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des débats
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Mardi 24 août 2004

**Standing committee on
justice policy**

Emergency Management
Statutes Review

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Examen des lois ontariennes
sur les mesures d'urgence

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
JUSTICE POLICY**

**COMITÉ PERMANENT
DE LA JUSTICE**

Tuesday 24 August 2004

Mardi 24 août 2004

The committee met at 1004 in room 151.

EMERGENCY MANAGEMENT
STATUTES REVIEW
EXAMEN DES LOIS ONTARIENNES
SUR LES MESURES D'URGENCE

The Acting Chair (Mr Mike Colle): Members of the committee, I would like to call the committee to order. This is the Tuesday, August 24, meeting of the standing committee on justice policy. As members of the committee know, we've got a new member today: Tony Wong, the member from marvellous Markham.

PROVINCE OF QUEBEC
PROVINCE DE QUÉBEC

The Acting Chair: The committee is charged with reviewing all emergency management statutes in the province of Ontario for the purpose of writing a draft bill to improve emergency preparedness for the province.

We have, up to this date, received teleconference communications and deputations from the province of Nova Scotia and the province of Alberta. This morning, we are pleased to have a teleconference with the province of Quebec. We have Luc Crépeault, deputy minister of public safety. Mr Crépeault, are you there?

Mr Luc Crépeault: Yes, I am.

The Acting Chair: Bonjour. Also, Denis Racicot?

Mr Denis Racicot: Good morning.

The Acting Chair: Bonjour. And Lise Asselin, deputy minister?

Ms Lise Asselin: I'm not deputy minister; I'm just a director. But I'm here and I'm glad to be with you.

The Acting Chair: Thank you. We're glad to have you. And Georges Beauchemin, assistant deputy minister. Georges?

Mr Georges Beauchemin: Hello, hello.

The Acting Chair: Good morning. Welcome. As the Chair of the committee, my name is Mike Colle, and we have MPP Laurel Broten from Etobicoke-Lakeshore; MPP Wayne Arthurs from Pickering-Ajax-Uxbridge; MPP Jim Brownell from Stormont-Dundas-Charlottenburgh, which is in the Cornwall area, near the beautiful St Lawrence, which the province of Quebec, I'm sure, is neighbours with.

Mr Jim Brownell (Stormont-Dundas-Charlottenburgh): Right on the border.

The Acting Chair: Right on the border. We have, all the way from Perth-Middlesex, MPP John Wilkinson; MPP Tony Wong, as I mentioned, from Markham; and MPP Peter Kormos from Niagara Centre is also here.

I would just pass it over to committee member Laurel Broten, who is going to make some comments en français and then turn it back to me. MPP Laurel Broten.

M^{me} Laurel C. Broten (Etobicoke-Lakeshore): Bonjour. Aujourd'hui, on est au commencement de notre troisième semaine de consultations sur les révisions des propositions de loi en Ontario envers les statuts pour gérer les urgences.

Durant les premières deux semaines, on a eu des consultations avec la Nouvelle-Écosse, l'Alberta, les municipalités, entre autres, et ceux qui répondent aux urgences dans la province en première ligne.

On essaie de regarder ce qu'on a appris durant le SRAS, par exemple, que l'Ontario a subi il y a quelques années, et aussi, entre autres urgences, la panne d'électricité qu'on a eue l'été passé.

Durant la semaine, on regarde particulièrement les pouvoirs d'autres juridictions pour répondre aux urgences dans leur province. On a entendu dire que ça ne fait pas tellement longtemps que vous, à Québec, avez subi presque le même exercice, et on espère ce matin apprendre de vos connaissances et apprendre un petit peu de vos consultations durant les dernières années. Merci.

The Acting Chair: Thank you, MPP Laurel Broten. To our presenters from Quebec, just to review our format here, essentially, you will be given time to make a presentation, making your comments as you see fit, whether it be an overview of the Quebec legislation and some of the status of Quebec legislation as it relates to emergency preparedness. After the presentation by one or all of the presenters in—you are in Quebec City, right?

Mr Beauchemin: Yes, we are.

The Acting Chair: Good. Then after that we will ask some questions or make some comments. Is that all right?

Mr Beauchemin: That's fine.

1010

The Acting Chair: Most of them will be in English, but our colleague Laurel Broten is going to communicate in the other official language, French.

Feel free to begin your presentation. Please, when you start to speak, if it's a different person, could you identify yourself, as this is all recorded for the public record on Hansard. Then you can get transcripts of this, which we can send you for your review.

In advance we'd like to say, on behalf of the committee members especially, and the Legislative Assembly of Ontario, we certainly appreciate your sharing your time and expertise with this committee. We'd like to thank you for making time for us in our work and sharing your information with the committee here in Ontario. Please begin.

Mr Cr peault: I'm Luc Cr peault. I'll begin with an overview in French of what has happened in Quebec. First I must mention that our new bill was adopted in 2001.

Il faut faire un bref aper u et c'est Lise Asselin qui va continuer. Notre loi a  t  le r sultat de deux  v nements majeurs, un peu comme ce que vous vivez en Ontario pr sentelement, o  le SRAS et le shutdown a  t  tr s important pour vous. Nous, il y a eu deux  v nements : le grand d luge du Saguenay en 1996, qui a amen  une premi re commission, la Commission Nicolet 1, qui a fait le tour de tous les probl mes v cus et qui a amen  principalement une nouvelle loi sur les barrages qui rel ve du ministre de l'Environnement; et apr s  a on a eu le grand verglas de 1998, qui a  t  un autre d clencheur avec une commission pr sid e toujours par M. Roger Nicolet, la Commission Nicolet 2, qui a amen  la r vision de notre loi.

Je vais laisser un peu de temps au traducteur de faire sa traduction-l . Apr s, Lise Asselin pourra poursuivre sur les grands principes de notre loi.

