. New Democrats were well aware that unanimous consent could have resolved this issue. I'm not aware of New Democrats having been approached—

Interiection.

Mr Kormos: I'm being corrected by Ms Martel. New Democrats were approached just prior to the commencement of these hearings for unanimous consent. I want to tell you that New Democrats would love to give unanimous consent to that proposition; we'd love to. But I think in fairness, in view of the fact that the amendments were tabled late and in consideration for New Democrats giving unanimous consent—and I indicate that they are prepared to—there should be a time period permitted in which New Democrats can basically run these amendments past stakeholders and other interested parties. So I'm making it quite clear that New Democrats would give unanimous consent on the condition that this whole matter be adjourned to the next meeting of this committee.

That's why Ms Martel is preparing an amendment to this motion in writing and that's why, before my 20 minutes have expired, Ms Martel will be going out there and getting other New Democrats to come into the room to speak to it, because, as you know, one does not have to be a member of this committee. One can, as of right, by virtue of being a member of the Legislative Assembly, speak to this motion in this committee. There will be votes, at the very least on my amendment and on the amendment to the amendment. I can tell you that New Democrats will be utilizing our right under standing order 127 to seek 20-minute adjournments after calling for recorded votes.

In fact, it's with great pleasure that I anticipate that if New Democrats are compelled to speak to this motion, being that we haven't been able to agree on unanimous consent, our newest member, the member for Hamilton East, will be able to participate in this debate because she will be sworn in by the time this committee meets again, after the adjournment today at 6 o'clock.

After I have spoken to the bill, Ms Martel will be speaking to the bill—the motion. Mr Bisson from Timmins-James Bay will be coming in to speak to the motion. Mr Marchese, who is in the House right now, will be coming in to speak to this motion. Indeed, Ms Churley will be coming in to speak to this motion. In fact, the birthday boy, Mr Hampton, will be coming in to speak to this motion, and Mr Prue will be coming into committee to speak to this motion. And, as I say with great pleasure, Ms Horwath will be coming in the next time this committee sits to speak to this motion and perhaps introduce some amendments of her own.

This is a regrettable scenario. I invite the government, seeking unanimous consent, with consideration of an adjournment to the next sitting date of this committee so that we can agree to have late amendments received and deemed in order for the purpose of moving them.

1610

I've been concerned for a long time about how subcommittees take it upon themselves to create these deadlines for filing amendments. Indeed, people like Mr McMeekin may recall being in subcommittees with me on any number of committees where I've explained that the proper, in my view, approach is for the subcommittee and the committee to indicate that it is desirable that motions be tabled by a certain time but that it is not a requirement such that motions not tabled by a certain time would be excluded from consideration.

You see, what happens from time to time is that during the course of debate around clause-by-clause, the need for a motion is ascertained. When you establish this kind of time frame for the tabling of motions, it makes it impossible for a committee member to act responsibly during the course of clause-by-clause debate and to respond to concerns raised or arguments presented by presenting an amendment.

When you take it upon yourself—you know what the standing orders say. The standing orders say that a Chair "may." I don't recall—there may well have been times—in the years that I've been here where the Chair has ever taken it upon himself or herself to unilaterally set a limitation period, a time before which all motions have to be tabled. It's a bad habit of subcommittees. The people who are grossly disadvantaged tend to be opposition parties, because opposition parties, especially those that have been denied adequate resources for research and staff, find themselves harder pressed to come up with the amendments than does the government caucus.

That's why New Democrats are not in a position today to simply acquiesce to a motion of the type presented, indicating of course that the matter can be accelerated and we'd be pleased to see that done. Some may take it upon themselves to say, "Oh, this is just a dilatory action." I say to people who would say that—

Ms Kathleen O. Wynne (Don Valley West): Who would say that?

Mr Kormos: I say to people who would say that that it's not a fair assessment of what's happening here in this committee. If you're going to live outside the law, you've got to be honest. The problem is that when you set standards like that, and you surely expect other people to adhere to those standards, then the government itself should be expected to adhere to those standards, especially when, as I say, the government has those huge amounts of resources available to it.

