



47 1990

47 1990

Legislative Assembly
of Ontario

Assemblée législative
de l'Ontario

Second Session, 34th Parliament

Deuxième session, 34^e législature

**Official Report
of Debates
(Hansard)**

**Journal
des débats
(Hansard)**

Thursday 14 June 1990

Le jeudi 14 juin 1990

Speaker
Honourable Hugh A. Edighoffer

Président
L'honorable Hugh A. Edighoffer

Clerk
Claude L. DesRosiers

Greffier
Claude L. DesRosiers

castigating the delays, particularly in urbanized areas where there is a large backlog of cases in the district court.

Having said that, that is basically what the bill does, but it is involved in a far larger issue. The question of schizophrenics and the fact that they are episodically sick, as opposed to being chronically ill, has created grave difficulties under the Mental Health Act. These people normally require emergency treatment, quick treatment, quick access to the hospital, quick access to medication, and because of the provisions of the Mental Health Act that presently exist, grave difficulty is created by this because there are certain tests that have to be reached. You have to establish that there is an imminent danger or a serious threat to themselves or to others.

Very often the only person who knows that the schizophrenic is falling from the period of normalcy he may have while taking his medication is the loved one. The loved one comes and tries to seek treatment and cannot convince the people who have the power to order an involuntary admission. They may come there with their loved one who is prepared to make a voluntary admission, and when they get there, the patient decides he does not want to do that.

It is the very nature of the illness of schizophrenia that people either deny they have a problem or there are side-effects from taking the very medication that helps them. Along with, I suppose, their paranoia—they feel that they are being poisoned or badly done by—the net result is that they may come as a voluntary patient and they may decide when they get there that they do not want to go into hospital or they may go into hospital and decide they want to leave without receiving any medication.

There has to be provision in the law that protects these people, to differentiate schizophrenics from people with other mental illnesses. It seems to be a tremendous tragedy that where there is some relief through medication, loved ones have to watch their children, or they may be adults at this time, reach a stage of committing suicide, of injuring other people, of winding up in the criminal courts, because there is not an effective way of ensuring that they take medication.

Surely a society that tries to protect the rights of individuals, which certainly is justified, should also look at the question of what we are doing to these people. What are we doing by denying them a law or a procedure whereby loved ones can ensure that they are going to be treated properly?

The other difficulty, I suppose, with schizophrenia is that a person might be considered to be incompetent and may suddenly no longer be incompetent because of the use of treatment, in which case it creates a disaster in terms of being able to be treated under the Mental Health Act.

The considerations that have been given in this regard were to protect people with mental illnesses that were chronic. We deinstitutionalized people because we considered that to be humane, and I think every member of this Legislature would agree that that continues to be the order of the day. But when we are dealing with schizophrenics who are episodic in their illness and can in fact be assisted and are able to lead in most cases a normal life, and we set up roadblocks or we create legislation in such a way that they are not able to get access to that help, then I suggest we really do them no favours.

Returning to my bill, if we are looking at the civil liberties—and I think we have to look at the civil liberties of people, particularly people who are mentally ill—if we pass the provision requiring a 30-day period after perfection of the appeal to be brought into place, if we pass the provision dealing with interim application to a judge in order to persuade a judge

that medication be allowed, then in fact what we do is we save these people from a period of being really incarcerated with absolutely no treatment at all. We get out of the warehousing, which is what we originally intended by the social policy that was thought of when institutions were closed in the past.

I think as well that the major objective—I am quite up front that although this bill deals with minor items, I would like to see this matter get before a committee to give the loved ones of those people who are suffering from the illness of schizophrenia an opportunity to tell us as legislators just how those people differ from those who are chronically ill with a mental illness.

I remember on the Bill 7 hearings back in 1986, there were people who had attended those hearings. I can remember talking to mothers who did not get an opportunity to speak and were really outraged and felt a sense of loss in that they were not able to say something about their particular situation.

I know in my practice over the years in the courts that I found people who were being brought before the courts on criminal charges who were really sick people, who were people who were sick but could have had their illness controlled and would not have found themselves in this predicament.

Unfortunately, while many judges said, "Why are you here? You should be in a hospital receiving treatment," and I think that is true, I would be willing to bet that if you went through our correctional institutions and our penitentiaries, you would find people who are there not because they are criminally oriented but because they are people who are ill and require treatment. If the treatment is available, why not provide the mechanism whereby they can receive it?

I suggest as well that parents should not have to wait until their children jump off the Gardiner Expressway or commit suicide or harm the parents themselves. As a civilized society, we should make certain that our laws are clear enough that we are able to provide the mechanisms whereby emergency treatment can be provided to these people. Through that emergency treatment these people can continue to live as normal a life as possible and not be plagued by the factor of having to reach the stage of the final act of being a threat to themselves or someone else before they qualify for the benefits that are provided by the law.