Mr Beauchemin: The main focus of what has happened in Quebec over the last six or seven years resembles what Ontario has gone through. It's basically two events in Quebec that triggered the new bill, which has now been passed in front of the House. It was the rainfall of 1996 on the Saguenay which created the first public commission, headed by Mr Roger Nicolet. That commission was charged with reviewing everything that happened and it brought the government to adopting one bill on the safety of dams and dikes. Then in 1998 the ice storm hit Quebec, as well as Ontario and New Brunswick, and the government created another commission, still headed by Roger Nicolet. He examined all the preparedness and all the structures and recommended a major overhaul of our legal system, which was done, and the bill was passed in 2001. That bill is now law.

I'll leave it now to Lise Asselin to cover the structure and the main points of the bill.

Mr Cr peault: The report of Mr Nicolet is available in English if you need it.

Ms Asselin: This is Lise Asselin speaking. Maybe prior to starting, may I ask you if the members of your committee had the opportunity to have a look at our new law? We believe this is the first time you will have worked with our law.

The Acting Chair: We have an executive summary of your new legislation.

Ms Asselin: OK. Thanks a lot. So I will just do a brief tour about this.

We have 12 chapters in that law. For sure, the first chapter is about the purpose and the scope; this is for civil security. Then we have the other chapters.

The first group of chapters gives powers, responsibilities to groups of people, so we have a special chapter giving responsibility to everybody, to the person, and then we have a special chapter, chapter III, for persons whose activities or properties could generate a major disaster risk. We are thinking about companies and all those things, so they have responsibilities with our law.

The next chapter, chapter IV, is for the local and regional authorities, so all the municipalities. We give them instructions on how to do a civil protection plan. We also give them exceptional powers if they need them during a very big emergency, so they have the possibility to use a declaration of a local state of emergency, and we give them other responsibilities and mutual assistance.

The next chapter consists of all the responsibilities of government departments and government bodies. You understand that our minister has the responsibility for civil security, but if we have to manage an emergency, we have to work together with all the other ministries. We have a coordination role. So it's all the ministries that are involved in the governmental effort to help people in the municipalities.

Chapter VI gives explanations about the powers of the Minister of Public Security, his functions, explaining that he is in charge of Quebec's national civil protection plan and also the possibility to implement measures and the declaration of a local state of emergency by the minister. Let me tell you that these are powers given to the minister. It is impossible for a municipality to use the special power, so in very, very exceptional cases, if it is needed, the minister may do that in place of the mayor.

The next chapter, chapter VII, is about government. The first division is probably the one you are very interested in, as you told us previously. This is the declaration of a national state of emergency. I will be able to go a little bit further afterwards if you want to have more explanation about that part of chapter VII. Then we have an important part of the chapter about governmental financial assistance, and we also have a part of that chapter that talks about regulatory powers.

Finally, we have five chapters that you will find in every other law, so presumptions, rights and immunity, penalties and remedies, amending provisions, transitional provisions, and final provisions.

This is a very fast wrap-up of the Quebec Civil Protection Act. Do you have any questions, or would you like us to go right now into the part about the declaration of a national state of emergency? As you wish.

The Acting Chair: No, go ahead.

1020

Ms Asselin: In the government part, that law gives exceptional powers to the Quebec government. Perhaps you have a copy of our law; if not, we can send you copies. It is also available in English on our Web site.

The articles I am talking about are articles 88 to 99. This is division 1 of chapter VII, talking about government.

The first thing we have to say is, “The government may declare a national state of emergency,” but it is very structured. It is possible to declare that when there is a major disaster situation, actual or imminent, or an “event that interferes with the life of the community to the point of compromising human safety, immediate action is required to protect human life.” We must have two conditions: There is a problem for human safety and it is very important that immediate action is required to protect human life and so on. It is only in those conditions that the government may use those powers. That state of emergency is declared by the government and it is effective just for a maximum of 10 days, and it could be renewed with the consent of the National Assembly.

If we are in a very big emergency and that’s the only way we can go, because all the measures we are able to have are not sufficient, and if it is impossible to have a declaration by the government, there is a special power for our minister to declare a state of emergency, but at that time it’s just for a maximum of 48 hours.

This is the beginning of that. Then it is full of accountability, and afterwards we have a description of the special powers we may use in that case. It is in article 93, and we have 14 possible powers to use. So you can’t use those special powers if those conditions are not in place. They may order the implementation of the response measures provided in the civil protection plan. They may order the closure of some establishments in the territory concerned. They may control access or enforce special rules or close some roads, always only for the territory concerned. If there is no other safe alternative, they may order construction or demolition of any work. They may, when there is no safe alternative, order the evacuation or consignment of the inhabitants of parts of the territory. They may require assistance of any person capable of assisting personnel. They may require the necessary rescue services or private things. They are also able to ration essential goods and services. And they may have access to any premises for the carrying out of an order under this section. They could also decide, if necessary, to implement some special financial assistance.

I have just given you a general overview of those powers. They are a little bit more involved than that. If we decide to use those powers, for sure there are responsibilities. For example, if the government decides to require the assistance, it has to make financial arrangements to pay for the assistance. So we have other rules, articles, which are giving them the information about that.

Something very important is that the government may lift the state of emergency as soon as it considers that it is no longer necessary. The government or the National Assembly may stop that emergency if they think it is not used correctly on something like that. I think that’s it, generally speaking, for an overview. We covered most things, and I will let George add some information.

The Acting Chair: Excuse me, every time there’s a new speaker, if they could just please identify themselves.

