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**Official Report  
of Debates  
(Hansard)**

**Monday 3 December 2001**

**Journal  
des débats  
(Hansard)**

**Lundi 3 décembre 2001**

**Standing committee on  
finance and economic affairs**

**Comité permanent des finances  
et des affaires économiques**

Ontarians with Disabilities  
Act, 2001

Loi de 2001 sur les personnes  
handicapées de l'Ontario

Chair: Marcel Beaubien  
Clerk: Susan Sourial

Président : Marcel Beaubien  
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
FINANCE AND ECONOMIC AFFAIRS**

**COMITÉ PERMANENT DES FINANCES  
ET DES AFFAIRES ÉCONOMIQUES**

Monday 3 December 2001

Lundi 3 décembre 2001

*The committee met at 0900 in the Promenade C Ballroom, Casino Windsor Hotel, Windsor.*

**ONTARIANS WITH DISABILITIES  
ACT, 2001**

**LOI DE 2001 SUR LES PERSONNES  
HANDICAPÉES DE L'ONTARIO**

Consideration of Bill 125, An Act to improve the identification, removal and prevention of barriers faced by persons with disabilities and to make related amendments to other Acts / Projet de loi 125, Loi visant à améliorer le repérage, l'élimination et la prévention des obstacles auxquels font face les personnes handicapées et apportant des modifications connexes à d'autres lois.

**The Chair (Mr Marcel Beaubien):** Good morning, everyone. I would like to bring the standing committee on finance and economic affairs to order. I would like to point out that today is the International Day of Disabled Persons. Also, for the information of the audience, we have copies of the bill available at the back of the room in Braille, we have audiotapes, we have disks, we also have the bill in the French version, plus we have copies in large print.

**ONTARIANS WITH DISABILITIES  
ACT COMMITTEE,  
WINDSOR/ESSEX COUNTY CHAPTER**

**The Chair:** Our first presentation this morning is from the Ontarians with Disabilities Act Committee, the Windsor-Essex chapter. I would ask the individual to state your name for the record. On behalf of the committee, welcome. You have 20 minutes for your presentation this morning.

**Mr Dean La Bute:** Good morning. My name is Dean La Bute. I'm the chairman of the Windsor-Essex chapter of the Ontarians with Disabilities Act Committee. On behalf of the committee, I'd like to welcome you to Windsor today.

I have had a standing quid pro quo with government standing committees over the years, and that is the following: that I would not make submissions in writing to the standing committees until they provided to me the alternative format that I required to access your information. I'm happy to say that this committee and the government of the day have provided your bill, Bill 125,

in alternative formats to the disabled community. Therefore, in recognition of that, you have before you printed copies in your format of our submission to you today.

In addition to that, I have for Susan to pass on to you an audiotape copy of our submission, a CD disk of our submission, a printed copy in 15-point print—which is the standard print by the Canadian National Institute for the Blind—and for any panellists who may be visually impaired, large 20-point print. In addition to this, I also happen to have for the record a copy in Braille of our submission today.

Once again, on behalf of the Windsor-Essex chapter of the Ontarians with Disabilities Act Committee, I welcome this committee to Windsor. This is an important day for this chapter, for we have worked long and hard for an Ontarians with Disabilities Act. Our chapter was formed in November 1994, and ever since the formation of this chapter, we have been most active in this community and have had community support in our work toward a strong and effective Ontarians with Disabilities Act. We have worked in conjunction with our provincial chapter, headed up by David Lepofsky, in making a submission to the government party and the opposition parties going back to April 22, 1998, where we presented to the government and the opposition parties a submission that we fondly refer to as the Blueprint for a Strong and Effective Ontarians with Disabilities Act. It was within that document that we brought forward the issue of inclusion of persons with all disabilities, including physical, mental, sensory, visible and invisible disabilities. Those categories are represented in the membership of our chapter in Windsor and Essex county.

As articulated in the brief before you, over the course of these six years we have had many events staged in this community to bring forward to the community the need for a strong and effective Ontarians with Disabilities Act. As outlined in the document, we've had parades, we've had marches and we've had educational seminars. We've had an extensive, close working relationship with the media in this community where we have held town hall meetings on the issue of the need for an Ontarians with Disabilities Act. We've been on radio programs where we have literally had call-in shows for hours on multiple occasions addressing the need for an Ontarians with Disabilities Act.

You will find that there is a continued commitment in this community for such legislation that is not met by any

other community. To quote David Lepofsky, the best ideas, time and time again, have come out of the Windsor-Essex chapter. Time and time again we have led the way in this province to bring this issue to the forefront.

Our submission today, I would like to say, is on behalf of our members, their friends and families and our community and, I would like to add, in the memory of three members of our committee, who were integral to the success of our committee, in that we've lost these members over the course of this past year. That is the nature of disabilities. People with disabilities deal with many things in their lives. Over the course of this past year, I must regretfully inform you that we have lost Dr Sam Friio, who was our expert on the Americans with Disabilities Act; Mr Graham Davies, a gentleman who worked very hard in our committee, who represented well the HIV/AIDS community and who headed up our newsletter and our Web page; and Mr Mike Lawson, who recently died, and was chairman of our membership committee and, as the chair of the Windsor-Essex injured workers group, had a deep devotion to the need for a strong and effective Ontarians with Disabilities Act. Each of these gentlemen is truly missed by our chapter and by our community and each of these gentlemen was under the age of 50.

Our submission today covers six areas, followed by eight recommendations. The areas we have identified in this brief we maintain will enhance Bill 125. We readily acknowledge that this government and this minister have brought forward in this country the very first disability act in Canada, and they are to be commended for that. But we also maintain that this bill requires substantial amendments to make it a strong and effective bill to meet the needs of more than 1.6 million Ontarians.

As for the areas of our brief that are covered off today, they include the demographics of Windsor and Essex county. They also include the issue of mandatory versus voluntary barrier removal; the issue of resources; the role, function and authority of the access advisory council; the private sector; and last, but not least important, the role of the federal government. We've clearly identified these areas because these are the areas that will enhance this bill and impact upon the lives of persons with disabilities on a daily basis.

The first component of that: the demographics of Windsor and Essex county are a microcosm of the province of Ontario. You'll find in our submission that the population of Windsor and Essex county is approximately 350,000. Of that 350,000, approximately 22% of the population are identified by the Windsor-Essex United Way as seniors, those who are 55 years of age and older. It is worth noting that 18.3% of the population in Windsor and Essex county are people with disabilities. To reflect the ethnic diversity of Windsor and Essex county, we rank third in Ontario, with more than 10% of our population identifying themselves as visible minorities.

What is critical about these figures is the changing demographics within our community, the province and

this country. It is projected by both our Essex county United Way and by Stats Canada that by the year 2015, one in four citizens of Windsor and Essex county will have a disability. Another interesting figure that will impact upon the need for a strong and effective Ontarians with Disabilities Act is the fact that, according to Stats Canada, Canada is unique in the world, where 34% of our population are baby boomers. Baby boomers are those born from 1946 on through to the early 1960s. That first wave of baby boomers has turned 55 this year, and if you think that we are pressured now on the goods, services and facilities in this community required to meet the needs of persons with disabilities in the area of health care, for example, in the area of transportation, in the area of employment and training, in the area of social housing, you haven't seen anything yet, because as the baby boomers move along that continuum, it will only increase the demand for strong and effective legislation. That is why we have brought to your attention the demographics on Windsor and Essex county.

#### 0910

As for the issue of mandatory versus voluntary barrier removal and the issue of resources, our first recommendation of eight addresses this issue. Our first recommendation is that the Ontario government must set forth in regulations time limits for the development and implementation of plans for the removal and prevention of barriers.

Recommendation number 2 calls upon the Ontario government to provide adequate funding for those organizations identified in the act to implement their plans for barrier removal and prevention. In our opinion, this is absolutely critical. The fact of the matter is that those organizations identified in the legislation require funding to assist them to implement those barrier removals, to implement the plans for barrier removal and prevention of barriers. That is why we are absolutely clear in our opinion that these recommendations must be reflected in the amendments brought forward to Bill 125. As articulated in our document, we clearly state the rationale behind this, and you may read that for yourself in the document.

Our third recommendation addresses the access advisory council. It's our recommendation that the government of Ontario give the access advisory council the authority and mandate to (a) determine benchmarks and provincial standards for barrier-free communities, (b) advise the Ontario government and its ministries on disability issues and the development of regulations, (c) educate the government and the general public on disability issues, (d) monitor the implementation of guidelines and plans for the removal and prevention of barriers and (e) advocate for a barrier-free community.

We feel that these changes must be implemented to strengthen the goal of the access advisory council. Without these changes being brought forward and made part of the act, it will be but an advisory council. Advice is good, but to have credibility in the eyes of the government, to have credibility in the eyes of the ministries, to

have credibility in the eyes of the public and to have credibility in the eyes of the disability community, this access advisory council must have these authorities and mandates to be effective and to meet the needs of 1.6 million Ontarians who demand that they be recognized under law.

Over and above this, recommendations 3, 4 and 5 apply to the access advisory council. The next recommendation is that the access advisory council must have adequate resources to monitor the stages of implementation in communities across Ontario with the full authority to issue a public annual report in alternative formats on the progress of barrier removal and prevention. And last, as it applies to the council, the membership on the council must be representative of consumers and major disability advocacy groups in Ontario. We feel that these recommendations 3, 4 and 5 will strengthen and enhance the role of the access advisory council and in fact give it the ability to do its job properly.

As for recommendations 6 and 7, they apply to the public sector, for in the life of a person with disabilities our daily encounters in the community take place principally within the private sector. It is not that often that we deal with the government of Ontario or municipal governments, but rather on a day-to-day basis we deal with the private sector. Therefore, recommendations 6 and 7 address the issue of the public sector. Currently, based upon our briefings with the minister—and I had the privilege of meeting with Minister Jackson on a consultation on the bill—it is my understanding and that of our chapter that this bill will extend over a period of time to all sectors, which would include the private sector, over the course of the next 10 years. We acknowledge that. In our Blueprint for a Strong and Effective Ontarians with Disabilities Act, we recommended that we did not want this to be brought about within one week or one month or one year, but we acknowledged the need to phase this in through the means of education over the course of time so that everyone will be on board at the end of the day, and for us, the end of the day is no longer than a maximum of 10 years for phasing in.

Therefore, the government of Ontario, by regulation, must develop guidelines and timelines for the private sector for barrier removal and prevention. Recommendation number 7 is that the government of Ontario must provide the private sector with incentives, that is, financial incentives, to remove barriers and for the prevention of barriers. This is absolutely critical. This may be in the form of grants, tax credits. You are bright, articulate, intelligent people. You can apply your own rationale as to how to bring this about, but it must be done.

Recommendation number 8 does not apply to Bill 125, but rather we call upon the Ontario government to demand a meeting with the government of Canada to commence work on the creation of a Canadians with Disabilities Act. We feel that this is critical to complete the circle so that it is totally inclusive in the process of meeting the needs of persons with disabilities in the province of Ontario. There is a term of “collateral

benefits.” By having the federal government brought on board, it will act as a catalyst for the other provinces in our fine country to follow the lead set by Ontario in bringing forward a strong and effective Ontarians with Disabilities Act.

We truly believe that with the incorporation of these recommendations into Bill 125, we will have an act that will meet the needs, now and for the foreseeable future, of people with disabilities. We will settle for no less. It is imperative that the federal government, as I’ve stated, be brought on board to complete the circle. We are a growing legion of people in this community and in this province. Our rights are guaranteed to us under the federal Charter of Rights and Freedoms and also under the Human Rights Code. These are not privileges we are requesting but rights we are demanding.

Therefore, in conclusion, I would like to say the ball is now in your court. We have spoken. We now ask our government to state that you have listened, you have heard what we have said and you have taken it with an open mind and an open heart and will act on our recommendations to strengthen this bill. I’m open for questions.

**0920**

**The Chair:** Thank you very much. We have approximately a minute per caucus and I’ll start with the government side for a brief question.

**Mr Ernie Hardeman (Oxford):** Thank you very much for the presentation. I was just wondering, with your recommendation number 8, to bring the federal government forward to implement a disabilities act for all of Canada, is that the answer for all of Canada? Do we need first one in each province and then one nationally, or should we be working with the national one?

**Mr La Bute:** I’d like to answer that. As you may recall, in the United States they have the Americans with Disabilities Act, but their structure is such that what impacts on the day-to-day life of a person with disabilities in the United States falls under federal jurisdiction. But, frankly, under the Canadian structure what impacts on the day-to-day lives of persons with disabilities falls principally under provincial jurisdiction. There are areas, such as transportation and employment, that fall under the federal jurisdiction and therefore it’s imperative for the areas that fall under federal jurisdiction to be addressed under a Canadians with Disabilities Act, to work in concert with a strong and effective provincial law.

**Mr Ernie Parsons (Prince Edward-Hastings):** An excellent presentation. Just a quick question. As you said, the federal government needs to have a strong role. This bill provides for municipalities to have a role, but only municipalities with a population of 10,000 or over. I’m interested in your comment on whether the municipalities should be separate in their efforts or whether there needs to be strong provincial control for everyone in Ontario.