One of the reasons why you, of course, want to keep a limit like that, a time limitation, is because people like Ms Martel depend upon it and use it to schedule their days. So Ms Martel now is going to slip outside for a minute and telephone our caucus office, because she has to be prepared to pick up the debate upon the expiration of my speaking time. What she's going to do is slip outside to the telephone outside the door and call upon our caucus office to get in here with the one staff person I think we have, the volunteer who has been working with us. We're waiting anxiously for that volunteer to come here to the committee room and pick up the amendment and photocopy it. In fact, Ms Martel can give the amendment to the clerk and the clerk will arrange for it to be photocopied. That way Ms Martel can be ready to pick up the speech-making upon my completion.

Standing order 127, of course, is an interesting one. I recall back 16 years ago being in committee and relying upon it and seeing committee members' mouths agape because it really isn't utilized very often or very frequently, or at least hadn't been, based on the response that I received when I utilized it. It is a very effective standing order. It is one that I value a great deal. It's designed, of course, so that, prior to a vote, caucuses can effectively get their people in here. Caucuses can arrange for all the people necessary to vote.

There was a time when I was Chair of a committee where the government members didn't have enough people to move their motion. It rotted my socks for them to neglect to use standing order 127. They actually lost the vote. It was back in the early 1990s when I was chairing the committee and the government lost the vote. I was looking at them, and I didn't want to mouth the words and say, "One twenty-seven. Exercise your right under 127."

That's what happens when people don't read the rules, when people don't read the standing orders. You know, Chair, that I, being a very rule-conscious person—we live our lives based on rules. I certainly do. There are rules that I have to follow, and I do, rigorously, every day. Rules are important, and rules are, I presume, made to be kept. We fall into chaos, anarchy, if we don't keep the rules, don't we? It would be like the Tower of Babel, so to speak—procedurally, not linguistically. That's why, when you make rules like, "File your amendments by X time," you should keep them.

Sometimes there are just things that happen; there is what—the lawyer has left—I think it is called force majeure. Am I right on that, Chair? Have I got a force majeure?

The Vice-Chair: Act of God. Mr Kormos: Force majeure.

Interjection.

Mr Kormos: Don't go playing with legalisms. You'll get the lawyers mad at you. But this isn't a case of force majeure. This is a case of, I presume, disdain for the rules, thinking, "Oh well, we're the majority, we're the government, and we can just do as we please. If we're late with the amendments, tough for the opposition."

Ms Martel was counting upon those amendments being delivered to her, being made available for her, prior to the time—

Interjection.

Mr Kormos: No, there's no problem, Ms Martel. I'm going to move the amendment and you're going to second it, right? We're working on the motion—but it doesn't matter. At the end of the day we've got enough New Democrats, especially after Hamilton East, to talk this out for a few days. When our time in committee comes back and this debate carries on, we may well be blessed with our good friend Andrea Horwath being sworn in and being capable, ready, willing and able to attend before this committee to participate in this debate.

It's an interesting scenario we find ourselves in. I don't know what the hurry is for the government anyway. Nobody likes this legislation. Nobody. They like it, and I'm not even sure all of them like it—I'm talking about the government members. I know government members, one who was on a school board, who was herself courageously assaulted by the last government. She was a member of one of the three boards across the province where the government moved in with their jackboots, stomping on the pavement and concrete, seizing that board and bringing in their political hack to run the board.

Of course, the fear of New Democrats is that we're going to see the same process facilitated by Bill 8. New Democrats look forward to co-operating with the government when the government introduces good legislation, when the government introduces good policy.

Interjections.

Mr Kormos: Look what New Democrats did—at least most of them—around Bill 31, Ms Martel reminds me. Why, New Democrats were there—I was going to say front and centre, but I'll say front and left.

Think about it. It's not as if the Liberals are the centre any more. There is no centre. The right is becoming increasingly crowded.

1620

It was delightful today, the revelations by Howard Hampton during question period, when Howard Hampton indicated, talking about the health premiums, the OHIP premiums, that the policy being enunciated by the Liberals now was the policy that had been articulated by the Tories but a couple of years ago.

The Vice-Chair: Mr Kormos, you have two minutes.

Mr Kormos: I thank you kindly, because Ms Martel is going to take up the challenge in two minutes' time, and I've got to scurry out there and find members.

Mr Kevin Daniel Flynn (Oakville): There are only eight of them.