Mr Beauchemin: This is Georges Beauchemin speaking. What Lise has just outlined are the exceptional powers in the act. You might have noticed that it is not an emergency act; it is a civil protection act. The structure of the act obliges municipalities, departments and regional counties to go into planning, preparedness, intervention and recovery plans in order to marshal all the resources they can in their own territory if something happens. It is only when those resources do not meet the situation that either a mayor may go and enact these extraordinary powers or the government or the minister if everything else is failing.

We must point out also that in the previous act there were some similar powers. These exceptional powers—in the last 30 years or so we’ve gone through quite a number of events—have never, ever been used. During the Saguenay, even during the ice storm, a declaration of emergency was never used. Even in the new act they are so extraordinary, in terms of powers, that they’re the last resort of the arsenal, if I may speak like that.

This is the last stand you may use in order to protect human life; that is one major condition. You cannot use these powers to protect a house, for example, or to protect a street or a public building; you have to use the other, ordinary measures to do that. It’s only in order to protect human life that you may resort to these extraordinary powers, and then you have to account for what you’ve done, why you’ve done it. You have a lot of things to tell either your constituents or the others.

Mr Crépault: I’m Luc Crépault. I will explain in French one event that gave us the idea that we needed new powers.

En octobre 1999 il est arrivé un événement où les camionneurs ont fait une grève qui a contrôlé tout l’accès à la région Abitibi-Témiscamingue, qui est à la limite est de votre frontière ontarienne. Cet événement a eu comme conséquence de rationner l’essence, d’avoir des pénuries d’essence et en fait de paralyser complètement toute une grande région d’environ 170 000 habitants.

À ce moment-là nous nous sommes tournés vers le ministère sectoriel, qui était le ministère de l’Énergie et des Ressources, pour savoir si dans leurs lois sectorielles il y avait des pouvoirs qui permettaient de forcer des grandes compagnies comme Shell, Petro-Canada et autres à livrer l’essence pour briser un peu cette mise en tutelle de cette région-là par un certain groupe d’intervenants.

Le ministère concerné n’avait aucun pouvoir pour forcer l’approvisionnement en pétrole, ce qui nous a convaincus qu’il fallait absolument avoir, dans des situations exceptionnelles, des pouvoirs de, ne serait-ce que pour permettre de remettre sur place la qualité de vie économique de toute une région. En 1999, aucun ministère du gouvernement du Québec n’avait de tels pouvoirs. C’est l’événement qui nous a convaincus qu’il fallait avoir des pouvoirs dans notre Loi sur la sécurité

civile, et ces pouvoirs, si nous les avons eus à ce moment-là, nous auraient permis de raccourcir de deux semaines à probablement une semaine l'état de crise, donc de couper de moitié le temps de répondre sur le rétablissement de la situation.

1030

Mr Beauchemin: This is Georges Beauchemin. I'll be translating what Luc Crépeault has just pointed out.

M. Crépeault was pointing out an event which occurred in October 1999. We had a truck strike in Quebec where all the truckers decided that they would stop the traffic on highways and so on. That brought in a situation where in a region that you know, which is Abitibi-Témiscamingue, with over 150,000 people, there was no more fuel being carried, through intimidation on picket lines. That brought a very dire situation in terms of public security; foodstuffs, medical stuff for hospitals, transit of persons was being held up. That event convinced us at the time and convinced the government of Quebec that we should have these kinds of extraordinary powers in order to instruct oil suppliers such as Esso, Shell, whatever, to deliver the fuel in those areas, with police escort if need be, or whatever. But not having those kinds of powers, we now know that had we had these powers, we would have brought down the downtime of this situation by at least 50%. Instead of having a region being held hostage like that for two or three weeks, we would have brought that down to about seven to 10 days at the most.

So this is a situation which has occurred where the kinds of extraordinary powers might have been put on the table—not necessarily used, but put on the table—so that people knew at that time that public safety and delivery of essential goods would be carried out and that the conflict would be resolved in other manners.

Mr Racicot: My name is Denis Racicot. I don't know if you have some questions on this item or if explanations are complete.

The Acting Chair: We will now have the MPPs, one at a time, ask some questions of the presentation. First, MPP Laurel Broten will ask her first questions.

M^{me} Broten: Merci beaucoup pour votre explication et pour nous avoir expliqué les mesures que vous avez mises en place.

J'aimerais savoir si vous pouvez discuter un petit peu plus la justification des faits sur les droits civils des citoyens de la province et le débat que, je suppose, a pris place à Québec durant le temps que vous avez regardé à mettre en place votre nouvelle loi.

M. Crépeault: Est-ce qu'on peut vous répondre en français, madame?

Ms Broten: Oui, s'il vous plaît.

M. Crépeault: Bon. Je vais peut-être faire une introduction—Luc Crépeault—et Denis Racicot complétera.

D'abord, en se replaçant à l'époque de notre loi, il y avait notre premier ministre à l'époque, Lucien Bouchard, qui venait juste de vivre les événements du verglas où il avait exercé un rôle déterminant. Dans ce contexte-là, lui-même est avocat, et il avait lu notre loi et

avait été quand même très critique par rapport à certains aspects de la loi. Il voulait aussi s'assurer que le respect des droits civiques soit aussi bien encadré.

Quand même, nous sommes sortis de cette impasse; d'abord je pense que, comme M^{me} Asselin tout à l'heure a bien spécifié, on a très bien circonscrit les pouvoirs donnés aux ministres et aux municipalités dans des situations très précises. Donc, on peut facilement, par la nature des événements et la nature des éléments qui justifient l'emploi de mesures d'exception, montrer que c'est dans l'intérêt commun. On sort beaucoup lors de cet encadrement de l'aspect vraiment protection individuelle. C'est très clair que le collectif est très supérieur à ces moments-là à l'élément protection des droits civiques et même que dans ces situations-là la protection des droits civiques passe par des pouvoirs d'exceptions communs pour diminuer les impacts sur la population. Donc, c'était très bien décrit, je pense, dans notre loi.