**Mr La Bute:** I look at it this way, Mr Parsons. The fact of the matter is that each level of government has a role to play. It’s like a fine symphony orchestra. To have great music, you have to be working in coordination with

one another to bring forward the sound that the audience will enjoy. We need all three levels of government to work in concert with each other to meet the needs of the population of Canada.

Keep in mind that this law, Bill 125, addresses the needs of persons with disabilities, but there's a residual benefit to this. Everyone in the province of Ontario, everyone in this country, will benefit through the enactment of such a law. It is not just the disabled who make use of ramps, but a mother with a child in a stroller and one in tow certainly benefits from the ramp as opposed to having to go up stairs. There are many other areas that we look upon as having a revolutionary concept. It's called common sense, and I believe the government members would recognize that. The fact of the matter is that what we've put forward in our recommendations for enactment as amendments to Bill 125 are revolutionary in that it is common sense. Each one of them makes sense and enhances the quality of the bill to meet the needs of the population of Ontario.

**Mr Tony Martin (Sault Ste Marie):** Thank you very much for your presentation this morning and the obvious effort that has gone into this set of recommendations. You have been working on this for the past six years, you indicate, and obviously see the bill that has been tabled as having some shortcomings. You've made, I think, six excellent recommendations—

**Mr La Bute:** Actually, Mr Martin, there are eight recommendations.

**Mr Martin:** I'm sorry. Yes, you're right, eight excellent recommendations. The question I have for you is, if the government doesn't agree to these recommendations, is the bill worth passing?

**Mr La Bute:** We have given this considerable thought and discussion and we are of the opinion that the government of the day is open to recommendations, is open to amendments. We call upon the government members and the opposition members to work in unison to bring about these necessary amendments to the bill. With these amendments, this bill must be enacted, and the sooner the better. It is not to be withdrawn. If there are absolutely no amendments, we still look forward to this bill being passed. But in all frankness, gentlemen, we have been working at this for six years. We will continue to work at this, be it with this government or the following government. We will not quit. We are here for the long haul for a strong, effective Ontarians with Disabilities Act. Whether this party, the government party, forms the next government or one of the opposition parties, we will be knocking at your door to enhance, to strengthen whatever legislation becomes law in Ontario.

**The Chair:** On behalf of the committee, thank you very much for your presentation this morning.

Before I call on the next presenter I would remind members that checkout time is 11 o'clock this morning. Also, instead of having a break, at 11:40 if you could put on your agenda that the Multiple Sclerosis Society of Canada, Ontario division, will be making a presentation.

## WINDSOR ADVISORY COMMITTEE ON DISABILITY ISSUES

**The Chair:** With that I'll go to our next presenter, which is the Windsor Advisory Committee on Disability Issues. I would ask the presenter to please come forward and state your name for the record. On behalf of the committee, welcome.

**Ms Carolyn Williams:** Good morning, ladies and gentlemen. I am Carolyn Williams. I am Chair of the Windsor Advisory Committee on Disability Issues. I just want to start out by saying that our advisory committee fully supports the eight recommendations that the Ontarians with Disabilities Act Committee, Windsor-Essex Chapter, just put forward to you. We also are fully in support of the complete package of amendments that David Lepofsky has, I believe, already presented to you. Today I just wanted to talk a little bit about some personal issues and some municipal issues.

I was on the Internet this week and I was looking at certain areas of the ministry. I see that we have core business, with women's issues listed there; we have core business, seniors' issues listed there; core business, citizenship issues, during the 2000-01 budget. I see a lot of money allocated to all sorts of issues: citizenship, \$78 million; women's issues, \$16 million; citizenship, \$35 million; seniors' issues, \$2 million; regional services, \$7 million; and the administration of the ministry, \$18 million. However, I don't see any money allocated for disability issues. I'm sure it has come out of some pocket someplace, but I don't really see where.

I'm not disappointed with the act as it stands. I think there is room for a lot of improvement. I'm especially concerned about financing some of these changes. Our small committee has been operating for 20 years. Our budget last year was \$29,000. Actually, we had \$7,000 surplus, so it came in at \$36,300. That's not a very large amount of money but we've done quite a bit with it over the last 20 years. That money primarily pays for a part-time coordinator.

I was fortunate to be able to go down and hear the reading of Bill 125 in the Legislature. I was a little—what's the word?—offended, I guess, by the partisanship that occurred during the reading. I have to tell you in all honesty that disability issues are issues with respect to humanity and they cross all partisan levels, all genders. It's a portion of humanity that, over our world history, is at the bottom rung of the ladder. Even in Nazi Germany, the first people they killed, before they killed the Jews, were disabled persons.

**0930**

I feel I have a pretty good handle on the disability community just from personal experience. I have a mobility impairment. I have a brother who is currently living in community living. I have a niece and a nephew living on the streets in Toronto, addicted to crack.

Our funding is really severely lacking in a lot of areas. Maryvale in Windsor is a teen youth centre, and beds have been cut. When I was living in Toronto, we tried to

get help for my niece and nephew, from the ages of 12 on. My nephew did go into Youthdale. I'm sure you're aware of what Youthdale is. It's a crisis centre in Toronto. It has 11 beds. He was in there twice after he tried to kill his mother, but it took that much to get him into that facility.

We're talking here about access, we're talking here about education. When I came back from Toronto on the plane, when I was de-planing, I was literally treated like a refrigerator. I was put on a dolly, flung backwards, not strapped down. I became so frightened that I ordered the man off the plane. I am going to be making a Canadian human rights report and I will take it to the top. I'm just one person. I can think of half a dozen instances where I could go to the Ontario Human Rights Commission.

Last year, I was fortunate to be presenting a brief to Minister Stockwell when he was here for the Employment Standards Act. Within two or three moments of my starting my report, he reminded me that I was talking to the wrong ministry. Since when are disabled people who are seeking employment and go to the Ministry of Labour not talking to the right ministry? I was so dejected as a result of that comment that I never did submit the brief through the e-mail. I did tell Minister Jackson about it. The time limit has passed to take that to the Ontario Human Rights Commission, and I wouldn't do that, but I am going to make the statement public today.

Our government, the people we elect, truly do need education, and there has to be money in order to educate people. It's difficult to look a disabled person in the eye and say, "I'm sorry, I haven't got money for you."

Assistive devices programs have been cut by your government. If you're using a mobility device, you live in that device 24/7, except when you're in bed. Try to sit in the same chair for five years and expect it to operate properly. I'm sorry, it won't. The one I'm sitting in right now is held together with duct tape. I can afford to put new tires on it every two years. Fortunately, I'm up for a new vehicle and I'm hoping the repair costs won't be too high. These are just personal issues.

I think with respect to the act that the municipal aspect of the act is extremely important but it's going to need some money. Unfortunately, you've kind of pushed the Trillium Foundation over to tourism, but that might be one area through which financial help can come to the municipalities in order to set up these advisory committees. We already have 19 advisory committees in Ontario. Some money should possibly go to those committees that are already in action to help disseminate the information to the other communities. Why reinvent the wheel? We've already done a lot of work. We can share that.

I can't remember which minister or MPP mentioned smaller municipalities being involved. I think that would have to be on an elective basis, but I do know there has been a complaint from Parry Sound that they were left out. So I think if there is any funding that comes out of this, municipalities that have less than 10,000 people, if

they choose to have an advisory committee, there should be funding available for them.

I guess that's pretty well what I wanted to say. I just think it's extremely important that members of the disability community educate one another on their needs and that the government educate itself. It's very difficult to walk in another person's shoes until you've lived there for a while. I appreciate that, but I really believe we have to start our education process at the highest levels and at the lowest levels of government.

**The Chair:** We have approximately two minutes per caucus and I'll start with the official opposition.

**Mr Parsons:** I'm intrigued a little bit about your comment about smaller municipalities. My sense was that the purpose of the ODA was to level the playing field, that there be no barriers, regardless of whether a person has a disability or not.

Following that line, just to clarify, I'm wondering if you meant that people in smaller municipalities who have a disability—should they not have the same rights as persons in larger municipalities?

**Ms Williams:** Oh, definitely.

**Mr Parsons:** Because this act provides for exemptions for 10,000 and under.

**Ms Williams:** I viewed that specifically as being that that municipality may not be able to afford it. That municipality may be in a demographic where getting the volunteer staff to work on that might be difficult for them. Frankly, I think there should be one in every municipality or there should be a person involved in that municipality, responsible for disability issues expressly as part of their job. Yes, it should level the playing field everywhere.

**Mr Parsons:** There should be the same access regardless of where a person lives.

**Ms Williams:** Regardless. All over Ontario and Canada, yes.

**Mr Martin:** Thank you for coming this morning. You list a whole lot of the challenges that are faced by people out there across the province, and certainly your own experience.

In your review of this act—you've obviously taken some interest in it in that you came to Toronto when it was tabled—will it deal with, respond to, answer, give you any sense of relief that those issues you have listed here this morning will be dealt with because this act becomes the law in the province?

**Ms Williams:** I can't give that an unequivocal yes, of course, because the act clearly is deficient in a number of areas. I would have to say the Ontario building code is revamped every three or four years, I believe, so I see no reason why, if we don't get everything we're asking for right now, these issues cannot come up in the future and be amended. We're all on a learning curve here. If you go back in history, you'll find that community living—my brother was in an institution for the first 35 years of his life, and he's now in the community participating in life skills classes. I'm sure that created a fairly large savings for the government, because now the people are less in a

hospital environment and it's better for the community living persons.

All in all, I think there's a lot of room for improvement and, as Mr La Bute mentioned, we won't stop until we get a level playing field.

**0940**

**Mr Joseph Spina (Brampton Centre):** Thank you, Ms Williams, for joining us. In speaking with a personal friend of mine, Councillor Valentinis, he told me you were a terrific person doing the work that you're doing, so I pass that compliment along to you.

**Ms Williams:** Thank you.

**Mr Spina:** I quickly wanted to address two elements that you mentioned. One was the funding issue and also the building code issue, and then I have a quick question, so I'll try to get through this quickly in the time allocated.

The May 2000 budget does give a breakdown of some new funding for new facilities for adults with developmental disabilities: \$55 million more this year and growing to nearly \$200 million in the next six years; also \$27 million over three years to upgrade, renovate, build or purchase new facilities for some community mental health organizations, for those disabled in that way.

The Web sites don't often give a breakdown of the funding budget within the ministry, so your criticism is well taken. Out of the budget that you mentioned for citizenship, I think it's \$35 million that is for disabilities in various ways, for children's treatment, respite, research and development, transportation, special education, tax incentives, some income and employment supports and so on.

**Ms Williams:** I'd like to see that on the Web site. I think that's important.

**Mr Spina:** Yes, it should be. I agree with you that it should be on the Web site. Thank you.

Section 9 of the bill relates to the building code and it says, "If a project relates to an existing or proposed building, structure or premises for which the Building Code Act, 1992 and the regulations made under it establish a level of accessibility for persons with disabilities, the project shall meet or exceed that level in order to be eligible to receive funding under a government-funded capital program." That is a specific clause in the bill, and if you think that we could improve on that, we certainly would appreciate your input on it.

**Ms Williams:** I'll look over that. I think the deficiency in the Ontario building code to a great degree is that technology is surpassing the ability to implement things. It's important to keep up with technology as quickly as we can. There are things like voice chips in elevators. They are very inexpensive and they really should be in every building, especially ones that have public access. So it's not a big cost. As you go through certain markets, you have to pass through a theft device. You have to make sure that that is an exit. I've actually gotten my wheelchair stuck in between two of them because they didn't treat that as an exit. So technology really goes too fast for our building code.

Perhaps I could just mention two quick things, because I forgot to mention them. I don't know what kind of programs we have in our schools that train architects in barrier-free design, but that's something you may want to consider, supporting a program like that. Also, we're very deficient in the number of sign language interpreters that we have and that businesses can access. Perhaps some sort of tuition rebate might be in order to try and bring people into that field. There are a number of areas where we need the teachers.

**The Chair:** With that, we've run out of time. On behalf of the committee, thank you very much for your presentation this morning.

**Ms Williams:** Thank you. I'm just going to leave this with you. I did not have as many copies as I would have liked. It's a copy of our 2000 annual report. It's my personal copy, so there are a few highlighted things in there, but it might be interesting to look at.

#### WINDSOR-ESSEX BILINGUAL LEGAL CLINIC

**The Chair:** Our next presentation is from the Windsor-Essex Bilingual Legal Clinic. I would ask the presenter to please come forward and state your name for the record. On behalf of the committee, welcome. You have 20 minutes for your presentation this morning.

**Ms Stephanie Spiers:** Good morning. My name is Stephanie Spiers and I'm one of three lawyers who work with the Windsor-Essex Bilingual Legal Clinic. We are part of Legal Aid Ontario, one of 70-odd clinics across the province that provide free legal services to low-income individuals. As such, we have a lot of interaction with members of the disability community. We're also a member of the Ontarians with Disabilities Act Committee, Windsor-Essex chapter, so we also have that connection to this issue.