Mr Kormos: No, there's only seven as of today, but there will be eight by the time the committee next meets. Who knows? If Ernie Eves resigns, you know, first we take Manhattan, then we take Berlin. First it's Hamilton East—

Ms Wynne: And then it's Orangeville.

Mr Kormos: And then it's Orangeville. That's right. Look, when you've got momentum, Ms Wynne, you run with it. Let's face it, Orangeville would be a feather in Howard's cap. Orangeville would be a stunning victory for New Democrats. But you'd be surprised, the kind of base we've got in Orangeville. You'd be surprised. We got members in Orangeville; I know every one of them personally. I've personally been in the same room with them.

But it's a matter of momentum, and when you've got the momentum, you should seize it. And I'm not suggesting that Ernie Eves will resign.

Ms Wynne: We know what's going to happen.

Mr Kormos: We know there's going to be a leader-ship convention. There's more and more participants in the leadership convention. Now there are three candidates. There could well be four. Mr Jackson's still contemplating—

Ms Shelley Martel (Nickel Belt): Elizabeth is shaking her head.

Mr Kormos: As I said to Ms Witmer, what if they form a coalition? Flaherty, Klees and Jackson form a little coalition to rule, to squeeze out Tory, the—

Ms Wynne: Triumvirate?

Mr Kormos: Yes, the classic triumvirate to rule; like a troika, like we saw after the death of Stalin—

The Chair: Mr Kormos, your time is up. I have Mr McMeekin, then Ms Witmer, then Ms Martel.

Mr McMeekin: I was just trying to be helpful. It's in my nature. When I go back to the riding, I often hear the good people I have the privilege of representing in Ancaster-Dundas-Flamborough-Aldershot—it's the riding with the longest name because our people have such big hearts and hopes and dreams. I often hear them say, "You folk down there just don't seem to get it. We've got important issues going on, health care being one of the major ones, and we want to believe that you're intelligent enough to get on with things, not to stall around."

By the way, the member from Welland, in numerous ridings that I've been in, has a reputation—well deserved, I suspect—for dilly-dallying around when we should be here working. But that's for another day.

As I say, I wanted to be helpful. I certainly wouldn't ever espouse allowing an important committee like this, one with a proud name—justice and social policy—to ever fall into chaos. That would not be my intent or the intent of any person of good will, I suspect, who wants to

move ahead with some of the important changes that we want to see.

I hope that there would be general appreciation for the fact that—I know I'm a relatively new member of the committee. I was sent over here because somebody felt that some of the giftedness that the good Lord gave me might serve on this committee. But all that aside, I've always worked from the premise that it doesn't make a lot of sense to listen to people unless you're prepared to act, and that's what this committee's called to do today: to act. We have an opportunity to move ahead, to have some of the important debate the member from the third party has noted. It just seems a shame to me that for want of 10 minutes with respect to the filing, we would bring this committee and its work to a halt.

I would note that it's interesting that the member from the third party talked about some of his serious concerns about the legislation. I find it somewhat over the top that given all those serious concerns there's not a single amendment to the bill here from the members of the third party, which troubles me. It doesn't surprise me but it troubles me. I would just note that.

I would also note in passing that, as I understand it, the Clerk's office has distributed all of the resolutions within the same timeline they normally would have been distributed. It's not like people haven't had an opportunity to reflect on them with a period of reflective time equivalent to what would normally be the case. So it seems out of all proportion that we wouldn't want to move ahead with this today.

I've always believed that we should never allow excellence to become the enemy of the good. Yes, somebody didn't get the amendments on time. Good judgment is based on experience and experience invariably on bad judgment, perhaps. We need to learn from it and try to make sure it doesn't happen again. But we shouldn't bring the important work of the Legislative Assembly and this committee dealing with an issue as pivotal as this, with so much input that we've had—really good, intelligent, thoughtful, sensitive, community-based input—to a standstill because somebody failed to get some paperwork to the clerk nine or 10 minutes before the deadline. I put it to all honourable members in this room that we should be moving forward with this as quickly as we should.

I'm never one to want to rag the puck here, but I do think it's important that we communicate as clearly as we can that we're about the important people's business here in this place and that when we talk about justice we're not talking about "just us"; we're talking about justice for all Ontarians. That requires the spirit of a willingness to be inclusive and to hear from all sides, yet you don't do that by stalling around.