À cet effet-là, nous avons aussi tenu compte des lois existantes. Nous avons reproduit dans les mécanismes d'imputabilité qui suivent l'exercice de ces pouvoirs spéciaux tout ce qu'il y avait déjà dans les lois, notamment la Loi sur l'Assemblée nationale. Donc le devoir après l'exercice de pouvoirs spéciaux au niveau du gouvernement est imputable devant l'Assemblée nationale, de l'exercice de ces pouvoirs. Donc, je pense qu'on a très bien encadré ces pouvoirs-là pour pouvoir répondre à toutes les objections de nature de protection des droits privés.

Je pense que Denis veut continuer.

M. Racicot: Vous savez, une situation exceptionnelle, ça commande des moyens exceptionnels. L'exception, donc, aux règles habituelles, comme Georges a si bien mentionné, concerne la sécurité des personnes uniquement. La sécurité des biens n'est pas un motif pour déclarer un état d'urgence.

L'autre élément important c'est le contrôle qu'exerce l'Assemblée nationale sur l'utilisation de ces pouvoirs. Rappelons-nous que toute utilisation du pouvoir d'exception doit à tout le moins donner lieu à un rapport à l'Assemblée nationale. Le ministre ou premier ministre est redevable à l'Assemblée nationale sur l'utilisation de ce pouvoir.

Les pouvoirs d'exception sont énumérés de façon précise dans la loi. Donc, ils ne peuvent pas être utilisés pour d'autres fins que celles déjà identifiées dans la loi. Il y a 14 pouvoirs d'exception ou objectifs qui sont énoncés dans la loi. Les pouvoirs d'exception sont limités à ce qui est prévu dans la loi. Donc, ça nécessite l'usage d'une déclaration d'urgence; c'est supposer que le gouvernement dispose de moyens exceptionnels pour faire face à une situation exceptionnelle.

1040

Mr Beauchemin: I'll just add a few words in English. The debate over the powers and over civil rights—the balance in the act is basically, in a nutshell, this: It is only in order to save human lives, and only when everything else has failed, that extraordinary powers can be used that would limit, for 48 hours or 10 days at the utmost, some

civil liberty. The balance there, the equation, is that the death of a human negates his own rights. He doesn't have any more rights, because he's dead. In order to save his rights, you have to save his life. If you want to save his life and everything else is failing, you have extraordinary powers, but those powers are structured and you have to give an account of everything that was done and why it was done to the National Assembly, either through the minister or the prime minister. Every explanation has to be given of why everything else has failed in those circumstances and why those extraordinary powers were used.

The debate over civil rights was not very high in Quebec, because the act is so structured and the exceptions so limited in circumstances that, through experience over the last 30 years where similar powers existed in previous acts, we found out that it is really in extraordinary, exceptional circumstances that they would be used, and in such a limited fashion and with such a high political and legal account of why they were used, that the necessary checks and balances to safeguard civil liberties are there. Does that answer your question?

M^{me} Broten: Oui, merci. Je voulais juste poser une autre question. Après 2001 et votre proposition de loi, est-ce que vous pensez que vous avez mis l'exception si haute qu'il y a eu des instances où vous avez pensé exercer les droits dans votre statut mais que vous ne pouviez pas? Je me demande parfois si on met la barre si haute qu'il va y avoir des instances où il y aurait une demande de protéger des gens, mais ce n'est pas si haut que la base que vous avez mise en place.

M. Racicot: Vous savez, lorsque nous disposons de tels pouvoirs, il arrive que des gens voudraient que le gouvernement les utilise très rapidement. Jusqu'à maintenant, nous n'avons pas eu à les utiliser parce que les moyens ordinaires étaient suffisants, ou encore du seul fait que les gens savaient que l'on disposait de pouvoirs d'exception, ils se sont conformés sans que nous ayons eu à les utiliser. Il nous revient, à nous dans le Conseil des ministres et au gouvernement, de s'assurer que des pouvoirs d'exception soient utilisés dans des cas exceptionnels. Jusqu'à maintenant nous n'avons pas eu à les utiliser dans un tel cas parce que, à deux ou trois occasions, les gens ont accepté de donner suite à nos demandes, sachant qu'on avait le pouvoir de les obliger, et tout en convenant qu'il n'était pas nécessaire de les obliger de le faire.

Mr Beauchemin: I'll just give you an account of something that happened two summers ago, during the month of July. Both Luc and Denis were on vacation, so I was holding up pretty much on what was going on. We had very, very intense forest fires that brought a column of smoke right down to Montreal. Those forest fires were in the James Bay area and all these areas. The fires were so intense that even the firefighters could not approach the blazes. I remember one occasion where one actor, a public department, started asking us to use extraordinary powers to force the evacuation of whole areas and tracts of public lands. We refused to do that because human life

was not threatened. By simply stating all the conditions that would be needed to prove that all normal measures had not been put into effect—these were last resort—we were able to show them that they still had a lot of muscle power they were not using, still had a lot of things they could do that they were not doing, and that we would hold them accountable for not using those normal means of fighting the fire.

So extraordinary powers can be used in both ways. They can be used to structure a discussion when things are going badly so that the actors are forced to act through normal means. We forced them to actually go back and fight the fire, which they did and it succeeded, and we did not have to use any of those extraordinary powers. Simply by pushing them back into their own corner, if I may say so, they were brought into a situation where they actually faced that they were not doing things properly and that extraordinary powers, if they were used, would show the lapse in their actions. It is very powerful on both sides, if I may say so.

Ms Broten: Thank you very much.

The Acting Chair: Any further questions? MPP John Wilkinson from Perth-Middlesex now has a question.