I urge members to consider the amendments and to recognize that they are in fact minimal. They are an attempt to rectify what is happening now in terms of waiting for appeals, the warehousing of patients. But at the same time I think it is incumbent upon this Legislature to give to the parents of this province an opportunity to have their say and perhaps to give us ideas on how we can deal with schizophrenics.

In addition to that and finally, I would say that the money that is being spent on investigating a cure for schizophrenia is peanuts. I think this has to become a heightened element so that the public sector and the private sector will contribute the kind of money that they do to other illnesses, which are equally as devastating as this. But this really fractures a family. It takes people who are good people and puts them on the streets to roam the streets aimlessly.

Those are my comments in opening, and I will relinquish the floor to my colleagues.

Mr Reville: I have many things in life. Some of them are happy and some of them are sad. One of the things I have that is sad is a major mental illness. I acquired a diagnosis in 1965. It has been amended a number of times since and I have lived under the tender mercies of the Mental Health Act since 1965 in its different versions. Between 1965 and 1967 I was an involuntary patient in an Ontario provincial psychiatric hospital, during

which time I was confined for 18 months. So you will understand, Mr Speaker, why my hair stands straight up on end when I hear the words Mental Health Amendment Act.

As the member for Brampton South has recited, this Legislature during the 33rd Parliament entertained the Mental Health Act on a number of occasions, partly in respect of Bill 7, later in respect of Bill 190, in between in some best unremembered bills that most reflected government confusion about the issues in this connection. My own Bill 50, the Community Mental Health Services Act, received second reading support in the Legislature on 17 December 1987 and has been mothballed by the government since that time.

My legal advisers have assured me that Bill 173 is benign, and I will not be opposing it. I am, however, aware of the views of the member for Brampton South. I know they are carefully held views and I do not dispute his right to hold the views. He takes a best-interests approach to this situation, and his views are at variance with mine. I take a rights approach, and that is why I was pleased with the amendments that flowed from the discussions in 1986 and 1987.

The real agenda here, as the member for Brampton South readily acknowledges, is to create a forum for a discussion about the tension between best interests on the one hand and rights on the other. It is a legitimate agenda. I want him to know, however, that just as he will marshal the forces that are interested in the best-interests position, so too will I marshal the forces of those who represent the rights position. He will know that because the rights forces are persuasive and committed, as are the best-interests forces, he is in for a major fight.

I believe the issues go to the heart of what we believe about civil rights, and clearly there will be charter challenges if the balances are shifted in any measurable way. It is not easy to discover what that proper balance is, because it is a balance between societal interest in the health and safety of its citizens on the one hand and the right of an individual to be the captain of his or her own fate on the other.

I do want to point out, though, that to rely on what we call treatment is to court both disappointment and disillusionment. Treatment in Ontario and indeed in most of the western world consists primarily of hospitalization and drugs. Neither the hospitalization nor the drugs do anything to alleviate the social, economic and political deficits that people in mental distress carry. In fact, the treatment often exacerbates those deficits; it makes them more profound.

The member speaks about schizophrenia as though that label alone explains all you need to know, and that is not the case. Even people on whose behalf the member for Brampton South is arguing, primarily the people who are the families and friends of those who are labelled schizophrenic, will acknowledge that their loved ones are so different one from the other that what is called schizophrenia must be many, many different things.

As difficult as it is for us as legislators to accept, because in fact we all come to our task trying to design and implement a better kind of society, we cannot always prevent every human tragedy. We could shrink-wrap everybody at risk. If we did that, we would be taking on an extraordinary financial liability, and we might accept that if we thought it was going to be efficacious.

What worries me is that there is a great human cost to shrink-wrapping people who are at risk. It is very hard for me to accept the prevention of one kind of tragedy by imposing another kind of tragedy, forcing people into a kind of nether

world where they will be straitjacketed with chemicals and where they will experience the great despair of alienation.

It is my hope that this debate will go forward so that we can struggle with the issues. I know what side I am on. I know that if we can convince this government to proceed faithfully to implement the recommendations of the Graham report, which relate to a range of least-restrictive services that will be provided in the community, we will in fact alleviate the distress that many people currently experience. It is in that direction I feel most optimistic about reducing human tragedy, rather than the direction that the member for Brampton South believes is the appropriate way to go.

1120

Mr Sterling: I would like to just speak very briefly on the bill. I have had an opportunity to look at the bill and quite frankly do not see that it changes to a very great degree the procedures that are in place. Perhaps it adds some comfort to the procedure.

The only question that I would have of the presenter of the bill is whether or not an imposition of a time frame on a court has precedent and what happens if in fact that time frame is not met. Does it then act in favour of the appellant or the respondent, and therefore can the procedure be used in order to avoid going to the hearing by either party?

I believe my colleague the member for London North is going to conclude our comments from our caucus at this time.

The Speaker: Is there agreement? There is agreement.