We witness daily barriers faced by persons with disabilities in obtaining employment or accessing education and other services. Today we want to talk about some of the shortcomings that we see and problems posed by the bill, and we're going to be quite specific about the interaction between Bill 125 and the human rights legislation that's currently in existence, the Ontario Human Rights Code, and where there may be some potential that the act could actually detract from the code. That's one of our concerns, and we'll be talking about specifically some definitions in some key sections.

Basically, we'd like to start by saying that Bill 125, in our view, is about the creation of accessibility plans by various public sector entities. It's not really rights legislation, and we would like it to become more of a rights piece of legislation. There are no new rights for persons with disabilities with respect to accessibility. There are no legal procedures or enforcement mechanisms under the act. There's no mechanism for independent review of the activities taken pursuant to this legislation, nor is there independent interpretation of provisions. That means that any interpretation will have to come through

court challenges, which I believe we all understand can be costly and time-consuming, and it's very difficult to access the courts for many people and for many organizations.

It appears from the reading of the legislation that the bill is not intended to interfere with the present human rights regime in Ontario. It explicitly recognizes and affirms the legal obligations of the government which exist already with respect to the provision of access for persons with disabilities. That's subsection 3(1). You'll note that the definition of "disability" is lifted right from the code, minus some changes of terminology.

However, one of the problems we see with this is that the definition of access and the notions of access have evolved with time. As recently as last year, the Human Rights Commission reissued its Policy and Guidelines on Disability and the Duty to Accommodate, which in some cases provided for higher levels of planning and accessibility than we currently see in the bill. The problem with this is that a failure to incorporate that particular policy guideline or to allow for its interplay may cause interpretations of both the Human Rights Code and this bill that would provide for a lesser level of accessibility than we currently have in the province.

We do see that the bill provides that nothing in the act limits the operation of the Human Rights Code, and it would be hoped that this would be interpreted broadly. However "limiting the operation of" could be interpreted quite narrowly and it could be used, as I stated earlier, because we don't have any interpretative body that's connected to the bill, to actually take away from existing legal rights of persons with disabilities and also to interpret the Human Rights Code less broadly than it has been currently interpreted. For example, right now there's a notable difference in language between the bill and the code in that the planning initiatives are to, in the language of the bill, "have regard to" accessibility, which is not very specific. The code requires accommodation up to the point of undue hardship. This has been fleshed out through the courts; it's been fleshed out through the commission itself. We have a very specific understanding of what that means. So we're looking at the possibility of having a lesser standard.

#### 0950

I would like to talk specifically about some of the actual sections and how we feel they could be somewhat improved, some of the problems.

The definition of "barrier" does appear to be quite inclusive, and we're pleased that it provides for many kinds of barriers, including attitudinal barriers, communication etc. There are three problems that we see could occur with the definition that we'd like the drafters to address when looking at providing for a final draft of this legislation.

First of all, the definition says—let me just read from the act—"barrier" means an obstacle to access for persons with disabilities that is not an obstacle to access for other persons." In a sense, this creates a disability-exclusive or the potential for a disability-exclusive inter-

pretation and definition. The fear here, or the potential problem here, is that it may be that when non-disabled persons encounter the same barrier, it will not meet the definition or the test of this definition; it will not meet the definition of "barrier." An example may be persons who require flex time. A person with a disability may require that to deal with transportation problems or to deal with fatigue or whatever; flex time may be needed for many reasons. This may constitute a barrier. However, other persons who are not disabled may also require flex time to deal with child care arrangements, to deal with caring for an aged parent, whatever the reason. This could be used to determine that this is not a barrier. So this is just a possible problem from a legal perspective.

Also, it refers to "persons," in the plural. We would ask that it would refer to "person" so that it could take an approach that would not allow a barrier to exist even if it was only affecting one person. This is the approach adopted by the Human Rights Code.

We'd also like to note that the interpretation of the Human Rights Code has developed so that we do have acknowledgement of barriers that may not be obvious on their face; they're adverse-effect barriers. Adverse effect has not been taken into consideration in this particular definition, and we would ask that it be considered.

Another important term that has been defined is "disability." As I mentioned earlier, it's lifted from the Human Rights Code. Of course, the word "handicap" has been replaced with "disability" in the code, which is a positive step forward. One of the shortcomings of this definition is that persons with perceived disabilities, who are included under the Human Rights Code, have not been specifically addressed or included under Bill 125. It's not clear why this has been done, because we see that attitudinal barriers are specifically recognized, and these two, of course, go together. So this may have been an oversight, but we would ask that this be taken into consideration.

I would like to go on and talk about a few of the provisions.

The duties of the government of Ontario as set out in sections 4 to 10 provide for planning etc. However, it is unclear what impact these particular obligations that are set out there will have on the much stronger steps that are set out, as I mentioned earlier, in Policy and Guidelines on Disability and the Duty to Accommodate, which was published in 2000 by the Ontario Human Rights Commission. So we see this as a major potential drawback in that it might actually limit what is currently being required under the human rights regime.

One of the examples is with regard to standards under the building code. Section 4 does deal with this, and one thing that is problematic is that there is no requirement that there be guidelines for retrofitting structures. So it's not a step up, as far as we can see, from what's currently in the building code. This is, however, an obligation that is generally imposed on governments and others who provide services to the public under the Human Rights Code, so we don't understand why this has been ex-

empted from this particular legislation, which should deal with exactly this issue. The duty under the code, of course, would be the standard of undue hardship, so we certainly feel that Bill 125 should deal with, or at least consult with, the existing regime with regard to retrofit guidelines.

I'd also like to address section 8 for a moment, responsibility toward government employees. This provides that government employees will have their accessibility needs accommodated "in accordance with the Human Rights Code"; then it goes on to say, "to the extent that needs relate to their employment." This qualification is new language that's not in the code. It may be applied very narrowly so as to exclude the government's obligation to provide certain things that are now required under the code with a standard of undue hardship; for example, providing attendant care or accessible parking. It may not be the intent of the legislation, but we query why the legislation would have used such broad language when we do already have existing measures that would provide for greater standards. So one of the major changes we're asking for is that these definitions be carefully looked at and the wording tightened up to at least meet the standard of the Human Rights Code.

Of course, one of the major problems, which we're not going to deal with in the oral presentation today, is the lack of enforcement mechanisms. Our written paper will address further that one of the things that we're asking, as the ODA committee has already requested, is that there be greater enforcement measures in the act so that the statement of policy set out in the preamble, that all Ontarians with disabilities can enjoy and fully participate in life in Ontario, could actually be realized. That's not going to happen, we submit, without stronger enforcement measures.

That's all we have to submit to you orally today.

**The Chair:** Thank you very much. We have a minute and a half per caucus, and I'll start with Mr Martin.

**Mr Martin:** Good morning. This is indeed an interesting presentation. Up to this point, we've heard very clearly from several groups that unless there are changes made to this act, it really isn't going to be helpful; it's not going to make much difference in the life of the disabled citizen in this province. But what you're saying to us this morning is that it's not just a factor of it not making a difference; you're saying that it could in fact take away rights that are already there, particularly under the Ontario Human Rights Commission. What you're saying to us is that if the bill is passed as it presently presents, this is a net loss to the disabled community. Is that correct?

**Ms Spiers:** That's the potential through the interpretation of these various sections, yes. That's right. That's what we're saying.

**Mr Carl DeFaria (Mississauga East):** Thank you, Ms Spiers, for your presentation. I have just a clarification. You mentioned an adverse-effect barrier. Can you give an example to explain what you mean by that?

**Ms Spiers:** The courts have dealt with the concept—I'm going to give the example in discrimination, and I'll

try and make the parallel to barrier—where there may not be a perceived discrimination, but the effect of a piece of legislation may discriminate. There have been countless examples, but I'm just going to think of one in which a piece of—I can't remember the exact case, but it had to do with pregnant women. The idea is that the effect may create a barrier, or in this example may create discrimination, although on its face it is not discriminatory. It is not saying, "We exclude pregnant women," but the effect is that, because pregnant women must take time off and the legislation didn't allow for time off, it therefore had an adverse effect—discrimination.

**1000**

The same parallel works with a barrier. On its face it may not appear to be a barrier, but because of a certain limitation of a group of persons—I wish I could come up with a good example for you right now. Let me see if I have one in my material. Does that provide any clarification? I can provide a proper example for you in written form.

**The Chair:** I'll have to ask you to do that because we are running out of time and I have to go to the official opposition.

**Mr Bruce Crozier (Essex):** I want to see if in the time we have, which is limited, you could elaborate on this statement you made that there could be a lesser level of accessibility—I think those were the words you used—by this act. Could you give us some examples of where that might be a problem?

**Ms Spiers:** One example I talked about was that right now there's been a policy guideline put out by the Human Rights Commission requiring that certain government bodies implement plans to accommodate. We're concerned this legislation will not even meet that level. Another example is that the Human Rights Code touches on the private sector and requires that accommodations be made to the point of undue hardship in the private sector. As you know, this legislation does not touch on that sector really at all. There again, we will have a lesser standard. Does that somewhat answer your question?

**Mr Crozier:** Thank you.

**The Chair:** On behalf of the committee, thank you very much for your presentation this morning.

DAVID DIMITRIE

**The Chair:** Our next presentation is from David Dimitrie. On behalf of the committee, welcome. You have 15 minutes for your presentation this morning.

**Mr David Dimitrie:** My name is David Dimitrie. I have a mental health disability. I was diagnosed with manic-depressive disorder 15 years ago. Several years later, I was diagnosed with obsessive compulsive disorder and severe sleep disorders due to a head injury sustained during a bicycle accident as a teenager.

I have been working for the passage of the Ontarians with Disabilities Act for the past three years. I'm very disappointed with Bill 125, the proposed Ontarians with Disabilities Act. Bill 125 makes scant mention of the

barriers people with mental health disabilities face in trying to live as active participants in our society. The only mention of mental health disabilities is in the definition of “disability” that comes directly from the Human Rights Code.

Bill 125 makes no mention of the social, educational, employment, health and human rights barriers that persons with mental health disabilities face daily. The bill focuses narrowly on the barriers of one segment of the disabled population in Ontario. It was always my understanding that the ODA Premier Harris promised in 1995 would provide legislation that tears down the barriers that confront all persons with disabilities in Ontario.

It is unacceptable to me that the government has disregarded the needs of persons with mental health disabilities. In a letter sent to me by the Honourable Cam Jackson, MPP, he states that he believes employers want to do the right thing. If this is the case, why are 52% of employable mentally ill people in Ontario unemployed, languishing on tiny disability pensions? The fact is that employers have always been and remain reluctant to hire a mentally disabled person because of unwarranted fears or prejudice. Let's not kid ourselves.

Let's have a look at the types of barriers persons with mental health disabilities face on a daily basis in Ontario. Access to employment for mentally ill persons is probably the greatest barrier facing persons with mental health disabilities. Statistics Canada states that 52% of employable persons with mental illnesses are unemployed in Ontario. Even persons such as myself with post-secondary degrees and diplomas face a high rate of stigmatization in the search for gainful employment.

I'm a qualified elementary French teacher in Ontario. In addition, I'm a graduate of George Brown college in the field of graphic arts. I'm fluent in English, French and German. I also depend on a very small disability pension to make ends meet.

The main reason I have not been able to obtain and retain employment in any of the fields in which I am qualified is that employers either refuse to consider mentally ill persons for employment during job interviews, or they refuse to provide workplace accommodation once they hire a person who discloses his or her disability after being hired. I know this because I have been forced to file human rights complaints against employers in the last three years. Two were related to discrimination during job interviews. The third occurred due to the failure of my previous employer to provide workplace accommodation to me after I had been hired and been told my work was excellent. Two of these cases were settled during mediation and one is still pending after nearly two years. I was fired from this job two days after filing the human rights complaint against my previous employer.

The net result of this discrimination is a 52% unemployment rate among mentally ill persons who are capable of working either full- or part-time. These people are stuck living at or below poverty levels on inadequate disability pensions. It's my contention that most people with mental illnesses would like to earn part or all of

their income. I believe they would like some freedom from the shackles of dependency on disability pensions.

Is there an answer to this dilemma? I believe there is. The human rights legislation already enshrined in the Human Rights Code is adequate in providing legislative protection for mentally ill persons. It fails in its application. A human rights complaint can take anywhere from one to seven years to adjudicate by using the current process. The current process is quasi-judicial in nature and in many respects mirrors the adversarial nature of civil litigation.

I am proposing an amendment to Bill 125 that would transfer human rights complaints based on the grounds of employment due to disability to the Employment Standards Act. The entire process could be satisfied by including the right to workplace accommodation in the Employment Standards Act. Complaints could be investigated and decisions rendered by the Ministry of Labour officials in weeks or months instead of years. Both sides would be forced to submit to binding mediation where all complaints are aired and a mediator would make a binding decision. If either side disagreed with the decision, they would have to appeal the decision through a judicial review or through civil law actions. The decision of the mediator would be enforced immediately.