Mr John Wilkinson (Perth-Middlesex): Good morning. Thank you so much for making yourself available to the committee. Could you comment on the question of quarantine? We've been receiving information, especially post-SARS, about the question of voluntarily trying to convince people, when there's an infectious disease, that they need to quarantine themselves. I'd be interested in whatever comments you have about your act and how you see your ability to deal with that question when there's a public health emergency, when there's an infectious disease.

Mr Beauchemin: The Civil Protection Act does not replace the health act or the veterinarian act or any other act. Quarantine for humans is part of the health act. They would resort to our powers only if they were in a situation where their powers would not be sufficient to deal with the situation, and then it would have to be shown and demonstrated that that is the last resort and the only way of saving human life. That leaves a lot of elbow room. Their power under the health act gives them the power to do quarantine.

1050

Mr Wilkinson: One of the things we're struggling with is that the advice we're receiving—and also in the area of what they call zoonotic diseases, where you could have a disease in livestock and animals that can transfer to humans—the experience they've just had in British Columbia with avian influenza in the poultry industry there—and then actually getting into humans coming down with this, and the fear, if that was a highly infectious disease, of what would happen. It's balancing the need for government to move swiftly to be able to quarantine both livestock and people. In other words, by the time you have figured out that there was a public health risk, the disease may have already spread into the general population, as we've learned about the potential for a pandemic.

So I guess we're struggling with the whole issue of how fast government can react when the medical people are telling us that there could be a possible—in other words, if you wait too long to find out that, yes, there are people dying, it's already into the general population.

Mr Beauchemin: Just to give you a sense of our structure, when we wrote the act and when we discussed it with all the other departments, everybody agreed that the Civil Protection Act was the second or the last layer of your system. The first layer of your system is that in every department, in every act enabling health, agriculture and environment, they have special powers to deal with special situations, and the responsibility of the minister to deal with the situation is there. Civil protection does not erase that responsibility and it does not supersede that responsibility. The minister has to act. It is only if coordination is needed that we will intervene.

Another thing I'd like to point out is that in our system we get a lot of pressure sometimes from departments. I remember the West Nile virus. When they started the spraying program—it was a year ago, I think, or a year and a half ago—they wanted us to use our powers in order to then send the bill to the federal government because of the DFAA program.

You have to remember also that the financial constraints of any province are always in the back of the minds of people when you start using powers and when you start dealing with these kind of situations. The budgetary costs are sometimes very high, and because of the DFAA structure, if it is not a civil protection call, if it is a health call, the DFAA won't cover that type of expenditure by a province, even if it is outstanding. We remember your experience with SARS.

So in the debate over the structure of powers or the timing, civil protection cannot replace the duties of health or other departments. They can only be sought out as the second or the last layer of your system to act if everything else is failing. But then you've demonstrated politically that everything else has failed when you use that. So it's two-edged sword.

Mr Wilkinson: Thank you. That's very helpful.

Mr Tony C. Wong (Markham): My question relates to the issue of protection of human life; you've given us examples when they did not relate to the protection of human life. How immediate or non-remote does it have to be for you to make that decision or determination? Also, have you met with situations previously when you had difficulty in determining whether the exceptional powers might be necessary to protect human life?

Mr Beauchemin: I'll give you an example. We have 10,000 dams and dikes Quebec. In 1996, we lost 11 dams. We almost lost a few dozen people who were fished out of the water by national defence helicopters and saviours. We were also faced with the situation where we almost lost a big reservoir that would have spilled into the Chicoutimi area. When those things happen, events are actually cascading in terms of minutes and seconds. If you're going to be losing a dam with hundreds of millions of cubic metres of water that will

destroy life and property, then you are faced with a situation where you might have to declare in a matter of an hour this kind of emergency in order to force evacuation if you know the dam is going to fail. This is the kind of situation we almost faced that brought us to understand the kind of chain of events that would trigger the use of these extraordinary powers.

We had this summer another similar event. We have in the Saguenay area 20 houses that people have built very close to a very steep, rocky cliff. We just found out and we asked these people to move out of their houses because huge boulders are unstable. We were faced with a situation where these people might lose their lives and houses and everything else because tons of rock would fall down on their children and so on. If you find out that the rock is going to be falling within one hour or 10 minutes or imminently, you are then faced with a situation where you cannot hold the rock back. There is no other means but to force an evacuation for the time necessary to secure the premises. In this case, it's a permanent evacuation.

Mr Wong: So time is obviously an important factor. Does it mean that in general, if it is a matter of hours, it would be interpreted to be immediate enough, but if it is, say, a matter of days, then you might wait a little bit?

Mr Beauchemin: It's not necessarily a matter of hours; it's a matter of showing that the context of that situation is such that there is no other resort than the use of these powers to save human lives. Sometimes you might be in a situation where it might be minutes, it might be hours, it might be days, but it's the emergency notion there that supersedes everything else.

Mr Wong: Thank you.

The Acting Chair: Further questions? I have a couple of questions. First of all, the lead ministry in an emergency situation is the Ministry of Public Security, right?

Mr Beauchemin: Yes.

The Acting Chair: In terms of the powers that the mayors can exercise in municipalities, does the minister have to pass down those powers to the mayor, or how is that done?

Ms Asselin: First of all, we must tell you that the powers given by law to the municipalities are really smaller than those given to the government. This is article 47. There are only six powers that may be used by the mayor and it is more structured. There is a lot of accountability by the mayor and he has to be in contact with the minister. The minister has to check to be sure that everything is correct and that it is used correctly.

Those powers are really for the municipalities, so the mayor can't take a decision which will touch any part of any other municipality. This is the major thing we have with that.

1100

Mr Racicot: On this question: The mayor can declare this emergency situation for 48 hours, the council for five days, but after that they need the authorization of the Minister of Public Security.

