Official Records for 18 November 1991

Hansard Transcripts

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The House met at 1330.

Prayers.

MEMBERS' STATEMENTS

CONSERVATION AUTHORITIES

Mrs Fawcett: Constituency week is over, and the Treasurer has had time to consider the $679-million worth of spending cuts to come. I am concerned about the impact of these cuts on the often underappreciated conservation authorities, which are so important to protecting the landscape of Ontario.

The Ministry of Natural Resources cut transfer payments by $4.5 million to fund its own constraint targets in the spring of 1991; $1.35 million was cut to meet the fall 1991 constraint, and an additional $2.5-million cut is expected.

Operational budget cuts have a human cost. In this instance, the foot soldiers of environmental protection are being put out of work. I would remind the House that every $1 of transfer payments to a conservation authority is matched by $2 from other sources.

The 38 conservation authorities are angry that the government ignored a long-standing agreement between them and the Ministry of Natural Resources. This agreement states that provincial transfer payments to conservation authorities will not be altered as a result of any general constraint that is applied to the Ministry of Natural Resources unless the government applies a constraint to all government ministries and all local government transfer payments.

Are the conservation authorities being made the victims of the ministry's own internal problems? Will the Treasurer continue to allow the conservation authorities to be treated in this manner -- no consultation, and policy changes without notice?

LABOUR LEGISLATION

Mrs Witmer: On Thursday, November 7, the Minister of Labour released his long-awaited, much-feared package of proposed amendments to the Labour Relations Act. I want to tell the minister about the impact of his announcement thus far.

Last week I received many calls and letters from companies which are reconsidering their future in Ontario if these proposals become law. However, I want to mention the impact in my community specifically. One employer called to tell me that he would be moving to the United States and that 100 jobs would be lost within a year. Others called to say that they were downsizing, while others said that all new growth would now occur in the United States, as opposed to Ontario.

Another letter stated:

"The owner has stated unequivocally that he will shut this plant down and put 150 employees out of work if such legislation is adopted.

Mr Winninger: I am pleased to move second reading today actually of two bills, Bill 28 and Bill 29, which are companion bills that will greatly improve access to justice for the people of Ontario.

Bill 28, the Class Proceedings Act, and Bill 29, An Act to amend the Law Society Act to provide for Funding to Parties to Class Proceedings, between them create a sophisticated procedure for the litigation of complex cases concerning mass loss.

As the two bills go hand in hand, I propose to address them both in my opening remarks with respect to Bill 28. However, I look forward to receiving further comments from members upon second reading of both Bill 28 and Bill 29.

By way of background, I remind the members of the House of the origins of this legislation. In 1982, the Ontario Law Reform Commission released the most thorough report on the state of class action law in Canada and indeed the world. The research and recommendations contained in that report formed the basis of work by an advisory committee on class action reform established by the Attorney General's predecessor, the member for St George-St David.

The advisory committee on class action reform, which was a broadly representative group that included spokespersons for business, consumers, environmentalists, insurers and the legal profession, developed unanimous recommendations for reform in this area. Members will recall that a class action or a class proceeding is a special procedure that permits numerous individuals who have suffered a common wrong to seek redress in one law suit as a group rather than in numerous law suits as individuals.

In this day and age, when resources for new government initiatives are so scarce, a reform such as this is a particularly welcome change. One of the primary goals of Bill 28 is to economize on the use of legal and judicial resources. With this procedure in place, many injured persons will be able to use one litigation vehicle to obtain compensation. We know the type of society we enjoy in Ontario is sometimes witness to incidents of mass loss. Ontario residents use an array of complex pharmaceutical and other products such as motor vehicles and carry on activities that often, if events go awry, threaten our very environment. It is precisely these cases of mass injury that will be well suited to treatment in a class proceeding.

1640

Concerns have been expressed in the past about the potential impact of the increased availability of class actions in Ontario. Fears have been voiced about opening the floodgates of litigation, increasing the use of our courts and facilitating litigation in what is considered to be an already overly litigious society. It is precisely these concerns that were addressed and resolved by the advisory committee that developed this legislation.

The procedure contained in these bills is a sophisticated one that treats plaintiffs and defendants fairly and with an even hand. I would like to take a moment to set out the highlights of this procedure for members of this House.