The major benefit of transferring disability complaints related to employment to the Employment Standards Act is that of fairness. The complainant would not have to twist in the wind for years while the complaint is adjudicated in the current process. The respondent would not have to spend large sums of money on legal fees, which the current process necessitates. In Mr Jackson's letter, he stated that one third of the complaints to the OHRC are currently related to disability on the grounds of employment. These cases need to be adjudicated in a swift, fair fashion. The current process is unfair to both sides of the issue. My proposed amendment would benefit both the complainant and the respondent in cases related to employment discrimination due to disability.

Next I would like to comment on the social and human rights barriers that mentally ill persons face. I'd like to focus on the common slurs and defamatory language related to mental health that are routinely found in newspapers, on television, on radio and in popular culture. I have included an appendix in the package provided to you, labelled appendix 1, that lists common slurs related to mental illness that I compiled while watching television, listening to the radio, observing public conversation and reading newspapers over a one-month period. These slurs hurt. They marginalize mentally ill persons and lower their worth in the eyes of society. In order for a person to make a complaint about these slurs, they must run a gauntlet of press councils, editors, human rights officials and news directors.

I have made complaints regarding these types of slurs. I have included a copy of an article, labelled appendix 2, that I felt was defamatory and promoted hatred and mistrust of mentally ill persons. The author is a published poet and a librarian and is more than capable of using the

English language appropriately. I tried to settle the dispute with my local newspaper, to no avail. I then submitted the complaint to the Ontario Press Council, which refused to adjudicate the complaint. I am currently in the process of drafting a formal complaint to the Human Rights Commission.

#### 1010

The complaint process causes my mental health to suffer. The stress is immense and many mentally ill people simply choose not to fight back against such discrimination. This creates a learned helplessness among mentally ill persons.

As is the case with educational barriers, part of the solution here is more education and a stronger enforcement mechanism within the OHRC against this type of hate language that is so common in everyday speech and in the media.

It's counterproductive to the health of mentally ill persons to get involved in such long and drawn-out conflicts with people who have much more influence and power than they do. Bill 125 must include better enforcement mechanisms to protect mentally ill persons against hate speech and hate literature. Hate speech, hate literature and slurs that denigrate mentally ill people lower the self-esteem of mentally ill people and lower their worth in the eyes of other Ontarians. This increases their chance of being physically or emotionally victimized. These barriers are more subtle and less visible than the other barriers I have spoken of, but they are equally pernicious and damaging.

The last barrier I will speak of relates to the difficulty that mentally ill persons have in obtaining health services. Much is made in the media and popular culture of the refusal of mentally ill persons to take their medication and manage their health. The first barrier mentally ill people face is finding a psychiatrist. There is a shortage of psychiatrists in Ontario and it's not a high priority when our health system is debated. Bill 125 must ensure the right, for every mentally ill person in Ontario, to the services of a psychiatrist. The psychiatrist is the lynchpin in managing the health of mentally ill persons. Other forms of treatment are also effective, but the availability of psychiatrists to mentally ill persons is absolutely necessary for mentally ill persons to maintain their health. Bill 125 should include an amendment that guarantees every mentally ill person in Ontario the services of a psychiatrist on a timely, regular basis. The current state of affairs leaves many mentally ill persons relying on general practitioners, walk-in clinics and emergency rooms to maintain their mental health. This situation virtually guarantees that mentally ill persons will not be able to maintain mental health stability.

The fact I have focused my presentation on mental health does not mean I am not sympathetic to the needs of Ontarians with other disabilities. I have done so in order to raise awareness of the barriers facing persons with mental illness. Traditionally they have received little attention when disabilities are discussed. Many people would look at me and listen to me and say I don't have a

disability. Hidden disabilities need to be brought out into the open.

I'll close my presentation with accounts of two incidents that occurred in Ontario in the last few years that scream out for an ODA that has real enforcement mechanisms, and not just advisory committees and future plans for accessibility in unspecified time frames.

Recently, M. D. Horton of St Thomas, Ontario, wrote a letter to the editor in the London Free Press. She discussed the experience she had while attending a funeral in London. She mentioned she had attended funerals at this facility three times in as many years. Her husband is confined to a wheelchair. Each time, her husband was forced to use the coffin elevator as the only means of entrance into this building.

Bill 125 makes no requirement that private businesses must retrofit their buildings within a reasonable period of time in order to make them accessible. Is this the Ontario we want to live in? Is it fair this disabled man must enter a funeral home via the coffin elevator? How would you feel if you had to do this? Bill 125 needs more teeth and fewer advisory councils that have no strong enforcement mechanisms.

The next incident occurred in Kinmount, Ontario, on January 4, 2001. A paraplegic man got stuck in the snow in his wheelchair and froze to death. This death was reported on CityTV's CablePulse 24. I witnessed similar encounters last winter in London where persons in scooters and wheelchairs got stuck in the snow on sidewalks and needed a push to get moving.

Bill 125 must include an amendment that sidewalks on major thoroughfares are sufficiently plowed within a reasonable amount of time. In addition, bus stops should be plowed within 48 hours of a major snowfall so that disabled persons can get on to buses. It took the city of London two weeks to clear two-foot snowbanks at bus stops last year. I realize these are municipal matters. However, because of the subordinate relationship municipalities have with the province, laws can be written to force municipalities to serve the needs of their most vulnerable citizens.

Thank you for allowing me the time to address you. I travelled from London at my own expense to make this presentation. It was worth every dime. Please consider my proposals for amendments. I've spent a great deal of time considering these issues to find solutions that are fair to everyone involved, and I believe I have succeeded. I'll now be pleased to answer any questions.

**The Chair:** We have one minute per caucus and I'll start with the government side.

**Mr Hardeman:** Thank you very much for your presentation. I'm somewhat intrigued or at a loss by your presentation defining the relationship between the disabilities act and the Human Rights Code. My understanding in the past has always been that discrimination is what the Human Rights Commission looks after, and that the disabilities act, in general terms, is to remove physical barriers to the disabled. Could you help me out with defining how you would not remove mental disabilities

from the Human Rights Code, but also put them in the disabilities act and make them both work?

**Mr Dimitrie:** This is my point and this is my frustration. Mental health disabilities and hidden disabilities such as autism, epilepsy, brain injuries, any of these disabilities are equally as valid to be included in the Ontarians with Disabilities Act as any physical disability. The ODA, as it is written, is not limited to physical barriers. The ODA includes mentally ill persons in their definition. It's their fault that they drafted legislation that only dealt with physical barriers. That's my point. The Human Rights Code deals with both physical and hidden disabilities. The ODA should do the same thing. To me, it's a crock to say that you're going to create some kind of act and not include developmental disabilities, mental health disabilities, epilepsy, autism, all these disabilities that don't have physical barriers.

**Mr Parsons:** Many people in Ontario think there already is an act. Those who didn't realize that are now saying, "Thank goodness they finally introduced one." I found your presentation extremely informative. I guess a difficult question to you is, given your presentation, is your preference that this act not pass if there are no amendments, or that the act pass and you view it as a first step?

**Mr Dimitrie:** The act should pass, period.

**Mr Parsons:** As it stands.

**Mr Dimitrie:** The act should pass as it stands and I will keep on fighting. I've got maybe another 40 years or so on this earth and I'll keep fighting for my rights and those of other disabled persons to improve that act.

**Mr Parsons:** I have to ask then, what does this act do for you in its present form?

**Mr Dimitrie:** Nothing. Absolutely, positively nada, nothing. That's why I'm here.

**Mr Martin:** Thank you for coming today and making the effort and for your three years of work on this piece of public policy. You suggest an amendment to the Employment Standards Act that would deal with some of your concerns.

**Mr Dimitrie:** Yes.

**Mr Martin:** Are there other amendments you think we could be entertaining that would be helpful? Do you have them documented anywhere so that we could put them forward?

**Mr Dimitrie:** Other amendments relating to other barriers?

**Mr Martin:** Yes, some of the things you mention in your—

**Mr Dimitrie:** The other amendment, and I maintain this and I have it in the paper that the clerk passed around to you, is the right to have a psychiatrist. My psychiatrist is currently in his seventies. He's a wonderful man and cares for me greatly, but he'll be retiring soon and I don't know who I'm going to go to next. I may end up in a walk-in clinic myself managing my mental health disability. I don't think it's a lot to ask the ODA to say that mentally ill persons have a right to see a psychiatrist on a regular basis. If society is going to demand we take our

medication, then they better provide psychiatrists to monitor us.

**The Chair:** On behalf of the committee, thank you very much for your presentation this morning.

1020

#### ONTARIO BRAIN INJURY ASSOCIATION, WINDSOR CHAPTER

**The Acting Chair (Mr Carl DeFaria):** We now have the Ontario Brain Injury Association, Windsor chapter, Janice Kominek. I welcome you to the committee. If you could state your names for Hansard, then you can proceed with your presentation. You have 20 minutes.

**Ms Janice Kominek:** My name is Janice Kominek and it's an honour to speak before the committee today on a subject that is very important to our entire community. I am here representing over 18,000 Canadians, one third of those in Ontario alone, who receive an acquired brain injury each year. I'm president of the Ontario Brain Injury Association and executive director of the Brain Injury Association of Chatham-Kent.

I also have with me here today Nancy Nicholson, who is a survivor of acquired brain injury and a member of the board of directors of the Brain Injury Association of Windsor-Essex County.

I'd like to first of all just give you a few facts about brain injury. Acquired brain injury is the leading cause of death and disability in Ontario for those under the age of 45. A brain injury doesn't heal like a broken arm or leg; the results may last a lifetime. So if you consider the thousands injured each year and you consider even the last 20 years, you begin to get an idea of just how many people live with these effects every day in Ontario.

Brain injury may occur as a result of motor vehicle collisions—in fact, over half of brain injuries are as a result of motor vehicle collisions; falls, particularly among the elderly and toddlers; assaults; near drownings; diseases such as meningitis or brain tumours. Brain injury does not distinguish itself by age, gender or socio-economic status. It could happen to any of us here in this room, at work, on the playing field or even as we drive home from this meeting today. Chances are that at least one person that you work with, know or love has experienced the effects of this injury, and the effects are devastating.

No two brain injuries are exactly alike and they range from mild to severe. Brain injury cuts across all disability groups because our brain controls all of our functioning. People with brain injury may have visual impairments, hearing impairments, speech impairments or mobility difficulties often requiring the use of wheelchair or walker. The most difficult impairments for family members, friends and employers to understand, however, are the personality and behaviour changes and the effects that make it difficult to organize thoughts and remember things that once came easily. These invisible changes present the most difficult challenges to the survivor of acquired brain injury.

Who is the Ontario Brain Injury Association? We were formed in 1986. Currently we are linked to 24 community groups across the province with memberships totalling in the thousands. Our 20-member board of directors is made up of survivors of acquired brain injury, family members, professionals, service providers and business people from every part of the province.

Why are we here today? We are here today because we are deeply concerned that all Ontarians have the opportunity to participate as fully as possible in all aspects of life in Ontario. Like many other individuals and advocacy organizations, we would have been much more comfortable with an ODA that laid out explicit timelines for the removal of specific barriers. It would also have been comforting to have assurance that these timelines would be effectively enforced. It is also imperative that the terms of reference for the advisory councils address the following: representation from a full range of disabilities, length of term of service, a requirement that all reports be made public and that the advisory councils be given authority to identify any and all barriers. However, our principal reason for being here today is to focus the committee's attention on barriers that are faced by the thousands of Ontarians who are living with the effects of acquired brain injury.

Brain injury is a unique disability category. It is not limited to one specific kind of impairment. People with acquired brain injury can live with physical, sensory, cognitive and emotional impairments and in some cases may live with all of them. Accordingly, we urge the committee to recommend that acquired brain injury be included in the definition of "disability" in the act.

People with physical impairments must contend with limited access to public buildings, businesses, transportation and recreational facilities on a daily basis. These barriers are readily identifiable. The proposed Ontarians with Disabilities Act attempts to address these issues of physical barriers. Similarly, barriers for those with sensory impairments such as vision and hearing are addressed in the act through the use of alternative formats. However, the barriers that are faced by people living with cognitive and emotional impairments are much more difficult to identify and to address. We speak of attitudinal barriers that often exclude those living with these challenges, leaving them isolated and open to ridicule and abuse. We recognize that it's impossible to legislate attitudes and values, but it is possible to have an ODA that encompasses a comprehensive program of public awareness and education that could move society toward understanding, acceptance and accommodation of people with cognitive and emotional impairments.

Just to illustrate some of the attitudinal barriers, in my own family my father-in-law sustained an injury some seven years ago after falling off a ladder. He was in a coma for three days. If you were to meet him now, he seems normal in every way. However, as a family member, we see some subtle changes in his personality. He has difficulty with memory. You try to leave a message with him and he maybe forgets to pass it on. I

know one time, getting into a vehicle, we were on our way to a restaurant and he took a wrong turn. My mother-in-law of course starts saying, "No, that's not the way to go," and he kind of tried to hide it by saying, "Well, I'm just taking a different way." These kinds of things drive my mother-in-law crazy: "Why is he doing this to me? Why is he acting this way?" He is often fatigued and she just doesn't understand that.

