

# Brant MPP wants cemeteries act revised to protect burials

By Donna Duric  
Writer

Brant MPP Dave Levac says the provincial Cemeteries Act needs to be revised after the second aboriginal burial in a year was discovered last Sunday on Birkett Lane in Brantford.

"I've already started the process of ensuring there is a protocol in place for not only the first steps that are taken once artifacts are found but specifically bones that are identified as indigenous remains," said Levac. "I'm a little bit concerned that we need to define clearly what the security piece is. What does that really mean? Somebody can come in the middle of the night, pick something up and walk away, so I'm concerned about that."

That's exactly what ended up happening last week when the remains discovered on Birkett Lane on Nov. 18 disappeared Wednesday night and were returned in a bucket on Friday morning by land rights activist Floyd Montour.

The scenario has left Hazel Hill, director of the Haudenosaunee Development Institute (H.D.I.), shocked at what she's calling "indignation to human remains."

She said Brantford Police

should have guarded the area until a permanent solution was found.

"The reason this happened is because Brantford (police) should have been at that site right from the get-go," said Hill. "I am speechless that the individual who did what they did would stoop to such levels."

She said Ontario's current policy of putting the burden on homeowners to pay for archaeological work on such sites should be changed because it could encourage people who find remains in the future to keep quiet about the discoveries.

Levac said he's already started working with the Ministry of Consumer Services to fix the flaws in the Cemeteries Act, namely the security aspect.

"I've already taken steps at the request of a few people that have made contact with my office to work with the ministry to ensure those security issues are defined clearly. There is a protocol that you're supposed to secure the site. I'm not convinced that it's good enough. I believe what we have to do is ensure that the definition is clearly delineated to be respectful of the find."

He said he will also work on

a plan to deal specifically with aboriginal burials along the Grand River tract because he's convinced there will be more and should not be dealt with on a one-off basis.

"If we don't have rules in place that encourage stepping forward, what we're doing is forcing it underground," said Levac. "If somebody were to find artifacts of any sort, they would quickly bury them. Because there's a heightened sensitivity to (aboriginal burials), we need to improve where we are and move forward."

Ontario's Registrar of Cemeteries, Michael D'mello, said currently, homeowners are responsible for paying for archaeological assessments on any burials they have discovered on their property but he wouldn't clarify if the landowner will have to pay in this case.

"It is premature to say if the landowner will have to pay for the re-burying," he wrote in an e-mail to The Turtle Island News. "This depends on the archaeological investigation, and the outcome of the site disposition negotiations between the landowners and representatives."

The registrar did, however, pay for an archaeological assessment on a different prop-

erty in July, but it did not cover the full costs associated with the burial discovery. Habiba Ahmed, who was building her dream home on the Oxbow lands in Brant County, was forced to move in with her parents after the financial strain of the discovery took its toll.

Though Ontario has paid out \$26,000 to archaeologists, Ahmed has had to cover \$33,000 in other costs and in addition, is being told she cannot sell the property, which she is still making payments on to protect her credit score.

Ahmed is cringing to think of what the Birkett Lane property owner will endure after reporting human remains to authorities, considering how her own situation has been handled by the province.

"We are working with the Ministry of Consumer Affairs," she said. "The Registrar of the Cemeteries Act,

Michael D'mello, has full empowerment of the situation and will have full empowerment of the Birkett Lane situation. He has the final word, and he is the one that has ordered halting of all construction until negotiations of all parties involved is complete." Ahmed says some sort of land trade would be ideal but so far she has heard nothing from Ontario. "We are not allowed to do anything with the property."

Ahmed says because of the way the provincial government has handled her case, she regrets being honest about finding the remains. "It does not pay to be honest with this system. We are left with property which we have no rights to do anything with but we still owe the bank for. We do not have the right to sell it until some sort of negotiations are complete," she said. "We are still in the negotiating stages."

She says the Birkett Lane property owner should not have reported the find.

"I just wish he'd never put the call in. The government doesn't help," she said. "I wanted to be honest and upfront, too, and now they'll be in the same boat we are where they're going to be really regretting it later."

Meanwhile, an archaeologist appointed by the province has been called in to the Birkett Lane property and a site disposition agreement has to be reached, said D'mello.

"The site disposition agreement will describe how the burial site will be handled," he wrote in the e-mail. "The site may be established as a cemetery or the remains may be disinterred and re-interred in an established cemetery. If no site disposition agreement can be reached, the matter will be referred to arbitration. The decision of the arbitration panel is binding."