First of all, the class proceeding will include a step in which a judge will screen potential class proceedings according to a specific test. Members of the class who do not wish to participate in the class proceeding will have the opportunity to exclude themselves from, or opt out of, the proceeding.

The representative plaintiff will be required to ensure that class members obtain notice of the proceeding. Once certified by the court, the proceeding would continue in a manner similar to other civil litigation but with a number of significant differences, namely, that one judge will hear all motions up to the trial and the court will have the ability to make aggregate judgements in cases where the only issue is the assessment of damages for many individuals.

Normal cost rules for litigation will apply, but lawyers and their clients will be permitted to engage in special fee arrangements for such proceedings, subject, however, to the court having final control over all agreements with respect to fees and disbursements.

Another important feature of this procedure is the creation of a class proceeding fund. The Law Foundation of Ontario will endow a fund in the amount of $500,000 which is designed to provide financial assistance to representative plaintiffs in class proceedings. It will provide representative plaintiffs with financial assistance for disbursements such as expert reports and notice to class

members. Members across the House who have practised law will know how costly some of these disbursements can be at the initial stages. It will also indemnify a representative plaintiff who has been assisted by the fund in the event the proceeding is unsuccessful and the court has ordered the representative plaintiff to pay the defendant's costs.

This is a progressive means by which the traditional financial barriers to this type of litigation can be lowered to permit representative plaintiffs to come forward on behalf of a class of injured persons.

The Law Foundation of Ontario deserves a vote of thanks from the residents of Ontario for its generous contribution to this fund. This procedure would not be possible were it not for the financial assistance of the Law Foundation of Ontario. It is an unprecedented contribution that will not only make this particular procedure work, but will also demonstrate to the people of Ontario that the legal profession itself is anxious to see increased access to justice for injured persons.

In conclusion, the two bills I bring forward today for second reading on behalf of the Attorney General will make an important contribution to what I know is a goal shared by all members of this House: access to justice. I urge the members of this House to study the legislation closely and provide either the Attorney General or myself with their comments. I hope we can enact both bills quickly in order that the procedure is made available at the earliest possible date for those who must use our courts to seek compensation in situations of mass loss.

The Acting Speaker: Before we proceed with questions or comments on the parliamentary assistant's participation, I believe the parliamentary assistant has requested that we proceed simultaneously with Bill 28 and Bill 29. Do we have consent to proceed simultaneously?

Agreed to.

Mr Harnick: At this juncture, with the two minutes I believe I have, I am interested, because the parliamentary assistant has actually done something unprecedented by his government: He has actually thanked lawyers.

We have heard the Treasurer blame lawyers for all the ills of the auto insurance business. We have heard one government member after another talk about the lawyers ruining the justice system of this province. Now here they are at the other end accepting money the lawyers are giving to make this program work.

I would like to thank the parliamentary assistant for the magnanimous gesture he has made and the fact that he, among all the government members -- I suspect he is probably the only one who recognizes the contribution the lawyers have made to the justice system in this province and particularly to facilitating the possibility for Bill 28 and Bill 29 to become realities.

Mr Winninger: I indicate very briefly that I suggest this government has the highest respect for the legal profession and in fact this assembly counts many members of that august law society within its ranks. I do not believe this is a precedent.

Mr McLean: What are you doing for farmers?

Mr Winninger: Certainly lawyers and farmers may have a lot in common, as suggested from one of the members opposite, in that they both may have difficult obstacles to surmount in their professions and have to deal with adversity on almost a daily basis.

I suggest this is indeed very progressive legislation that can be a beacon to other jurisdictions across Canada that do not already have class proceedings legislation. Certainly the inauguration of a fund of this kind to provide affirmative action for those people who perhaps in the past have been denied access to the courts is a very salutary development indeed.

Mr Chiarelli: Of course we will be supporting these two bills, but I want to make several comments.

I was elected in 1987 and I was able to see in action the then critic for the Ministry of the Attorney General, the member for Rainy River, and rather suspected at the time that he had a secret desire, if he ever got into government, to be the parliamentary assistant to the Attorney General. I do not think he ever anticipated that he would become the Attorney General, because for the last 14 months in fact he has been acting like a parliamentary assistant to an Attorney General.