So even among family members and close friends, this kind of misunderstanding with the effects of acquired brain injury, resulting in isolation often devastating the person with brain injury, is not uncommon. There are dozens of other instances of misunderstanding that impact daily on the lives of people living with these effects. These misunderstandings effectively limit the disabled person's participation in family life, community activities and employment opportunities.

At this time, I'd like to introduce you to Nancy Nicholson, who is a survivor of acquired brain injury. She'd like to just tell you a little bit about her story and some examples that she's faced in terms of barrier.

**Ms Nancy Nicholson:** I'm a brain injury survivor. Until a little over five and a half years ago, I led a very different life. I had a good business law practice. I was a partner at a prominent Windsor law firm. I was a community leader. I was a well-known fundraiser. I was politically active. Three weeks before my accident, I attended a legal conference in Cambridge, England, at which notables such as the chief justices of the Supreme Court of Canada and the Supreme Court of the United States, and the late Pierre Trudeau attended. Three weeks later, my life changed radically. I no longer practise law. I can no longer drive a car. I can no longer participate in all those activities that I formerly did. My life was very much like yours.

I would like to provide you with three of what I think are pretty good illustrations of what my life is like. My difficulties relate to the speed with which I process information and my ability to handle external stimuli. I require an assisted ticket to ride the train. I boarded the train in Windsor heading for Toronto. I had to make a change; I was going on to Brockville. The train pulled into Toronto, the conductor came up to me and said, "You look fine. You have an assisted ticket. What's wrong?" I said, "I have a brain injury and I have difficulty coping with stimuli."

As you recall, when you get off the train you get on to that level, there's a lot of noise from the steam from the engine, people coming and going, and it's a different type of light environment. I got off the train on to that level platform. The conductor went over to the porter, he pointed to me and he did this. [Gestures.] I'm not mentally ill, and because I'm not mentally ill I'm not covered by your current version of the act. He assumed that I had some sort of mental illness. I'd had the inability to get through the station and change trains. The porter took my bag, put it on the next train and they left me standing there. Because of my inability to process quickly, I could not get his attention nor communicate to

him that I needed assistance. Fortunately for me, not a minute later a blind man got off the train and the porter escorted him through the station. I followed him; not with the assistance that VIA purported to provide and which I've attempted to utilize in subsequent visits but have been unable to do so because it's just not really there. They say it is, but it isn't.

A second occasion: boarding the city bus. It was very crowded. I get on the bus. I don't know how to put the ticket into the machine. The bus driver, fortunately, gave me some time and said, "You put the ticket in the machine. You put the ticket in the machine." I have five university degrees. It's a very humbling experience, I can assure you.

#### 1030

A third and perhaps more important area to deal with is that there are a great many of us out there. We have volatile tempers, many of us, because of the nature of our injury. When you go into a store and people expect rapid responses, the situation can quite quickly deteriorate into a very bad situation. The public is unaware of the nature of a brain injury, and the legislation doesn't help them become any more aware, because it doesn't even acknowledge its existence. We don't have a mental health problem in many cases. I don't speak for the man who spoke before us. What we have is a change in the wiring in our brains.

Brain injury survivors have enough to deal with—cooking, getting groceries, riding a bus—without having to educate the public as well. This is an overwhelming task to impose upon us. We ask that you take that on as part of your role and help us to ensure that the public doesn't treat us with anger and resentment but, rather, understands why we're a little quick to anger in the grocery store when the environment is loud or when we're dealing with a long voicemail.

Just one concluding remark: I notice that you have a screen here and a signer for people who have other disabilities. You're in a wheelchair-access building. But I had to walk through a casino, with an abundance of noise and flashing lights, and past a very loud waterfall. For me, that is a very hard task. You were very knowledgeable and conscious of other disabilities. You were completely unaware of mine. I would encourage you to support the Ontario Brain Injury Association's recommendations.

**Ms Kominek:** We recognize that there are no simple or quick solutions to removing these attitudinal barriers. However, since they are barriers for thousands of Ontarians, not only those living with an acquired brain injury but also those with developmental impairments and those who experience mental illness, it is imperative that the government, through the ODA, provide the will and the resources necessary to develop effective public awareness and education.

In summary, the Ontarians with Disabilities Act attempts to address physical barriers faced by those with disabilities but falls short on its goal of supporting the right of every person with a disability to live as inde-

pendently as possible, to enjoy equal opportunity and to participate fully in every aspect of life in our province through the removal of existing barriers and the prevention of further barriers.

We have not had enough time to fully analyze this bill and consider all of its implications, but after our preliminary consideration, we can recommend the following: that the definition of "disability" must include brain injury in its description; that explicit timelines be prescribed for the removal of specific barriers; that the bill have an effective mechanism for enforcement; that the role and authority of advisory councils be defined, the reports made public and that the disability community have meaningful input; that the bill make provisions for the allocation of resources to raise public awareness and education about the issues faced by those with disabilities in order to further foster a greater understanding and influence attitudes, working toward the reduction of attitudinal barriers.

A barrier-free community is a minimum goal to the full participation of the disabled in society. Through effective regulation and mandating co-operation with the private and public sectors, the Ontarians with Disabilities Act could help deliver broad public awareness and understanding of cognitive and mental disabilities and eliminate all other barriers for disabled persons in every part of Canada's richest province. The Ontario Brain Injury Association, along with many similar disability organizations, stands prepared to assist the government, through the advisory councils outlined in the ODA, to develop the ways and means necessary to remove attitudinal barriers. We look forward to this challenge. The disabled of Ontario are looking for leadership on this issue. Please don't let them down.

**The Acting Chair:** Thank you for your presentation. We have a minute for each caucus. The Liberal caucus will go first.

**Mr Crozier:** Good morning, and welcome to the committee, Ms Nicholson and Ms Kominek. Someone I love dearly and live with every day has an acquired brain injury, through an aneurysm. Thanks to tender loving care and good medical facilities—it would be considered mild compared to yours, Ms Nicholson, but I can understand the concern you have from the standpoint of the family issues. I understand the short-term-memory issue, as well as that sometimes in conversation the wrong word comes out.

But my point is this: I understand, too, the attitudinal problems you have. The Ontario Brain Injury Association, I could say, is not very well known on the scale of disability. How is it that you treat these attitudinal problems vis-à-vis the public and how could we do even more to help you with that?

**Ms Kominek:** Through both the local community associations as well as the provincial association, there is a need for more education. Locally, through associations such as the Head Injury Association of Windsor and Essex County and the Brain Injury Association of Chatham-Kent, which we represent, we attempt to do as

much as we can in public education. We provide community activities that deal with the prevention of injury as well as public speakers and so on who would come in and try to address those public issues. However, we're all very much volunteer-run organizations, many of which don't even have staff. They don't have the resources to spread the word across the province. As Nancy mentioned in her talk, people with brain injuries have enough to deal with, without also having that burden of doing the public education themselves. What we do need are the financial and human resources to be able to carry the word, to be able to educate not just family members but also employers so that when people return to work they have an understanding of what this injury consists of and how it may affect their work. We need both human and financial resources to be able to do that.

**Mr Martin:** Thank you very much for coming today and for your presentation. It certainly has been enlightening. We've asked the government to slow this down and to take the time that is necessary to understand the very complicated and involved piece of public business that this is. As you know, it was introduced a week ago. We're into public hearings now, and it will be done by next Tuesday. We're not sure they're going to capture some of the stuff you're putting on the table here this morning. That worries us, because if they don't capture it now, my concern is, when will the next time be and who will deal with that?

You raised the issue of resources so we can do public education. You raised the issue of including all disabilities in the community advisory councils. We're not sure that's going to happen, because ultimately, on the advisory councils, our understanding is that they will be appointed by order in council and that it may not in fact include everybody.

Given the speed at which we're moving and the very obvious need for something in here to reflect that we understand the issues of the people in the community that you speak about, what would be the biggest priority?

**Ms Kominek:** I think the biggest priority we had identified is the public education and awareness. In terms of timelines, yes, you're right, everything is going very quickly, and we'd certainly like to be involved in recommending amendments to that. In terms of people with acquired brain injury, there is a real need to educate the public and employers as to what this disability is about and how they may be able to be accommodated within society.

**Mr John O'Toole (Durham):** Thank you for your presentation this morning. In Ottawa last week we heard the same concern about the attitudinal barriers, which are kind of like the invisible barriers, as you've appropriately defined. I am completely sympathetic to what you say. Minister Jackson released a working paper on October 23 entitled *Reclaiming Our Roots*. I'm sure you're aware of it. It was about developing strategies for public education and awareness, specifically in the area of mental health. There is a pilot testing and evaluation process going on as we speak. I'm not sure, but I think it's like this bill. I

think you've made a very good point here in your ongoing advocacy role. Educating the public is part of that advocacy role, and I think it would be appropriate for all governments, of whatever stripe, to listen.

Mr Dimitrie earlier made the same point, that the invisible barriers are really important. I hear your message clearly about public awareness and education, and I'm sure there is more that can be done. But there is a strategy in our area—I met with the mental health strategy people—which is community resources in mental health. I think that probably is a result of a lot of the advocacy that has gone on. Do you wish to respond?

**1040**

**Ms Kominek:** I know Nancy wants to respond to this as well. First of all, brain injury is not a mental health issue; it is a cognitive impairment. It may have mental illness associated with it, but not always.

**Mr O'Toole:** I apologize; I'm not familiar with the jargon. But I meant the emotional barrier as you described. Yours was more the transformation from a person who was, like you said—

**The Chair:** Mr O'Toole, I would request the response from the presenters, because we are running out of time.

**Ms Nicholson:** The wiring in my brain has changed. I cannot react quickly. It is not just emotional. If something like this were to happen in the middle of the street, a car could strike me. You're not going to have that problem with a lot of other disabilities. It has to do with your brain wiring. It can spill over to emotional issues, but it is not a mental health problem. The nature of the attention that you're describing does not begin to address it, because we are not in that category at all.

**The Chair:** On behalf of the committee, thank you very much for your presentation this morning.

CANADIAN NATIONAL  
INSTITUTE FOR THE BLIND,  
ONTARIO DIVISION

**The Chair:** Our next presentation is from the Canadian National Institute for the Blind, the Essex-Kent chapter. I would ask the presenter to please state your name for the record. On behalf of the committee, welcome. You have 20 minutes for your presentation this morning.

**Ms Arlene Bailey:** Arlene Bailey, district manager, CNIB.

Good morning, Mr Chairman and members of caucus and the committee. I first want to offer a few words of congratulations to our local ODA committee for all the hard work they've done over many years to get the voice of people with disabilities out to be represented as part of the ODA committee and ODA legislation. I want to congratulate and commend the leadership of Dean La Bute and also consumers, of various disabilities, who have come out to be represented and have a voice. I want to recognize also the community agencies, my colleagues, which have represented the needs at the ODA. Especially I want to take a minute to thank my peers, those who are

visually impaired, blind or deaf-blind throughout all of Ontario who have taken the time to show up and to be a part of the ODA, to have a voice in shaping the legislation.

I'm here today to present the official position of the CNIB, Ontario division, on the ODA. I do want to take a few minutes to basically let you know that the Essex-Kent district of the Canadian National Institute for the Blind represents Chatham, Kent, Windsor and Essex. We serve approximately 2,100 individuals who have varying degrees of vision loss. I'll get into reading this document. You'll have to bear with me. There is no correction for my eyesight. I'll proceed.

At the outset, the Canadian National Institute for the Blind would like to congratulate and thank Minister Cam Jackson, the Minister of Citizenship, and the government of Ontario for the initiatives that they have taken to begin to remove the barriers faced by persons with disabilities in the province of Ontario. The introduction of the proposed Ontarians with Disabilities Act, Bill 125, is an important first step in the identification and removal of barriers and in preventing new barriers. We believe that an effective Ontarians with Disabilities Act, together with excellent programs such as the assistive devices program which are already in place, will position Ontario as a progressive leader in addressing access issues faced by persons with disabilities in this country.

While the CNIB acknowledges that a number of helpful measures are contained in the proposed legislation, which have the potential to address many present and future issues in the identification, removal and prevention of barriers, our agency does have some significant concerns which we believe need to be addressed as amendments to the legislation in order to ensure that the bill will address the needs of our consumers. Some of our concerns relate to how the legislation will identify, remove and prevent barriers for our blind, visually impaired and deaf-blind consumers. We will deal with these first in our submission. We will then bring forward some general concerns about the legislation in terms of its mandate, coverage, implementation and overall effectiveness. In both cases, we will, wherever possible, offer suggestions for changes or amendments that we believe would strengthen the bill's effectiveness.

Clearly we understand that it is neither possible nor practical to present legislation that purports to remove all barriers in all sectors immediately or even in the short term. There are many factors that dictate that a staged approach to implementation would be more effective. It is, however, important to ensure that those changes and amendments that are necessary to address current issues with the bill are incorporated into the legislation.

Proposed amendments that would improve removal of barriers for persons who are blind, deaf-blind or visually impaired: it is important to recognize that the accommodations that remove barriers for persons who are blind, visually impaired or deaf-blind can vary depending on the nature and degree of visual impairment or deaf-blindness. As a consequence, it is important to consider

the different, as well as the common, needs of each of these groups when implementing solutions. For example, signage needs to be both highly visible in terms of the size and the contrast and it also needs to be tactile, ie, in Braille, so that it may be accessed both by persons who are blind and visually impaired. Furthermore, the removal of barriers for persons with vision impairments is only partially addressed by the removal of physical barriers.