The Acting Chair: I think that's a good explanation. Secondly, are there any penalties in your legislation imposed on individuals who engage in price gouging, for instance in gasoline? Are there any provisions for imposing fines or jail sentences for people who would charge an astronomical price for gasoline in a time of emergency?

Ms Asselin: We have a special chapter based on penalties. It is chapter IX. I can't really tell you right now what the exact penalties are. I know there is something but I really can't give it to you right now. They are articles 128 to 133 and all those penalties are written in there.

The Acting Chair: OK. We will do some further reading on section 128.

The second question, in the same vein, is in terms of misuse or abuse of limited resources in a time of civil emergency; for example, the excessive use of electricity during—as you know, we had the blackout here. Are there penalties for what we call squandering or excessive use of limited energy? For instance, if a building doesn't turn off its air conditioner or if a factory is using too much power, are there penalties for that?

Ms Asselin: I think the powers we have under article 128 may include what you said. It says:

“The following persons are guilty of an offence and are liable to a fine of \$1,000 to \$5,000 ... every person who fails to report a risk ... every person who hinders the minister, an investigator” and so on.

If this is not done correctly, I think we have powers. If we are in a state of emergency and we use those special powers, for example, to close the electricity or to restrict its use by municipalities, we have powers to give penalties to the people who don't respect those special things.

Mr Racicot: Just one moment, please. We have something else to tell you: 7 and 11.

Ms Asselin: What my associate deputy minister wants to tell you is that in the special powers we have under article 93, there are two special sections. Subsection 7 says, “order that power and water mains be shut off in all or part of the territory concerned.” So this is a special power for that. There is also a special power in number 11 to “ration essential goods and services and establish supply priorities.”

It means that if the government decides to use those powers, and if we have people who don't want to respect those powers, then we may go to the penalties sections and use the powers for penalties. So it's planned.

Mr Racicot: If we are short of gasoline, we have the power to take control of all gasoline in the province and make decisions as to where the gasoline will go and who will use it. We have the power.

The Acting Chair: The next question: Yesterday we had a deputation concerned about the spread of zoonotic, animal-borne diseases, given our experience here with SARS. The reference was made that in Guelph, Ontario, we have what is called a level 2 lab and, as you know, there's a level 4 lab in Winnipeg.

What kind of laboratory capacity exists in the province of Quebec?

Mr Beauchemin: After 9/11, we did an examination of what capacity we had. We beefed up our capacity on the human side. We now have a full-fledged level 3 lab in Ste-Anne-de-Bellevue. We've added a level 3 lab for vet purposes. We've upgraded another lab to level 2 for vet purposes as well. So we have level 2 and full-fledged level 3 for human health, and level 3 for animal health as well.

The Acting Chair: That's very helpful. Again, we were told yesterday that the chief veterinarian for the province of Ontario has very limited powers. We were given an example from the United States, from North Carolina, where the chief veterinary officer has considerable powers in a case of emergency.

What about the role of the chief veterinary officer in the province of Quebec? Have you looked at that—not so much through your act but perhaps through the Ministry of Agriculture or the Ministry of Health? Has that situation been revised lately as it relates to the chief veterinary officer of the province?

Mr Beauchemin: When we did our act we toured every department. So health, agriculture and environment were all consulted.

After 9/11, I remember the act had only gone into first reading in the House. It was not yet adopted. It was not yet a bill. We were asked by our Privy Council if we wanted to add powers due to what happened in New York. We did another turn of the wheel, if I may say so, in consulting all the other departments. We all agreed that what is in the act right now was sufficient, and that the extraordinary powers which are there would be sufficient to deal with a situation that an event such as 9/11 would bring upon us, and that it was the responsibility of every ministry or department to make sure that their own sectorial act was up to date, that they had gone through the exercise. So our act actually served the useful purpose, if I may say so, of refreshing the legal outlook in other departments.

I must stress again that we have never thought the Civil Protection Act should be the act used to deal with health matters, animal health matters and so forth. Those are sectorial responsibilities. Ours is the last resort.

Lise wants to add something.

1110

Ms Asselin: If I may add a small comment, it is very important to put an emphasis on article number 3 in our bill, which says, “This act shall not operate to limit obligations imposed or powers granted by or under other acts as regards civil protection.”

As Georges explained to you, this is a very important article because it means that in Quebec civil security—and this is the spirit of our law—is a responsibility owned by each ministry, by each municipality and by each co-operative citizen too. So it's a group, and we have to share all that. For sure, a ministry has to coordinate all this, and this role involves our ministers too.

There is an article, number 63, that gives that power to our ministers through the Minister of Public Security. It says that the minister shall advise government departments and government bodies with regard to citizen protection and facilitate the coordination of their actions. This is the main role, but our minister is not the boss of the other ministers; for sure, it's the prime minister. We have to work together in coordination, and our system was developed based on that.

Mr Beauchemin: Just a last comment on this: Luc Cr peault is pointing out that our act has to be thought of by everybody else as the ways and means to deal with the consequences of events when everything else is failing, when the other acts are not sufficient or the circumstances are so exceptional that even the evolving responsibilities in health departments and other departments are not up to the task. But it does not replace the duties and responsibilities that come with dealing with situations by a sectoral minister—or a municipality, citizen or corporation.

The Acting Chair: Was a systemic overview done by each ministry in light of new emergency realities? In other words, did each ministry go through a process of updating their legislation to ensure that their powers were adequate to deal with a situation in their sector? Did they do this audit or update?