1650

In particular, we know that we are dealing this afternoon with the fifth and sixth bills from the Ministry of the Attorney General. Five and a half of those six bills were written by the previous Attorney General, the member for St George-St David; by the previous government. Since the ascent of the NDP to government and the ascent of the member for Rainy River to the position of Attorney General, he has really been carrying the member for St George-St David's old briefs, in the sense that he is following through on most of the legislation which the member for St George-St David introduced but did not have the time to complete.

If we look at Bill 28 and Bill 29, we see that they were introduced for first reading by this Attorney General on December 17, 1990. I ask, what could possibly have taken this Attorney General almost a full year to bring these bills forward? They are bills that were endorsed by all parties in the previous Legislature, endorsed by all stakeholders in the justice system as being desirable and good. In fact, it was good to see the parliamentary assistant speak with such conviction on these bills. What an improvement they will be to the administration of justice. I think that is a compliment to the previous government and previous research that has been done in the justice system in Ontario.

Since we are talking simultaneously about Bill 28 and Bill 29, I also want to make a few comments about Bill 29 and the funding of parties to class proceedings. Again, it raises the issue of this government not dealing with issues on a comprehensive basis. In the last Parliament, the 34th Parliament, I moved an amendment to the Intervenor Funding Project Act to provide for intervenor funding for appropriate groups before the Ontario Municipal Board on major planning matters, and the NDP members in the last Parliament all voted and spoke in favour of that particular amendment. That amendment would give stakeholders in communities across the province the right to apply for intervenor funding on major matters, planning matters -- and environmental matters, for that matter -- before the Ontario Municipal Board, and in the last Parliament the NDP members supported that amendment.

That amendment was moved again in this Parliament, the identical amendment which the Minister of the Environment had supported previously and which the Minister of Financial Institutions, another member of the cabinet, had supported and spoken in favour of, and in this Parliament this government voted against that amendment. That amendment would have done in many ways exactly what Bill 29 does, that is, give additional access to people and provide means of funding -- not provincial government money -- of intervenors before the Ontario Municipal Board.

Once again, there is the issue of funding appropriate class groups before a court or the Ontario Municipal Board or tribunals. When the Minister of the Environment was in opposition, she moved intervenor funding for all boards and commissions. In fact, she and her government voted against supporting it only to the Ontario Municipal Board several months ago.

We are talking here about streamlining the process. We are talking about access not only to courts but to administrative tribunals. On the one hand, this government is trying to take credit for this bill which in fact was initiated by the previous government; on the other hand, it is voting against a very sensible amendment to the Intervenor Funding Project Act which would have given people in our communities much more access to the Ontario Municipal Board, which really is a semi-judicial body that acts very much like a court.

In conclusion, I want to say that we certainly support these two bills, which make a lot of sense in streamlining the judicial process. I am only sorry that, with respect to Bill 29, it was not married with the overall issue of providing intervenor funding on a much broader basis in Ontario society.

Mr Harnick: I want to begin by saying that we will be supporting these bills. I regret the fact that it has taken 11 months, almost to the day, to get these bills to second reading. They first appeared before this Legislature on December 17, 1990. I think it bears going back and seeing what has happened in terms of the justice system over the past year.

I remind you, Mr Chair, because I do not want you to think I am going to get off topic, as the parliamentary assistant so ably indicated, we are talking here about access to justice. This bill provides access to justice. I want to take a look back over the course of history in the last year to talk about what this government has done regarding access to justice. Since this bill arrived in this Legislature, we have seen the Askov case come and go, and 40,000 cases were dismissed from the primarily provincial courts in the last year. That is not what I call access to justice. That is what I call a

travesty for the judicial system, a travesty for the law enforcement system and a travesty for victims.

What was the government's reaction to the fact that 40,000 cases had been denied access to justice? Their reaction was to quickly spend $50 million and to try to resurrect the justice system in this province overnight. I think they have exhausted their budget in terms of access-to-justice legislation for the balance of this term. I think that more and more every day because I see that now they are trying to reduce the budget of the Ministry of the Attorney General. They have spent $50 million; they are now reducing their budget. There is nothing left to provide access to justice for the people of this province.