Access to information in the delivery of goods and services is of equal importance to persons with vision impairments. Such access to information will be manifested in a variety of ways, including intervention services for persons who are deaf-blind or the provision of alternate materials in accessible formats for people who are blind, visually impaired or deaf-blind. Again, that format required will depend on the extent of vision loss.

We believe it is very important that there is an understanding of these issues and the factors which must be considered in accommodating the unique needs of persons who are blind, visually impaired or deaf-blind. We believe this is critical because these factors will need to be considered when plans are developed and implemented to remove barriers in buildings or in accessing goods and services. It is the position of the CNIB, and the consumers we serve, that the removal of barriers must include the removal of physical barriers that impede access for blind, visually impaired and deaf-blind persons, as well as the removal of barriers to access goods and services.

The following are specific concerns and/or suggestions for changes. In section 2, under "Definitions," with reference to Ontario government publications, we are concerned about the restrictions implied within this definition, that publications of a "scientific, technical, reference, research, or scholarly nature" would not be included in publications that would be available in alternative formats if requested. It is our view that government publications that would be made available to members of the public should also be made available to persons with vision impairments if requested.

In subsections 4(1) and (2), "Government buildings, structures and premises," we believe that "standards" would be stronger than "guidelines" in terms of their enforceability. Given that the Ontario building code, dated 1992, is seriously lacking in its provisions for accessing the built environment for persons who are blind, visually impaired or deaf-blind, we recommend that the new CSA standard B651, which is to be released in June, be used as the minimum standard, as it addresses much more effectively the access issues of persons with vision impairments.

In subsection 4(5), "New leases," we are concerned that government departments need only "have regard to" the building's accessibility when making a decision to occupy this building. We believe that compliance with the guidelines, or at a minimum a plan for renovation so that the building is in compliance, is critical if new barriers are not to be created.

In section 6, "Government Internet sites," the act requires that where "technically feasible" government Internet sites be made accessible. In fact, guidelines for the design of Internet sites now exist that make it technically feasible to make all Internet sites accessible. Therefore, the words "technically feasible" should be removed and it should be required that all government Internet sites be made accessible.

#### 1050

In section 7, "Government publications," we believe that a time frame should be set out for the provision of publications in alternate formats. The term "reasonable time" could have many interpretations. We are also troubled by the qualification that materials would only be made available if technically feasible. Since most materials are now produced on the computer, production in alternate formats is now much easier than in the past. The expectation should be that exclusions would be rare indeed.

The sections dealing with duties of municipalities, other organizations, agencies and persons: there are no provisions in these duties to require that publications be made available in accessible formats. There are also no provisions that require accessibility of Internet sites. Both of these issues are important to the removal of barriers for persons with vision impairments and should be addressed in the legislation.

In section 29, "Municipal Elections Act, 1996," the proposed changes are helpful in ensuring polling stations will be physically accessible and that voters will receive assistance. There is no provision, however, to deal with the accessibility of the ballots themselves. Given that during the last municipal election, persons with vision impairments were unable to vote independently due to the unavailability of accessible ballots in most municipalities, an amendment should be included which requires that ballots be accessible to persons with disabilities.

I have some general comments re provisions in the act and suggested amendments. While Bill 125 has made some important strides in its recognition of barriers that exist and in developing measures that should assist in the removal of these barriers and prevention of future barriers, we believe the bill would be stronger and more effective with certain clarifications, modifications and amendments.

Purpose of Bill 125: we believe the stated purpose of the bill should be the removal of all barriers for persons with disabilities in Ontario to enable full participation. While we recognize that this aim cannot be achieved overnight and will require long-term commitment from all sectors, we should still maintain that ultimate plan.

Applicability of the bill: while we understand it is the government's intent to make the bill applicable to all sectors over time, this is not clear in the proposed legislation. The bill would be strengthened by specifying time lines for the inclusion of the various sectors.

Accessibility plans: we believe the development of these plans is a good step in helping to identify barriers and action plans to address these. We are concerned,

however, that measures are not included to ensure that these plans are implemented. Amendments should be included to address enforcement and recourse issues.

Government power to exempt organizations: while we recognize there may be times when it will be appropriate for the government to exempt organizations, this should be a very rare occurrence. Consequently, the legislation should be amended to include strict parameters regarding the rationale, process and the time frame for the granting of those exemptions.

With regard to the participation of persons with disabilities, the creation of provincial and municipal advisory committees is a good step toward ensuring input of persons with disabilities in the process. We believe it is important that the individuals selected to serve on these committees represent groups of or for disabled persons and that there be a requirement that they consult with their sectors. While the legislation states that a majority of members must be disabled persons, there is no provision for representation from the various disability sectors. We believe this broad representation is important given the committees' potential involvement in advising on guidelines, standards, plans and so forth and that the needs of persons with different disabilities can be very diverse. We also believe the role of the provincial advisory committee needs to be clarified in terms of its scope, mandate and authority.

Prevention of new barriers: a fundamental objective of the Ontarians with Disabilities Act has been to ensure that no new barriers are created. We believe that provisions in the bill need to be strengthened so that this objective may be upheld. This should include new capital projects, leases, purchase of goods and services, exemptions to be granted only when significant hardship can be demonstrated.

The foregoing comments and suggestions for amendments are intended to assist the government of Ontario in enacting legislation which we believe, if amended, would have the potential to make a significant difference for disabled Ontarians. Persons with disabilities have a wealth of skills, expertise and enthusiasm that they're very eager to share with the government and with fellow citizens of Ontario. By enacting strong and effective legislation, the province will be providing the impetus, the vision and the tools for disabled Ontarians to take their rightful place as fully participating citizens in the life of the province. Thank you.

**The Chair:** Thank you very much. We have one minute per caucus, and I'll start with Mr Martin.

**Mr Martin:** Thank you very much for coming this morning and the obvious work and thought you've put into this legislation. Your recommendations are wide, full and comprehensive.

We had a very eloquent presenter in Ottawa on Friday named Penny LeClair, who's a deaf-blind individual. Her concern was that we weren't going to take the time necessary to do the work that was required to make sure this bill in fact did all of the things everybody would wish for, for example, removing phrases like "having

regard to” and “if technically feasible” and those kinds of things. What we refer to at Queen’s Park as “weasel words” should be taken out of there.

We’re suggesting as a caucus that we need to wait until the intersession, in January, February and March, and travel more widely, listen more clearly and take whatever time is necessary to make sure that when we do this very important piece of work, it’s done right the first time and we won’t have to be continually returning to it to make improvements.

Given the wide range of recommendations you made this morning and the fact that, for all intents and purposes, this will be done by next Tuesday if the government sticks to its time plan, what would be the most important piece for us to focus on and make sure is in this bill by way of amendment for next Tuesday, from your perspective?

**Ms Bailey:** I don’t think your question is fair, because we need it all. That’s my opinion. In terms of life as a disabled person, I can tell you that the primary issue for somebody who is blind, vision impaired or deaf-blind is access to information. Some 90% of the information that an individual with full sight receives is received through sight. When you don’t have the vision, you miss that. That’s a really critical piece. However, we get that information in whatever format that is feasible. That is an important piece.

**Mr Spina:** Thank you, Ms Bailey, for coming forward. I wanted to address a couple of issues.

**The Chair:** You’ll have to be brief.

**Mr Spina:** It has to do with the time frame. One of the elements is that governments of all stripes have tried to float a disability act. It’s important that we want to get this thing into place for Christmas with amendments. You’ve brought forward, as well as others, from Mr La Bute right on, important amendments.

I’ll draw two parts of the bill to your attention. Section 22 says that regulations regarding timelines, the adoption of codes, contents of plans and policies and criteria to identify agencies in preparing accessibility policies can all be done in regulations. I’ve been assured by Minister Jackson and ministry staff that there will be a consultation with the stakeholders in the development of those regulations over the next three or four months, and that will take place in whatever form the act gets passed in before Christmas.

Lastly, section 21 in the act says, “The executive council shall cause a review of this act to be undertaken within five years after this section comes into force.” That means whatever government of whatever stripe is in place five years from the time this bill is passed will have to review it to ensure that improvements can be made to it. If you have a comment, I’m sure the Chair would welcome it.

**Ms Bailey:** Are you asking me for my comment? Sorry, I can’t see your face.

**Mr Spina:** Yes, please.

**Ms Bailey:** OK, thank you—your facial expression. Sorry.

**Mr Spina:** That’s all right.

**Ms Bailey:** In terms of time frames, I just want to say that the act needs to be comprehensive, that it needs to be correct and that it needs to demonstrate a high level of understanding for the needs of people with disabilities. If it takes time to get it done right, then that’s important. As far as reviewing the legislation is concerned, reference was made to improving and exponentially changing technology and how that impacts on people with disabilities, on our lives. Given that, I think that in five years some things, even access to information, the production of alternative format, are going to have changed. I don’t think five years is soon enough for reviewing it.

**Mr Parsons:** It was an interesting presentation. We’ve already waited six and a half years, from 1995, for this to be passed. There’s now a mad, magical date, that it has to be through by Christmas. The reality is that because of numbers the government can put through anything they want at any time. If this bill goes through unamended, on a scale of one to 10, what does it do for the people you represent, who are visually impaired, blind or deaf-blind?

**Ms Bailey:** My interpretation, and I speak as a consumer at this point, is that the proposed legislation has loose terminology, loose definitions, is open to loose interpretation and doesn’t have enough tooth. At the end of the day, why settle for it? That’s my question.

**The Chair:** On behalf of the committee, thank you very much for your presentation this morning.

1100

#### CANADIAN HEARING SOCIETY, WINDSOR REGION

**The Chair:** Our next presentation is from the Canadian Hearing Society, Windsor region. I would ask the presenter or presenters to please come forward. On behalf of the committee, welcome, and you have 20 minutes for your presentation this morning.

**Mr David Kerr:** My name is David Kerr. I’m the regional director for the Canadian Hearing Society for Windsor and Chatham. Thank you for allowing me to come here to present today, Mr Chair and members of the committee.

I would just like to say that the Canadian Hearing Society appreciates that the government has started the process in order to introduce Bill 125, the Ontarians with Disabilities Act. It’s a very important piece for the entire community. I also want to say that the Canadian Hearing Society has been heavily involved with the ODA, the Bill 125 committee, and as well, in the past, in lobbying for improvements to accessibility for consumers in this province.

For example, we think about the Eldridge decision in 1997, the federal decision, the decision of the Supreme Court of Canada, saying that full accessibility be provided for deaf and hard of hearing people across Canada through the services of interpreters, and that has carried far and wide. Also, the right to have the government pay for interpreting services in the courts for any cases

because a deaf lawyer does not have accessibility: that case too was won.

There is the Ontario Human Rights Commission's new Policies and Guidelines on Disability and the Duty to Accommodate in 2000.

The only piece there is that this is based on individual need, meeting the needs of individuals. I feel the piece that's missing is to clarify it for a group like ODA, specifically as a group, and identify that as opposed to individuals, and if I could just give an example, with stronger and more specific enforcement mechanisms.

Some of the positive points for Bill 125 are that it requires the government ministry to identify an annual accessibility plan to specifically identify, remove and prevent barriers for deaf, deafened and hard of hearing people in legislation, policies, programs, practices and services. Accessibility plans will be made public. We are quite impressed with that piece.

Also it is very helpful that the accessibility directorate of Ontario be established within the Ministry of Citizenship, and that the Accessibility Advisory Council of Ontario be there to advise the government. These two organizations will be responsible for programming and partnerships, and will develop public education so that we can overcome some of the attitudinal barriers that exist.

It's very helpful to encourage active participation in the variety of sectors in establishing accessibility standards.

Those are three positive points, but we have some concerns in that there are some changes that need to be made before third reading of this bill. One piece that's missing, which does not have any teeth, is identification, prevention and removal of barriers. They need to be clearly defined. Within the bill there's some ambiguity. The reason we have concerns is because of the experience we've had with Bill 4 and the Education Act, that ASL, American sign language, and la langue des signes québécoise be recognized as languages of instruction in schools. It was enacted and we looked forward to the changes, but enforcement does not exist and we are now looking at eight years with really no action.

That was the proof to us that things may not happen. We don't want to see the same thing with Bill 125. We're a bit concerned about that. We feel we need a very strong enforcement procedure, and we need that documented within the bill. We need stronger planning and clearer goals set.

Most business people develop a business plan, and I'm sure we're all aware of that, so that we understand where we're going, and then we end up with better results in the end. Without a business plan in Bill 125, how can we possibly see where things are going? We can argue our way through it. I think this will affect deaf, deafened and hard of hearing people, as well as other disabled people in the province. What I'm asking for is a clear business plan within the bill so there will be stronger and more clearly established goals that we can work toward. This can only be positive for outcomes in the future so that

we're sure everybody understands and has a similar interpretation.

Here are some of the barriers that face the deaf, deafened and hard of hearing people who are obviously the consumers our organization is involved with.