Mr Racicot: In fact, our minister is the lead in government for civil security, for emergency measures, in respect of the jurisdiction of each minister. Consequently, the main facts working in public security measures are in our ministry. For my part, I'm the coordinator of emergency measures for the government, and I play a role like Dr Young's, I imagine. I also have the power to request the help I need from other departments of government. For that, we have approved planning to this effect, called our national plan for civil security, where we plan the responsibilities of each department in times of a flood or something like that. Each department has to maintain this plan. Also, each ministry has the responsibility to be sure they can maintain the essential services they have to give to the population. For the transportation department, they have to be sure they keep the roads open; for the cultural department, they have to be sure they keep the museum things safe—something like that. All the people who are working in these different departments, if they are free, are working for us to help the population. So we have a role of coordination.

We also have the role to support the municipalities, because sometimes the crisis is too big for their capacity to respond to it. So we have the obligation to help them—and I said help them, not take the crisis off their plate. To this effect, we have about 50 counsellors on the ground in each part of the province to help the municipalities have planning. We also send counsellors to each situation where emergency measures are working to help the municipality to faire face   la situation, to—

Mr Beauchemin: Face up.

Mr Racicot: —face up to the situation. This is the kind of organization we have. We have two roles: We

have to help municipalities, and we have to coordinate the government resources we need when the crisis is biggest.

The Acting Chair: The final question I have is, I'm not quite clear on the example—I think it was Georges Beauchemin who gave the example of the homes built on the cliff that faced imminent danger. Did the government or your ministry invoke the emergency powers with that situation? What transpired there? I wasn't quite clear.

Mr Racicot: First of all, it was a municipal responsibility because it was a local problem, OK? In making a decision, first of all, we have some expertise to help us. After that, we support the local government. But it is the mayor who speaks with the people and asks them to leave. For that, we give some support of psychologists, and also have a conference with the people and the person who has the expertise to explain to the people what the problem is. So the people leave by themselves, because their mayor wants the people to understand what happens before using his exceptional power.

The Acting Chair: So basically they decided to leave through persuasion and communication?

Ms Asselin: Exactly.

Mr Racicot: Yes. And we support them with a psychologist. It's very important, because they don't believe it. They have lived there for maybe 15 years, and they don't believe it's dangerous for them, but we have a report from a specialist on that.

Also, we have responsibility for the financial assistance program for people who are victims of some disaster. This is also the responsibility of our minister.

The Acting Chair: So in terms of a more global view of your legislation, I think you are telling us that the success of the Civil Protection Act is based on the fact that, although the powers are extraordinary, the acceptance of the legislation was the result of the fact that you have so many checks and balances; for instance, the reporting to the National Assembly and the fact that there is a very high test before these powers are invoked. Subsequently, there was acceptance from the community that these powers would not infringe upon their civil liberties. This, I guess, is the reason there was such an uptake on your legislation and not too much opposition to it.

Mr Beauchemin: You're right.

Ms Asselin: Yes.

Mr Racicot: I think you're basically right, yes.

The Acting Chair: Also, it retains powers in the different ministries and does not usurp the powers of individual ministries, but just that the security minister, or whatever lead ministry there is, should coordinate and ensure that every last degree of power is used within the existing law, the existing ministries, before you intervene, as in the example you gave in the forest fires.

1120

Mr Beauchemin: There's one section or one aspect of the act we have just touched on but which I think is very important that is also part of the check and balance. That's the duty the act now puts on the shoulders of

citizens, corporations and municipalities to take into account the risks of the territory in which they live. The act, which is in the beginning of its life, will, in the next four to five years, bring about a huge exercise. Both the corporations inside the municipality and the municipality must go through the exercise of identifying all their risks and vulnerabilities, and they will have to draft and put in front of their own citizens a master plan whereby they will touch on the four sections or four moments of civil protection, which are planning, preparedness, intervention and recovery. They will have to tell their own citizens, "This is what we have in our territory. We have this cliff, we have this river which overflows up to this limit," and so on and so forth. "Therefore, we will be adjusting and we will be telling people where you will be evacuating, who will be in charge in the municipality, what resources we have." That exercise being public also means that the risk assessment by the people living inside a community will be shared. Also, the response to the consequences of an event will be known in advance, so their capacity will be known in advance.

That exercise is also part, I would say, of the acceptance of the act, where society in the houses have accepted the fact that, yes, there are extraordinary powers in the act, but there are also new duties which are transversal in society which now bring responsibilities of civil protection not only on the government's shoulders, not only on the minister's shoulders, not only on civil servants' shoulders, but on citizens' shoulders, on corporations' shoulders and on local politicians' shoulders as well. If they do not face up to those responsibilities, they have to answer for their acts.

So the check and balance in the act is a whole complex. I would not want you to think it is only the extraordinary powers. They are the ones that bring the most discussion in the beginning, but we found out that once you structure the check and balance in such a delicate fashion, it's the overall act that is important and it's the overall responsibilities and duties and the carrying out of those responsibilities and duties which bring the success.

The Acting Chair: I think that's an excellent point. It's a two-way street, in other words. It's not just a matter of powers, it's a matter of responsibility, and everybody has to be involved in that audit and, as you said, the risk assessment. And the private citizens or corporate entities are obliged to do a risk assessment.

Mr Beauchemin: That's right.

The Acting Chair: I think that's really all the questions we have. On behalf of the committee, I would like to give our deep appreciation to all of you for being so helpful and so informative—a very impressive overview of the work you've done in Quebec. We are envious of the amount of thought and intelligence you've put into your Civil Protection Act, and hopefully we can benefit from some of the experiences you've had in Quebec. This morning's presentation is going to be most helpful to us. It certainly has given us a great deal of food for thought. I want to extend thanks on behalf of the justice

committee and the Legislature of the province of Ontario for taking time in, I'm sure, your busy schedule. I'm also going to pass it over to MPP Broten for some parting comments.