I would put it to you quite sincerely that—in fact, the motion itself I think interestingly speaks to a good point that Mr Kormos raised. He often felt that in the important deliberations of committees, right up until the moment when a particular clause is voted on, there should be an opportunity to surface some issue or concern that perhaps

becomes self-evident in the context of the debate and that a process be put in place that would find and celebrate an opportunity, should we have those insights—and would it be that we would have those insights frequently in the political context that we're in—that those amendments could in fact be made.

My motion—and I'm sure Mr Fonseca, who seconded the motion, would feel equally strongly about this, wouldn't you, Mr Fonseca?

Interjection.

Mr McMeekin: Of course, the amendments are reflective, presumably—I'm taking it at face value—of the incredible giftedness of the members around this committee and their desire to do the right thing, have the right look in their eye. I guess I'm saying to the member opposite that we need to have the right look in our eye. To have the right look in our eye in this context means that we shouldn't let excellence become the enemy of the good. We should, in fact, move forward with this. We shouldn't waste the opportunity. It's said that some people never miss an opportunity to miss an opportunity. It occurs to me that that may be what's happening here. So I would hope we could move ahead with this.

Interjection.

Mr McMeekin: That's right. As my colleague says, "It's about accountability," and trying to ensure that it's there.

We won't agree on everything. I'll bet there will be some serious disagreements about some components of this legislation. My hunch is that, as we get into that in the fullness of debate, we will in fact have the kind of discussion that Mr Kormos talked about that would twig in any reasonable person's mind an obvious amendment to the legislation in the spirit of wanting to do the right thing for the people of Ontario, which would of course be substantive, because I don't think any honourable member in this room would want to move an amendment that they didn't consider to be substantive.

I would really call on us to stop and reflect a bit about what our responsibilities are and what we're all sent here to do, and I think that's to move forward with this. We've had a fairly extensive debate in the House. As I recall, Mrs Witmer, the honourable member from Kitchener-Waterloo, has been part of that. I often put my earpiece in because I don't want to miss any of her words of wisdom. I don't always agree with the honourable member, but more often than not, I do. I find her input always interesting but, more importantly, always thoughtful.

So I would hate to think that the debate that's taken place in the House that so many of us have contributed to would in fact essentially be wasted, that we would fritter away a couple of weeks simply because of some nineminute oversight. That is, quite frankly, bizarre.

What I'd like to do is, while people collect their thoughts on this motion, which is pretty simple, just take a moment to pause. I'd like to propose at this point that we take a five-minute recess so we can all do that and come back to this in five minutes or so and continue with whatever debate seems appropriate.

The Vice-Chair: Mr McMeekin has moved that we have a five-minute recess. Agreed? Mrs Witmer, do you agree? OK, we'll just have a five-minute recess.

The committee recessed from 1634 to 1639.

The Vice-Chair: We'll resume.

Ms Monique M. Smith (Nipissing): I think we do now have unanimous consent to adjourn today's proceedings until May 31. I think we have unanimous consent for Mr McMeekin's motion, that any amendments received up to and including the time of a vote on each section can be introduced and considered by the justice and social policy committee. Is that correct?

Mr Kormos: The parliamentary assistant is correct. May I ask Mr McMeekin if he would consider amending his motion to read, "and that this committee adjourn to May 31"? If he were to do that, we could then pass that motion. It's subject to what the parliamentary assistant says, but it would combine the two goals in the same exercise.

Ms Smith: As long as I don't have to write it all out and photocopy it and give it to you.

Mr Kormos: You don't have to write it out.

Mr McMeekin: I was just thinking the same thing. I'd be pleased to make that amendment, Mr Chairman. I'll move that, the May 31 date, as well.

Mr Kormos: That the motion be amended to read "and that the committee adjourn to May 31."

Mr McMeekin: Yes. Those were my very words. You took them right off the tip of my tongue.

The Vice-Chair: We'll deal with the amendment first. All in favour of the amendment? Carried.

We'll deal with the motion, as amended. All in favour? Carried.

Ms Smith: Motion to adjourn.

The Vice-Chair: We're adjourned now until May 31. *The committee adjourned at 1641.*

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