For example, Ontario Works and ODSP employees still say to deaf, deafened and hard of hearing people that they're responsible to book a sign language interpreter or a captionist. It's not the consumer's responsibility. That belongs to agencies and organizations such as ODSP and Ontario Works. That needs to be made clear. That's a barrier to consumers, who don't know where to turn.

Staff of municipal and provincial government offices are not particularly sensitive to the needs of deaf, deafened and hard of hearing people. For example, telephone and voice mail information: access at points of entry to services is not available—there's not a TTY telephone device for the deaf available at these points of entry, to become more accessible.

Another one is that the Ministry of Training, Colleges and Universities sent a letter to the Canadian Hearing Society saying the ministry does not have the legal authority to require private vocational schools to provide interpreting and real-time captioning free of charge for their students. That is a real concern because private schools and private colleges are being encouraged and established and deaf people will not have accessibility to these educational institutions.

Previously, deaf, deafened and hard of hearing students would go to Gallaudet University, the only liberal arts university for the deaf in the world, but now the problem is that because of cutbacks in funding, our students are no longer able to access Gallaudet University because of the change from vocational rehabilitation services to ODSP. So we have deaf, deafened and hard of hearing students who can't afford to go to Gallaudet University in the States. They are forced to go to a hearing university and there's a lack of interpreting services available. If there's not an interpreter, they can't access an education within a college or university. Lots of deaf students become trapped within the system because there are not enough interpreters.

#### 1110

At the same time, out in the general community, there are not enough interpreting services in the pool. Interpreters are more thinly spread and there are not enough new interpreters being trained. That has caused a great upheaval because of the dwindling number of students who are able to access Gallaudet University. Ontarians used to make up the third largest group of students at Gallaudet University and we are now at the bottom of the numbers. This all happened within eight years. They also can't access Rochester Institute of Technology.

I was supported by vocational rehabilitation services to go to university. I'm now working and independent and have no need to live on public funds. I think the taxpayers' dollars were spent wisely in allowing me to attend a university.

Most deaf, deafened and hard of hearing people trying to access constituency offices or Queen's Park are not

able to have access because interpreters are not available at the last minute. Most offices don't have a TTY to make it telephone accessible for us.

As recently as September 2001 it was determined that boards of education were not responsible for establishing standards for interpreters hired in the school boards across the province. We want quality, qualified interpreting services for our students in the education system, because if the services aren't up to par, our students are going to get a lower education. So equalizing the playing field is not happening for our students.

The ministry also says it's not responsible for American sign language communication proficiency for the teachers of the deaf in the schools for the deaf. Their skills are not improving as they work day to day with our students.

We feel we need a stronger plan with clearer identification where things need to go rather than the ambiguity, which we don't want to continue. If we have a plan, then we can work toward that goal.

Our recommendations would be that we have clear, specific goals for ODA for the identification, removal and prevention of barriers; that barriers be identified, removed and prevented within specific time frames; and that the removal of barriers be enforced within the broader public service and the private sector through legislation. We need a stronger vision and plan to prevent barriers in the future to avoid wasting taxpayers' money. Let's do it now. Let's remove those barriers and essentially we'll have less of an impact on the taxpayers' funds.

We need to allow for strong involvement of the deaf community and the disabled community for active participation in order that there be no misunderstandings and misinterpretations in the future.

We need a better way to ensure stronger legislation through a provincial advisory committee and municipal advisory committees for legislation that has more teeth. We can't ignore this.

We need the enforcement of Bill 125 to equal the Supreme Court of Canada's decision in the Eldridge case. We need to come at least up to that standard.

The recommendations from the ODA committee are supported by the Canadian Hearing Society.

I need to check on how much time I have left.

**The Chair:** You still have about three or four minutes.

**Mr Kerr:** Thank you. We need the establishment and implementation of a plan to remove the barriers that are in existence today and the prevention of the creation of new barriers in the public service and with employers of deaf, deafened and hard of hearing consumers.

We need the establishment of cultural and disability-sensitive training for service providers and employers of deaf, deafened and hard of hearing people to make them understand the legal rights.

We need to hire accommodation coordinators where necessary to provide service to deaf, deafened and hard of hearing people; to identify specifically what the issues

are; and to make it clearer to the government where things need to go.

We need employers to establish a procedure to accommodate all employees who are deaf, deafened or hard of hearing. We need to make sure that qualified interpreters and captionists are made available.

We need to become more familiar with and make appropriate use of the terminology describing the disabled, people who are deaf and people who have a hearing loss, rather than using the term "hearing-impaired."

We need to involve the Ontario Association of the Deaf, the Canadian Association of the Deaf and the Canadian Hard of Hearing Association to receive quality information that we've collected over years of involvement with our consumers that can only be useful to the ODA.

If it remains as it is, the ODA will be considered a missed opportunity without some of these changes, so take time to ensure the identity, removal and prevention of barriers by a more specific process and a business plan, and make use of such a plan. With that, I thank you.

**The Chair:** We have time for a quick question from each caucus. We have one minute per caucus. You have to make it brief.

**Mr Spina:** Thank you, sir. We really appreciate the presentation. It was important to get your perspective on this bill.

**Mr Parsons:** I have the same question I've asked the others. Without amendments, does this bill remove any barriers for you?

**Mr Kerr:** It's much as I said about Bill 4, with American sign language and la langue des signes québécoise being recognized as languages of instruction. That bill was enacted. I'm very much afraid there were no time frames with Bill 4 and all the other pieces I've mentioned. In eight years there's been no action. It was enacted and then pushed aside. I don't want to see history repeat itself. Without some of the pieces I mentioned, the time frames being put in place and the business plan, all I can say is that we are basically looking at a missed opportunity.

**Mr Martin:** You've tabled this morning some very specific things that need to be in this bill if it's going to be helpful to the deaf community. You didn't talk about the resources necessary. What do you think needs to be done in terms of the resources to support some of what you think is needed?

**Mr Kerr:** Perhaps you would clarify the kind of resources that—

**Mr Martin:** Obviously the government needs to put money on the table if the deaf community is going to be able to participate in the way that you yourself are participating and that obviously they need to. What kind of money are we looking at?

**1120**

**Mr Kerr:** Specific to deaf, deafened and hard of hearing people and the resources necessary, obviously I think we need, for example, apprenticeship programs for interpreters, sign-language interpreter training; real-time captioners, as we're seeing here today, an apprenticeship

program perhaps for that—very specific to those two human services that we need.

We also need sensitivity training for, for example, the government as an employer of deaf, deafened and hard of hearing people, so sensitivity training being provided.

Also there needs to be a review of the ability for deaf, deafened and hard of hearing people to attend university, such as Gallaudet in the United States and the Rochester Institute of Technology—a very special group of people who need to be able to access the programs there, because they are the only programs in existence for deaf, deafened and hard of hearing people specifically.

I guess another barrier that needs to be removed is the attitudinal barrier.

**The Chair:** On behalf of the committee, thank you very much for your presentation this morning.

#### KEVIN MacGREGOR

**The Chair:** Our next presentation is from Kevin MacGregor. If Mr MacGregor could please step forward and state his name for the record. On behalf of the committee, welcome. You have 15 minutes for your presentation this morning.

**Mr Kevin MacGregor:** Hello. I'm Kevin MacGregor. Sorry to keep you waiting. I'm very glad to be here today, as I'm sure all of you are. This is a very amazing thing that's happening right now. The fact that there is a bill at all that's been put forward is a wonderful thing. I also think it's a wonderful thing that the government has decided to send a committee out to talk to the people, to see how the people feel about the bill and how it will affect or not affect our lives.

I have little to offer in terms of jargon; I heard the words being used earlier. I'm not a lawyer, and I don't represent any specific body. I'm not an elected official. I am just here on my own grounds. I know I have many supporters behind me, but I don't represent any particular group. I'm sure my mother is praying for me right now, and I know the cab driver that drove me here is praying for me too, because I asked him to. I probably won't even look at my notes, because I probably can't read them right now.

But I did make it in here to see you, and I did have a little bit of a difficult time. There's no way of everybody knowing all the barriers, especially being a person with a brain injury, as I am.

It seems to keep popping up, and I'm glad to see people with brain injuries being represented here. I did make it. I missed a few of the elevators on the way up, and the guy out front had to hold my hand and take me to find the elevators. We got up here and I found the right room, and everything was OK.

I think what I can offer you today is just how important it is to make changes to the bill that's in front of you right now. I'm sure you've heard from David Lepofsky and the whole ODA committee. He's the man who all of us do stand behind. You can take his presentation and the amendments that his group has put

forward and put my name beside those recommendations, and you can put down my friend Kirsten's name, who couldn't come with me today because it took too much time to arrange for this. When I went to the Clubhouse, which is a place for people with brain injuries in London, there was a friend of mine called Kirsten. She lives in a wheelchair in a nursing home, and she has had a brain injury. She's in her middle age, and she knows about what's going on. She's gone to some of these meetings with me and has expressed her opinion. I said, "What do I say to these people? I'm terrified." She said, "Kevin, it's so easy. All you have to do is sit there and ask them a question: 'How much do you value your freedom?' and demand an answer." I'm not going to do that, because I think that's a personal answer and it's not something that people need to put in front of everyone else. But this is what we're talking about: freedom.

This is one of the last great barriers that face us as a community. We've already accepted women into our ranks, and that has done wonderful things for us, even though we did have to build extra washrooms and install a few change tables in some restaurants, but we have benefited greatly by the contribution of women and the acceptance of women. Around the same time, we began to accept people of different colours and different races. I can't even begin to describe how great, because our whole country is based on that type of diversity. Over the years we have gotten more and more diverse. But there are still groups who are left out, and that's why we're here today.

This is a great opportunity. What is most important for me and many of the people who have brain injuries—we can't change the changes that have occurred to our brains, to our cognitive abilities, which may have affected our eyes or our ears or our body or our ability to process or be in busy areas, but what we really want is to see the change of attitudes. That's not something that any government can write into a bill—"From now on, everybody must be nice to each other and be compassionate to each other"—but when I go and talk to different groups, they all say that's an easy thing for people to learn when we begin to rub shoulders with each other, and that's what we need to start doing.

I think my generation is pretty much a lost cause. I don't see the attitudes of people my age or older being able to change within any time frame that I'll see. But I'm here today because one day I'm going to have grandchildren—there may be people in this room who already do have grandchildren—and I don't want to see my grandchildren walk in a separate door, away from their friends, and miss the punchline of a story. I don't want to see my grandchildren not being able to go into the dance with their friends. I don't want to see them suffer and be isolated, because I know they're valuable, and I know the people with disabilities in this room whom you will see and you're going to meet—you already have met incredible people, and I think you're incredible people to be here and to represent the people of your communities and to listen and to make these decisions. That's the life path that you've been given, and it's a wonderful thing.

I've been given a life path that has been changed by powers that are beyond me. I was struck by a car as I was crossing the street at a crosswalk. It's funny; someone mentioned that earlier: imagine if you were hit by a car and suddenly got a brain injury. That was me. Before that, I was in university doing a master's degree. I was teaching and I was in computer science. So I was in kind of the perfect position. My colleagues were being hired, I have to admit, mostly to the States, because they could get \$100,000 American and all sorts of wonderful prizes. I was taken away from that and I learned a whole other world. Instead of being a soccer player, being watched by the girls, I was the man on the sidelines who was being ignored and was not even able to go to the soccer game because of the time I spent in a wheelchair or the difficulties I have with crowds.

We need to change these attitudes and to make amendments to the bill. I think one wonderful idea in the bill that can really, really help is the concept of the councils. Everybody has already spoken to different specific ideas of changing the council, but as you are contemplating making changes and thinking about making more changes in the new year by having a group go out and listen, I think it would be wise to perhaps put together your provincial council first, to give them the power to listen and to recommend strong changes that the government is bound to listen to. Of course, you can't listen to 100% of everything all the time, but I think the people with disabilities need to be putting this together themselves, along with their friends and business.

I'm not isolated from business, of course; nobody is. I have a friend who I graduated with. He works for the Bank of Montreal in Chicago. He moved up quickly from Windsor to Toronto to Chicago and he's a very successful banker. I was talking to him about all the things that we want to do. He said, "Well, they're probably worried about some business issues," and I said, "Yes, of course they are. It's important, but"—and I talked to him more about the things we wanted to do. He said, "You know, it all makes perfect sense to me and I don't see why it's complicated. If you want to give them a message from me, just make sure there's no MPPs on the council and then they will really get things done." You probably know many bankers yourself and you can probably hear bankers saying that: "Just make sure there's no MPPs. Let the people with disabilities sit down with the people in business and we'll work it out. It's not a very difficult thing to do."

I know I would be worried about some of my local businesses, because I live in a community with lots of small business. I know that suddenly making changes would be a burden to them, but I know that if we had a plan that we could give to them—this is what they asked me. They say, "Kevin, where's the plan? Maybe the government can give us a plan that we can follow, because maybe I can't afford to make all these changes next month, but if I have a five-year plan I can do it." I stand behind those words, because if they can't afford the labour, I know many people who have brain injuries or

have different disabilities will be more than happy to help turn the gravel and help lift the shovel and help do the labour ourselves. All we ask is that maybe somebody share a lunch with us and we can talk together, and not only will you learn from our labour but we have a lot of insight because we are people who have lost everything and have regrown it. That's powerful thing to share with people.