M^{me} Broten: Je voulais juste vous remercier. On espère que si pendant la période de nos délibérations, durant les semaines et les mois qui viennent, on aura besoin d'un peu plus d'avis ou qu'on aura des questions, on pourra vous appeler. Mais c'était certainement, aujourd'hui, très intéressant, et on a appris beaucoup de vos efforts dans la province de Québec. Alors, merci bien.

M. Racicot: Merci, et n'hésitez pas. Si vous avez n'importe quelle autre question, on se fera un plaisir de travailler avec vous en conférence téléphonique ou de recevoir des visites ou autre. Ne soyez surtout pas gênés de nous appeler ou de nous demander des informations additionnelles.

M^{me} Broten: Merci. Bonne journée.

M^{me} Asselin: Merci. Au revoir.

The Acting Chair: Thank you. Au revoir.

COMMITTEE BUSINESS

Ms Broten: Chair, before we adjourn, I have a couple of housekeeping matters. If we could deal with them, that would be helpful.

The Acting Chair: Go ahead.

Ms Broten: Before Mr Kormos departed, he suggested we schedule a subcommittee meeting for 9:45 tomorrow morning, in advance of the opening session. That would certainly work from my perspective.

The other issue is that the National Emergency Management Association is having a conference on September 14 and 15, and Mr Dunlop indicated that he would be interested in finding out more details about that conference. I have obtained some details. Certainly two of the four days, September 14 and 15, look most helpful for a couple of our members to attend. I wanted to raise that before the committee today and get the approval to register two members at that conference. The deadline has just passed, so I'll give it to the clerk, and perhaps he can contact the organization today and determine whether two of our members might be able to attend. Certainly I would make myself available and I believe Mr Dunlop is also available.

The Acting Chair: Any comments on the two items? The first item is 9:45; it's going to be just the subcommittee.

Interjection: Agreed.

The Acting Chair: That's agreed to, and hopefully Mr Dunlop will be made aware that he or a representative can be there.

The second issue: Any questions or comments about this conference registration and attendance by two members?

Mr Arthurs: Agreed.

The Acting Chair: That's agreed.

I also have a couple of issues. First of all, there is available to members of the committee the executive summary of the 9/11 commission report. The book on the 9/11 commission is out of stock right now. It's just available for the members' background information. It's a pretty concise and thorough examination by the 9/11 commission. So those are available.

For tomorrow's schedule, which begins with the 9:45 subcommittee meeting, it has been confirmed that we have the Ontario Trucking Association in the afternoon; in the morning we have the Ontario Paramedic Association, the Red Cross and the Dairy Farmers of Ontario—all confirmed for Wednesday.

Ms Broten: Chair, those are new additions to our list. The truckers and the dairy farmers are at what time?

The Acting Chair: The truckers are at 1 pm; the dairy farmers will be at 11:30 am. That will be made available to the members.

Mr Wilkinson: Just two more housekeeping matters: I can confirm that, next Tuesday, either I or someone from my staff will attend the Poultry Industry Council debrief post the avian influenza in British Columbia. I'll be able to report back whatever material we gather from that.

A point of clarification—and this came up in the Quebec testimony. One of the points made by Dr Whale yesterday is that we don't have an animal health act here in Ontario, which I think is where you have additional powers that flow to the provincial veterinarian. I believe her presentation was that all other provinces have that. So when we get into this issue of having extraordinary powers, there's an assumption that all the other pieces are in place. It's a gap that has been highlighted for this committee that may be beyond the scope of this committee. We're kind of at the 30,000-foot level, but there seems to be a gap that's been identified at the 5,000-foot level. I don't know how we deal with that.

I don't know whether OMAF has been invited to audit this committee, but now that we've gone into this area of zoonotic disease, I think it's important that we coordinate well with the Ontario Ministry of Agriculture and Food.

The Acting Chair: If you wish, we can even invite them to appear—I'm not sure if they have been invited already.

Mr Wilkinson: OMAF has been here. I'm sure Ms Broten would know, but I think there are three parliamentary assistants who have been tasked to audit the work of this committee. Is that correct?

The Acting Chair: Ms Broten?

Ms Broten: I think the issue raised by Mr Wilkinson is an important one. What we could do that I think would be helpful is ask research to provide us with confirmation about the animal health acts in other provinces, particularly examining this issue that has now been raised. Whether we make reference to it in a report, or who knows where we will land on the issue, we would want to have confirmation that the facts given by the deputants are accurate and that other provinces have this legislation and we don't.

The Acting Chair: Yes. As a follow-up to that, it's interesting to note that Quebec has certainly upgraded their laboratory capacity—human and animal health capacity. That was quite interesting.

The approach this committee has taken so far is that we are doing an audit of all statutes. That is our mandate. I don't think that means we are going to be suggesting that all this be incorporated in our draft bill. As Ms Broten said in her comments, references to these deficiencies or these suggestions made by deputants can be made in our report. I think it's wise for us to focus in our report on the doables from an emergency preparedness perspective.

But as I said, the mandate is to look at everything. Whatever we are made aware of, I'm sure the committee will see fit to put in the report, which I think will be of a substantive nature and helpful in giving a survey of what is and isn't in place in Ontario and in other jurisdictions, so there is an ability for us to get down to ground level as far as we can to make suggestions in our report.

If any members of the committee have presentations that have interested them that they think should be part of the report, that's what the report-writing stage will be all about. That will be facilitated by the summary written by research, where most of these suggestions and comments will be made available to all of us to refresh our memories. Also, Hansard records all the detailed presentations. That's the overview as far as I see it, in terms of the report-writing and the draft legislation.

We will meet again tomorrow at 10 am in this room, except for the subcommittee at 9:45. I would ask the committee members to remember that if there are other names or organizations that we might be able to fit in, there is still some flexibility in the schedule.

The committee is now adjourned until 10 am tomorrow.

The committee adjourned at 1134.

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