Mrs Cunningham: The real purpose here is efficiency so that we may in fact leave some time for some of the Liberal members to speak in support of their colleague's legislation this morning.

I would like to compliment the member for his introduction of this amendment this morning. I know that the member for Brampton South has always been a person who has been most interested in the treatment, the cure and the quality of life for many special citizens in the province of Ontario, those who suffer with the disease of schizophrenia. Right now, no one does in fact have the answers with regard to the quality of life, with regard to support systems, with regard to medication, programs and treatment, but anything we can do to assist these people with an improved quality of life, with improved health, and just as important, to assist their families and friends, is certainly in the best interest of the public of Ontario and is certainly the responsibility of this Legislative Assembly.

Although with Bill 173 we are looking at a very small change in an amendment to the Mental Health Act, I should say that what it really means to me and to others who are following improvements is that if an in-hospital patient is deemed incompetent by the hospital review board but that person wants to end his or her treatment, it must go to the district court. That is the way things are right now.

Sometimes that takes a very long period of time. For the individual, if one is talking about human rights, about what is right for him, many of us from time to time are subjected to a very inefficient court system. Anything that we can do legislatively to make it better for the person involved, we must do that. This amendment would ensure that the appeal by the hospital review board takes only 30 days.

We have been told by solicitors, as we have inquired as to the practicality of this amendment, that in fact that will be a very difficult time period for them. Do you know what I say? I say, tough. People's lives are at stake.

it and run with it, because the press itself sometimes creates its own issues, and it supports, perhaps, the wrong ones. Here is an opportunity for it to help people, to help those 200,000 or 250,000 Canadians who do not have the full opportunity to live their lives in total serenity, the people who we see wandering the streets of Toronto, who appear to us to be the homeless by design. They are not the homeless by design; that is because of their illness, in many cases. The people in our prisons are there not because they are criminal people, but because they are sick. I hope this issue will become a high-profile one and perhaps will be carried over to the next session of the Legislature so that it can in fact be reviewed totally in committee.

The Speaker: Those were five minutes allowed you by the official opposition. There are still seven minutes remaining from the Conservative Party. I do not know whether you have any further comments. You still have the two minutes. There is no offer? Fine. I will recognize the member for Brampton South for his final two minutes.

Mr Callahan: I would like to make my final comments by thanking every member of this House who spoke and those who are going to support this bill. It is a difficult one. I remember when I was talking about preparing this bill and looking for a way to do it. I was told that by doing it, I would have all sorts of groups that would be concerned in one way or another, either as a result of feeling that their rights were being infringed—I welcome them before the committee because I think in that way we are going to demonstrate, hopefully to them, that the best safeguard and the best way of securing freedom for these people who are actually trapped in a mental illness that does have some possibility of success, that does have some track record in terms of investigating a cure—that in fact we can show them that these people can lead productive lives, that we can in fact marshal the public opinion that will call out for contributions from the private sector as well as the public sector to look into a cure for this dreaded disease.

I suppose it is also going to heighten the fact that you may be sitting next to someone in this House, you may be sitting next to someone on a streetcar or in church who may very well have a loved one who has schizophrenia, considering that one out of 100 suffer from this dreaded disease. Those are the silent sufferers, as well as their parents. We have to deal with that.

Again, I cannot say enough that I really want to thank my colleagues. They have approached it, they have expressed their views. I appreciate their views and I look forward to this getting to committee, where we can share the views of the citizens of Ontario and hopefully come up with a solution that will meet the test of the civil liberties people and, as well, address the cares and concerns of those mothers and fathers who lie awake

at night wondering where their loved one is, whether he or she is destroying himself or herself or perhaps causing other people grief.

The Speaker: That completes the discussion and debate on ballot items 55 and 56. Our standing orders say that I shall put the questions at 12 of the clock. Do you wish to wait until 12? Yes? I cannot get unanimous consent. Okay, we will wait until 12.

EMPLOYMENT EQUITY ACT, 1990

The Speaker: Mr B. Rae has moved second reading of Bill 172.

Motion agreed to.

The Speaker: That bill will go to committee of the whole House.

Mr B. Rae: I would ask that the bill be referred to the standing committee on resources development.

The Speaker: The standing orders state that it shall go to committee of the whole House unless a majority wishes it to go to a certain standing committee. Usually I ask all those in favour to rise, but it sounds as if there is unanimous consent and agreement.

Agreed to.

Bill ordered for the standing committee on resources development.

MENTAL HEALTH AMENDMENT ACT, 1990

The Speaker: Mr Callahan has moved second reading of Bill 173.

Motion agreed to.

The Speaker: That bill will go to committee of the whole House.

Mr Callahan: I move that it go to the standing committee on social development.

The Speaker: The member has requested that it be sent out to the social development committee. Is there complete agreement?

Agreed to.

Bill ordered for the standing committee on social development.

The House recessed at 1202.