They spent $50 million, but what has it done in terms of the city of Ottawa, for instance? I had a phone call from a crown attorney in Ottawa today. He said to me he had a case for me to read and provided me with a case, the Court of Appeal decision talking about Askov. I have it here somewhere among all these papers; I will probably find it when I am finished. But what this case enumerated was the fact that the city of Ottawa is approximately, person for person, the same size as the city of Winnipeg. The city of Winnipeg has 28 judges serving its provincial courts; the city of Ottawa has 10. That is why cases in the Ottawa jurisdiction continue to be tossed out of court. The government's knee-jerk reaction of quickly spending $50 million has not solved the problems of the Askov case. The backlog was initially cleared, but the backlog is developing again in the city of Ottawa. I suspect that the city of Ottawa is not alone in that regard. Access to justice has been denied. It will continue to be denied because the government has blown the budget in terms of helping the people of this province in regard to access to justice.

1700

What other symptoms do we have? I think it is interesting. There is a judge by the name of David Cole who was appointed by this government after the Askov case, I believe. Judge Cole is a judge of the provincial court, and he sits in Scarborough. A year after the Askov case came out, he described what he thought it was like going to work. As he passes the gold bust of Elvis Presley that serves as his doorstop, the bearded judge says he feels like he is going into a sausage factory.

I think that if ever the Attorney General of this province should start to worry about the state of justice in this province, it is when one of his own appointments describes going to work as akin to going to a sausage factory. This judge must be saying to himself: "Why did I do this? I used to go out and practise law. I ran a practice and I helped people. Now I have moved from there, in being elevated to the bench, but in reality I have been elevated to the sausage factory." If that does not sound a warning to the Attorney General, if that does not shock the Attorney General, nothing will. But what do we see happening here? We see nothing happening by way of access to justice.

I also want to refer members to what the Chief Justice of Ontario says about the justice system in this province and what he says about access to justice.

An hon member: Who is that?

Mr Harnick: That is Mr Justice Callaghan. I am now quoting from the Toronto Star of July 17, 1991:

"Ontario's court system is a failure, the province's Chief Justice says.

"The main problem is that bureaucrats are funding and controlling the courts, Chief Justice Frank Callaghan said in a speech obtained by the Star.

"Judges as a group have lost their independence, he said. Callaghan says it's ludicrous that Attorney General Howard Hampton -- the province's chief prosecutor -- and his officials should be controlling the purse-strings of the legal system, courtroom space and judges' workloads.

"The result is that a person's right to a fair and speedy trial may be in trouble, he warned.

"Control of the courts should be taken away from the government and put in the hands of the judiciary, said Callaghan, Chief Justice of the Ontario Court (General Division).

"'The integrity of the legal system does not depend solely on the integrity of each individual judge,' he said. 'It also depends on the ability of the citizen to come before the independent judge and receive his or her judgement.

"'Should your opponent (the Attorney General) control your court system?' he asked litigation lawyers at a meeting of the Advocates' Society.

"Callaghan made his hard-hitting remarks in a speech after a society dinner in Toronto on June 20. He went on to criticize the province for putting a 'top-heavy bureaucracy' with no legal experience in charge of hiring and firing courtroom staff, deciding how much money the court system should get, where cases should be heard and what hours the court should sit.

"In an interview yesterday, Hampton said some of Callaghan's concerns 'are worth talking about.'"

For God's sake, this is the Chief Justice of the province saying the system of justice in this province is a failure, and the Attorney General has the audacity to say that some of his concerns "are worth talking about." Where are we going? We are talking here about access to justice.

The article goes on to quote a Toronto criminal lawyer by the name of John Rosen. I can tell this House that I personally know John Rosen. I do not think there is a better criminal lawyer in this country. I do not think there is a person who knows the criminal justice system better than John Rosen does, and here he says that "anyone involved in the system" knows what Justice Callaghan is talking about.

"'I think there's a lot of truth to what he says,' Rosen said in an interview yesterday. 'Can you believe in this day and age the court system is not on computer?' Rosen asked, offering an example of the government's ineptitude.

"Callaghan pointed to the way the Supreme Court of Canada is managed as a model. The Chief Justice of the Supreme Court appoints a registrar whose job it is to run the court. The registrar reports directly to Chief Justice Antonio Lamer."

I put it to this government that the legal profession knows what is going on. The lawyers who practise in the courts know what is going on and they know that access to justice in this province no longer exists. We have an Attorney General who is totally and completely out of touch with what is going on. Access to justice is something this Attorney General pays lipservice to.

I would like to go on and relate some of the other symptoms of the fact that the justice system is breaking down and that there is no access to justice.

