

Government Orders

The Acting Speaker (Mr. Kilger): Is the House ready for the question?

Some hon. members: Question.

The Acting Speaker (Mr. Kilger): Is it the pleasure of the House to adopt the motion?

Some hon. members: Agreed.

(Motion agreed to, bill read the third time and passed.)

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CRIMINAL CODE

Hon. Allan Rock (Minister of Justice and Attorney General of Canada, Lib.) moved that Bill C-104, an act to amend the Criminal Code and the Young Offenders Act (forensic DNA analysis) be read the second time and referred to a committee of the whole.

He said: Mr. Speaker, it is my privilege today to speak to Bill C-104, an act to amend the Criminal Code and the Young Offenders Act, to provide by legislation a system for governing the collection and the use of DNA evidence in Canada's criminal justice system.

May I also at the outset record my gratitude to all members of all parties in the House whose collaboration and agreement will make it possible for us today to consider and approve this bill, allowing quick and effective action on an important measure to improve Canada's system of justice.

DNA evidence is not new to Canadian criminal law. Since 1988 forensic DNA analysis has been successfully introduced in more than 100 trials. In a significant number of other cases, it has also been instrumental in obtaining pleas of guilt. There have been cases, some of them very spectacular, in which DNA forensic analysis has exonerated innocent people. In total, it has been used in more than 1,000 cases in this country alone.

• (1925)

[*Translation*]

Notwithstanding the importance and the use of this kind of evidence, the Criminal Code does not specifically authorize us to take samples of bodily substances from a suspect for the purposes of genetic analysis. Several courts, including the Supreme Court of Canada in the recently issued Borden decision, have pointed out that no law in Canada specifically permits us to take blood samples in order to carry out genetic analyses for medical and legal purposes.

[*English*]

DNA typing is a powerful investigative tool that can help to identify with greater certainty those who have committed seri-

ous crimes. The presentation of this bill represents another step forward in the government's safe homes and safe streets agenda.

This initiative is one of a number of measures we have introduced to enhance community safety to preserve the peaceful character of our society.

Allow me to briefly outline what this bill will provide for. Although, as I have mentioned, DNA evidence has been used in Canadian courts for some time, there has been no clear legislative framework to regulate its use. This bill will clarify the circumstances in which the court would be permitted to issue a warrant authorizing the collection of a sample for DNA testing. It will clarify the procedures under which the suspects could be compelled to provide samples of bodily substances for DNA analysis. It will regulate the manner in which those samples can be taken, the uses to which they may be put and the manner in which they should be disposed of after their use.

[*Translation*]

The legislation we tabled today names three bodily substances which can be sampled: first, hair; second, cells from the surface mucus of the mouth; third, a small quantity of blood, extracted by needle.

[*English*]

In examining what the bill will accomplish, it is important to be clear regarding the present state of the law in Canada. What we are proposing is not in any sense revolutionary nor is it an ill-prepared step into uncharted territory.

Section 487.1 of the Criminal Code, a general warrant provision, currently allows for this type of procedure to take place. DNA samples are used in the courtrooms in this country on a regular basis. As I have previously said, they have figured in more than 1,000 cases.

The difficulty has been in the absence of an expressed authority in the criminal law to remove any doubt about the legitimacy of the practice, leaving room for challenge, leaving uncertainty in the law about the circumstances in which samples can be taken and the manner in which they can be put to use as proof.

The changes in Bill C-104 will provide that legislative clarity. They will bring Canada into line with the practice which is in place at present in many other nations. Forensic DNA typing is conducted in countries throughout the world, including the United States, Great Britain, France, Germany, Australia, New Zealand and Sweden.

The purpose of the bill is to remove doubt as to the procedure in Canada, to institute a mechanism for its even application throughout the country, to enhance the criminal justice system by establishing a greater degree of certainty in the process.