

*Government Orders*

• (1930)

That being said, may I also suggest to the House that we have been careful in drafting the legislation to abide by principles requiring respect for human dignity and privacy. While the government recognizes the importance of DNA typing as an investigative tool, we also acknowledge that privacy concerns and rights guaranteed by the charter require that adequate safeguards be put in place.

As will be seen from a review of Bill C-104, it contains express safeguards to protect privacy and to protect rights. In the first instance, a sample can only be taken for DNA testing pursuant to a warrant.

Second, that warrant can only be issued by a provincial court judge; not a justice of the peace but a judge.

Third, the judge may only grant the warrant if satisfied from evidence on oath that there are reasonable grounds to believe the person to be tested was a party to the offence, and if satisfied that there are reasonable grounds to believe that analysis of bodily substances will provide probative evidence confirming or disproving that person's involvement in the commission of the offence.

I point out as well that a warrant can only be obtained to take a sample in the investigation of specific offences that are designated in Bill C-104. Once the warrant has issued, a sample so taken and tested can give rise to results that can only be used in that investigation or prosecution. Furthermore, even after the judge is satisfied that the tests I have described have been met, the judge must also be satisfied that it is in keeping with the interests of justice to give the warrant to take the sample, having regard to the circumstances of the case including the offender and the offence.

The act also provides that the sample is to be destroyed if the person is found innocent. It provides that after the warrant is obtained and before the sample is taken the peace officer executing the warrant must explain to the person the purpose for taking a sample and the uses to which it can be put. There is an express provision that the warrant must be executed in such a fashion that is reasonable in the circumstances to ensure the privacy of the person is respected. Nevertheless the person cannot be detained for a period longer than is reasonable to obtain the bodily substance, and the bill makes that clear.

May I also point out that the bill is introduced only after protracted consultation. In September of last year the Department of Justice issued a consultation paper identifying the issues and seeking comment. We heard from scores of respondents, including the Canadian Bar Association, criminal lawyers' associations, the privacy commissioner and others.

Support for such a measure was almost unanimous. We have taken from the submissions which we gleaned during the consultation many of the suggested safeguards and incorporated them into the bill as I have described.

[Translation]

As I said, the bill also provides for the disposal of both the bodily substances taken under warrant and of the genetic testing results in cases where, for example, the results show that the person in question did not leave any substances at the scene of the crime or in cases where the person is acquitted.

[English]

I hope it is evident that the government has gone to great lengths to ensure that the procedures provided for are not only constitutional but are in accordance with basic principles of due process and fairness.

[Translation]

I agree with those who recommend that the provisions contained in this bill and their repercussions should be studied later to determine if the legislation meets its desired ends.

Therefore, we intend to ask the Standing Committee on Justice and Legal Affairs to study these changes at the very latest one year after they are implemented. At the same time, we will ask the committee to examine any future amendments which should be made to the overall system of DNA typing.

• (1935)

[English]

In closing, let me express my belief that we are taking today an important step in the enhancement of the criminal justice system. I believe we are improving that system by giving the police an important tool that will help them carry out their duties, by providing for greater certainty in the rules that govern the investigation and prosecution of crime, by improving the effectiveness of the criminal justice system, and by ensuring fairness for those who would be involved in such a regime.

I commend the bill to my colleagues in the House and I ask them for their support.

[Translation]

**Hon. Lucien Bouchard (Leader of the Opposition, BQ):** Mr. Speaker, the question of the admissibility as evidence of DNA tests is not new. It has been a subject of legal debate for quite a while. Sometimes it comes up in public affairs, but it has burst forth in a very special way in terms of public concern because of the drama faced by the family of Michael Manning last year in Pointe-Claire.

The fact that this House is today considering with exceptional speed, it must be said, and with unanimity rarely seen in connection with a subject of debate here is due to the seriousness of what happened to Mr. Manning's family. We will remember that, last year in Pointe-Claire, Mr. Manning and his son discovered Tara, their daughter and sister, aged 15, raped and dead in her bed. There followed a criminal investigation and a police investigation, with the father and son under suspicion, because of the question as to how such a crime could have happened in a private home, at night. The only way the father