In the Small Claims Court, we have a situation where we have a $3,000 maximum limit in Metropolitan Toronto, and outside of Metropolitan Toronto we have a $1,000 limit. That started out as an experiment. It started when the former Attorney General, Mr McMurtry, had a vision to expand the Small Claims Court. The Liberal government that followed that Conservative government never moved to change that system or to evaluate that experiment.

This government we now have completely ignores the small claims courts. They have now become part of the General Division of the Ontario Court of Justice, and the Attorney General stood in this Legislature and told me that he has no control. Well, he does have control. He can amend the Courts of Justice Act and he can create a Small Claims Court that will provide access for the citizens of this province.

We now have a Small Claims Court that has eight full-time judges. We used to have a Small Claims Court that had 13 judges. These judges do not even have judicial immunity. We have in excess of 2,000 cases a month being initiated in the small claims courts, yet the system is breaking down. The judges are not protected, the complement of judges is not complete, and we have an Attorney General who has stood in this Legislature and said he cannot do anything about it. I say to this House that the commitment of this government to access to justice is nothing more than lipservice.

The same thing is true when we talk about the new Ontario Court of Justice. We have overworked judges in that court, and the civil courts are no longer operating with any efficiency whatsoever. Preliminary motions in the Ontario Court of Justice, or in the predecessor to the Ontario Court of Justice, the Supreme Court of Ontario, were handled by masters. The court then merged and became twice the size. The number of masters remains the same. The judges do not have time to hear the preliminary motions in the court. All the motions come before the masters. The masters do not have the manpower and they do not have the resources to be able to move the cases along. When the cases stall at the level of the masters, they cannot get on to trial. They tend to back up and the courts become clogged.

What did the Attorney General tell me when I asked him about this problem during question period? He said, "There's nothing I can do." With respect, he can amend the Courts of Justice Act. We gave third reading today to a bill that provided crown attorneys the opportunity to be involved in exchange programs here and in other jurisdictions. The Attorney General can bring in a bill amending the Courts of Justice Act and do the same thing; bring it before this Legislature and make the position of master of the Ontario Court of Justice a reality. He can appoint masters and we can get the civil cases out of the backlog that is affecting the whole court.

1710

We have other examples of this government's commitment to access to justice. Last week alone, 1,700 parking offences were dismissed by justices of the peace in night court because they had lists in excess of 200 cases to deal with and they could not in any possible way deal with lists that size. They had no choice; they dismissed the whole docket.

This Attorney General, I suspect, has not set foot in a courtroom since the day he became the Attorney General to see what the state of justice is in this province. The fact that this is happening a year later and we have not seen any action by the Attorney General in these courts is indicative of the fact that access to justice means nothing to this government: not a single initiative by this government in a year and a half to provide access to justice for the public. I hope the Attorney General reads his newspaper because that is probably the only way he is going to realize what the problems are. He has absolutely no connection with the justice system otherwise.

We now see that legal aid is in jeopardy. All of a sudden the government is starting to wonder why legal aid numbers are skyrocketing. This is one of the most fundamental means of access to justice for the public offered in this province. I would think that legal aid, being the cornerstone of access to justice, would be something the Attorney General is intimately familiar with. He has been the Attorney General since September 1990.

Mr Winninger: October 1.

Mr Harnick: I stand corrected. I am advised by the parliamentary assistant that it was October 1, so he has bought himself three weeks in terms of my argument. It sure did not improve him any.

Legal aid is the cornerstone of access to justice in this province. To see that legal aid has been neglected by this government for over a year to the point where it is about to start making such radical changes that we may not have a legal aid program left in this province is appalling. The fact that they are consulting with people but not consulting with the lawyers who do the work within the legal aid system is frightening. The rumours abound.

What do we see coming out of the ministry? The spokesperson for the ministry, Rosemary Hnatiuk, says there is no need to panic. I suspect there is not a right-minded person in this province who is not prepared at this stage to start panicking when he or she watches the incompetence of this government in trying to deal with the justice system. It is positively pathetic.

Let's move on to the next area. I know I am going to have a great deal of time to speak about this later. We have an Attorney General who in an interview with the Lawyers Weekly in excess of a year ago talked about auto insurance and the very important need to restore access to the courts to innocent accident victims. We have heard what this government is going to do. They are going to take rights away from innocent accident victims. They are going to take them away from those who are most badly injured in order, in a camouflaged way, to say they have expanded the right of people to use the courts to claim for their damages when injured in a car accident. They are going to say that is access to justice: hurt those most badly hurt in order to pretend they have kept their promise.

The Attorney General spoke out a year ago. He said he was opposed to not giving innocent accident victims the right to bring actions in court for their damages. I hold the Attorney General to his statement. I hope he can stand up and fight for access to justice for these people. I am not optimistic.

The other area the Attorney General talks about in terms of access to justice is his much-discussed support and custody orders enforcement bill. I have to be very frank. This SCOE bill was something we laboured on last January and February. It finally passed this Legislature. We were taunted by the Attorney General because he wanted it passed quickly. He felt it was not passed quickly enough. Is it up and running yet? It is not up and running. The reason it is not up and running is that the

government is using the people who are owed money, the people who need access to justice most in this province, women and children, and deferring the implementation of the SCOE bill till next year so that it can meet financial obligations in the present budget that is before this House, that pathetic $9.7-billion budget. They are using those people to try to reach their targets. I think every person on that side of the Legislature should be positively ashamed.

I will go on talking about access to justice. The Attorney General showed up a couple of weeks ago and told us the government was about to spend $1 million to reach people who were in default on support payments to their spouses and their children. "We are now going to get into a $1-million advertising campaign. If we advertise and spend the $1 million, we are going to get those people to pay." Nothing could be more ludicrous. Those deadbeats are not going to pay. They are not paying now and they are not going to pay because they see an ad on television. That is not going to make them pay.

What is the effect of that $1-million expenditure? I am now quoting from the Law Times dated October 21 to October 27, 1991:

"As well as saving money by delaying legal aid fee increases, the ministry has lopped off $850,000 from the support and custody enforcement branch's budget. That amount was designated for hiring staff to start changes to the way support payments are collected and remitted. The plan involving deductions of support payments from paycheques was to have begun this year but has now been put off until after the start of the new fiscal year next April.

1720

"That cut is ironic, inasmuch as Hampton criticized former Attorney General Ian Scott for lax enforcement of the current support payment program. As well, Hampton's first bill after being appointed last year proposed the direct deduction plan.

"Lawyer Fran Kiteley, a well-respected family law lawyer, stated she was disappointed by the news, saying: 'It is a disaster trying to work and get any results from SCOE. From my perspective, they appear to be terribly overworked, and the $850,000 that has now been lopped off their budget is $850,000 so that they can hire people to chase the deadbeats who don't pay for their support, who don't meet their support obligations.'"

It is appalling, and at the same time, what is the Attorney General doing? He is spending $1 million, and what is he doing with that $1 million? He is putting ads on television to say to the deadbeats: "Pay up. Please, pay up." Is he kidding anybody? He is taking away $850,000 so that people can be hired to chase the deadbeats, and then he is spending $1 million so that he can put ads on television to do public relations for his ministry and for himself. I think that is pathetic. It is shameful, and again, it shows that the Attorney General knows nothing about access to justice. He has no intention of implementing any programs related to access to justice, and the man does not know what he is doing. This whole ministry is breaking down.

I might add that when I pick up the Lawyers Weekly and I see articles about how the Attorney General and the deputy minister do not speak with one another, how they are fighting with one another, how they do not agree with one another, I wonder. Somebody had better start listening to somebody in that ministry, because the system of justice in this province is breaking down.

I suspect that save and except for probably having breakfast with the parliamentary assistant, the Attorney General does not speak to him either. I tell the Attorney General that he had better start to use the people who know what is going on and he had better start to rely on them. He cannot do it by himself, because what he is accomplishing by trying to do it by himself is absolutely nothing. He is taking this province in a backwards direction we will never recover from as far as the system of justice goes.

The other concern I have, and I raise it in terms of the context of access to justice, is that we now have to appoint a new assistant deputy minister. The Premier writes to the Attorney General and says "Hire Mr Code," because Clayton Ruby sent a letter to the Premier that said "Hire Mr Code." It is not the first time Clayton Ruby has directed the Premier in terms of the system of justice in this province. He had a scheme a while ago that was going to promote fast sentencing. That scheme never got off the ground, because when it was leaked to the public, the public was not happy about it.