I think people like my friend Kirsten, if she were on any board or even if she were in any business just to help people get coffee and give them directions, if it were Kirsten waiting for me at the front door to show me where the elevator was—and you wouldn't have to pay her; she'd be happy to do it—she'd be a wonderful presence that would contribute to everything that would happen here. That's the sort of acceptance, that's the wide variety of things, that people can do and the attitudes that need to be changed.

We do need to make changes. I think these councils are a big opportunity for us and that the provincial council putting together their own ideas, upon their own travel and listening, can set up the guidelines for the local councils, who can take on their own responsibilities. I think local councils can provide important mediation services for anybody who has a problem understanding what needs to be done to their business or to their community group. They can come to the local council and bring forward their issue and everybody on that council would be happy to help.

As far as putting together the council, it's not too difficult to understand that you can have representatives of people who have disabilities that come from various groups. Just think of your senses. People who have no ears to hear any more can speak the most eloquent speeches, as we just heard, so we would need someone like that. We would need people who don't see as well any more—the senses of the eyes—and we need people who have lost some of the senses of their cognition that have given them insight. Just think of the different senses and the diversity that will be represented and when that diversity that will be on the council can come forward and be in the schools of our grandchildren so that our grandchildren can go to school together and it doesn't matter what type of disability they have. I know that if I have grandchildren, I want them to go to school with people with disabilities because of all the things we can learn from each other.

I think I'll just end with that. Thank you very much for having me. It's wonderful.

**The Chair:** Thank you very much. We have one minute per caucus, and I'll start with the official opposition.

**Mr Parsons:** I really don't know what to ask, because that was a very moving presentation.

In my role as critic, I have realized that while some disabilities are readily identified by the public, others are not, and you represent a perspective that is not well recognized. What kind of education program do we need to do to make employers aware of the skills and the energy that you can bring to them?

**Mr MacGregor:** I think the first step would have to be right in education in schools before it can be with the older people. Maybe we can start with the bigger, important chunks and maybe it's the younger people we can start with. I don't know.

In terms of education, I have a friend who was also at the Clubhouse and he was taking a university course at his own expense to try and test his skills at learning. He was doing really poorly; he was failing. He had maybe a 30% or something. He was able to get a grant from some group that was able to provide for him a tutor, and for that small cost for the tutor he was getting As. He couldn't afford to keep on having a tutor, but if there was a local council that he could go to for council grants—and this is an idea from overseas, where there are local council grants that can help people who have specific needs, because we can't identify them all and the local councils need to have that sort of power and flexibility where somebody like this man can come forward and say, "I can get a university education and I can learn to really take a chunk out of this world, but I just need some money for a tutor because I'm living on disability, I'm living on \$700 a month, and I need that little, tiny bit of help." I think it would be nice for a local council to be able to do that.

**Mr Martin:** I want to thank you for taking the time and making the effort to be here today, coming all the way from London and bringing with you the thoughts of Kirsten and of your banker friend in Chicago. We need to hear from all of those people and yourself. I think you're right: this is a wonderful moment. It's a chance for all of us to do the right thing on behalf of people who are challenged across this province, to include them in the everyday life of their community.

We're hearing very clearly across the board that the bill that's on the table, even though it's a place to start, doesn't do the trick. Your friend David Lepofsky has tabled some significant and serious amendments. I'm hoping the government will hear you as you say to us today, "Please do the right thing," and that we will all participate in that in the end.

The one piece of the bill that you've focused on, that I think you're absolutely right needs to be done right, is the provincial councils and listening to the voice of the various communities of disabled people across the province. In your view, who should be making those appointments? How should we be making those appointments?

**Mr MacGregor:** Somebody always manages to find the question that I've had a hard time answering. That's a very good question. I think it's hard to put up a whole electoral system just for that sort of thing, so it definitely has to be something that has nothing to do with parties. That's a really important component. As soon as we start introducing loyalties, we introduce complications. There are plenty of heroes within the province that the government will be able to find through their MPPs, well-qualified people who have been able to come forward. I'm not saying that David Lepofsky should be on the council, but there are other people who are David

Lepofskys who can be on that council, and I think they need to be found through the communities.

**The Chair:** Thank you very much. To the government side, Mr Hardeman.

**Mr Hardeman:** Thank you very much for your presentation, Mr MacGregor.

From your presentation, I would take that the most important aspect of what needs to be done for the brain injury folks is communications and public relations, to get the public to understand. It doesn't require the re-building of a building; it requires somebody in the building to help you, to kind of point the finger as to where we need to go.

My vision of the act is that the local committees will have the ability to do a lot of that, to tell the local municipalities what needs to happen in their community as they develop the plan and then as they work with the municipalities in informing them whether they're achieving the goal or what more needs to be done.

The first question is, do you see that possibility too, that the local committees would be able to do that? Also, the question was asked this morning about the cut-off, where municipalities with less than 10,000 do not need to have a local committee. Do you see that that's a problem, that we also need to provide that ability in smaller municipalities?

1140

**Mr MacGregor:** I come from a small community originally. I'm from Hanover, which is now famous because it's right beside Walkerton. It's an unfortunate way to become famous. I grew up just outside of that town and I know that if I want to go and visit my mother, there is no way for me to get there. I don't know who is responsible, which council that would be, but it would probably be a provincial thing.

I've lost myself. Sorry. What was the last part of that question?

**Mr Hardeman:** Do you believe that the local committees will be able to facilitate the communication we need to educate the public on the requirements that are there?

**Mr MacGregor:** Maybe one thing the provincial council can do is to come up with all the guidelines for the community councils. But I do know that my hometown isn't covered under this, just because it's only 6,500. We have a Tim Hortons and a McDonald's, though, so that puts us on the map for travelers on the way to their cottages up in the Georgian Bay area. Most of the Georgian Bay area won't be covered. Owen Sound might be covered. It might be difficult for a small community like Newstead, which is near where I live, with just a few hundred people, to be able to support a whole council, but maybe the council in Hanover could be there for them instead. The jurisdictions might reach outside of the city to help the local areas as well, to cover the smaller towns.

**The Chair:** On behalf of the committee, thank you very much for your presentation this morning.

MULTIPLE SCLEROSIS  
SOCIETY OF CANADA,  
ONTARIO DIVISION

**The Chair:** Our next presentation this morning is from the Multiple Sclerosis Society of Canada, Ontario division. I would ask the presenter to please come forward and state your name for the record. On behalf of the committee, welcome. You have 20 minutes for your presentation this morning.

**Ms Dora Lee Bugeja:** My name is Dora Lee Bugeja. I'm a volunteer of the MS Society, Windsor, Ontario chapter and I'm here to speak on behalf of the Multiple Sclerosis Society of Canada, Ontario division. I have to say I do have MS and I do slur. I apologize for that.

The Multiple Sclerosis Society of Canada, Ontario division, is pleased to be able to provide input on Bill 125, the proposed Ontarians with Disabilities Act. The MS Society of Canada is a national organization with regional divisions, of which the Ontario division is the largest.

An estimated 18,000 Ontarians have multiple sclerosis. Every day in Canada, another three people are diagnosed as having this disabling disease of the central nervous system.

The mission of the Multiple Sclerosis Society of Canada is to be a leader in finding a cure for multiple sclerosis and enabling people affected by MS to enhance their quality of life. We accomplish this mission by supporting both research, services and social action and advocacy programs. The comments that we are providing in this submission are the result of dialogue with members across Ontario.

Response to Bill 125: the Multiple Sclerosis Society is very appreciative of the leadership of Minister of Citizenship Cam Jackson in bringing forward the first legislation of its kind in Canada. Bill 125 provides a framework for making this province truly barrier-free for Ontarians who are disabled. However, Bill 125, as it stands, is only a first step. Minister Jackson has stated this bill puts people with disabilities in the driver's seat. Unfortunately, the bill does not provide a vehicle for people with disabilities to drive, and we hope this public hearing process will result in strengthened legislation that is truly forward-thinking and -acting and will allow people with disabilities to obtain their rightful places within the full range of opportunities within Ontario.

Positive aspects of Bill 125:

Definition of "disability": the MS Society is pleased to see that the definition of "disability" has been widened to make it more inclusive of people who have disabilities that are not just related to mobility impairment. We question why, in some cases, the cause of a particular disability is mentioned. The committee may wish to look at this part of the wording.

Establishment of an Accessibility Advisory Council of Ontario: the MS Society believes the creation of an accessibility council, with a majority of members being people with disabilities, to be a positive step forward.

Establishment of an accessibility directorate: the MS Society applauds the creation of an accessibility directorate to be very useful. Providing a centre of expertise on how to avoid and remove barriers should be of benefit both within and outside government.

Commitment to remove barriers within the public sector: generally speaking, the MS Society is pleased with the ideals that are voiced within the section of the bill that deals directly with the public sector. However, we have identified particular sections that should be changed and/or strengthened to make the entire bill much more beneficial for people who are living with the disabling effects of multiple sclerosis.

Recommended changes to Bill 125: in an effort to assist in the work of this committee to strengthen Bill 125, the Multiple Sclerosis Society of Canada, Ontario division, respectfully submits a series of amendments.

Widen the purpose of the legislation: we suggest that the purpose of the legislation, section 1, be widened to better capture the intent of Ontario's Vision for Persons with Disabilities, signed by Premier Mike Harris and Minister Cam Jackson, unveiled November 1, 2001. Currently, the purpose is "to improve opportunities for persons with disabilities and to provide for their involvement in the identification, removal and prevention of barriers to their full participation in the life of the province." We suggest more inclusive language would be the following: "The purpose of this act is to achieve a barrier-free Ontario for persons with disabilities through the identification and removal of existing barriers and the prevention of new barriers with the significant involvement of persons with disabilities."

No reduction of rights: some people with MS have told us they are worried that one result of the proposed legislation is that it might actually reduce the existing rights of people with disabilities. To overcome this fear, we suggest that section 3 be amended to read as follows: "Nothing in this act or in any regulations or guidelines made pursuant to it diminishes in any way the obligations of any person or organization, including the government of Ontario, to persons with disabilities, whether guaranteed under the Ontario Human Rights Code or under any other act or regulation in Ontario."

Barriers are not just physical: section 4 of the proposed legislation could easily be interpreted as just promoting accessibility on the basis of physical disability. We strongly suggest that section 4(1) be amended to address all types of barriers that impede people with disabilities, not just physical access barriers. Linking the level of access to the Building Code Act, 1992, section 4(2), addresses physical access issues on a very minimal level and does not address other types of disability access problems.

Removal of barriers in existing buildings: while section 4 deals with imposing guidelines to promote accessibility for persons with disabilities in buildings, structures and premises that the government leases, constructs or significantly renovates in the future, there is no requirement that existing buildings, structures or premises

be made barrier-free in a prescribed, timely fashion. We strongly urge that the timelines to address barrier problems in existing buildings be addressed.

The MS Society is also concerned about the language in section 4(5) which instructs the government to “have regard to the extent to which the design of the building ... complies with the guidelines, in determining whether to enter into the lease.” Language such as “to have regard to” provides no protection for people with disabilities. It appears the intent of this section may be to provide a loophole for non-compliance with section 4(4). We strongly suggest section 4(5) be deleted.

We have similar concerns with section 9 which, in dealing with government-funded capital programs, states such projects “may include requirements to provide accessibility for persons with disabilities as part of the eligibility criteria.” We strongly urge deletion of this phrase and amendment of this section by requiring such projects to meet barrier-free goals.

Purchase of goods and services: the above comments relate as well to section 5, which states that the government of Ontario “shall have regard to the accessibility for persons with disabilities to the goods or services” being purchased. The government of Ontario must show leadership in the provision of goods and services and not provide itself a loophole for non-compliance.

Responsibility to government employees: the Multiple Sclerosis Society believes there is a great opportunity for the government of Ontario to provide more leadership vis-à-vis its own employees by strengthening all aspects of section 8. By strengthening this section through amendments, the government of Ontario can go beyond the minimum standard of the Ontario Human Rights Code.

A possible amendment to replace section 8(1) is: “The government of Ontario shall create and maintain a barrier-free work environment in which persons with disabilities can obtain employment, fully participate in all aspects of work life and advance in their career goals.”

#### 1150

Ministry accessibility plans: as described in section 10, the requirement that ministries prepare an accessibility plan is a useful part of an annual planning process. The MS Society, however, strongly recommends that this section be amended to require specific timelines for achieving these plans. It is not enough to file a plan year after year without a penalty coming into force for not achieving the plan. The Ontario Human Rights Commission could be given the responsibility to review all plans in case of non-compliance and then seek an order from the Ontario Human Rights board of inquiry to require compliance if necessary.

Duties of municipalities: people with MS have told us they are very disappointed that the only requirement of municipalities within the proposed legislation is to prepare an accessibility plan. We can see no enforcement mechanism with Bill 125 except that of public opinion, which to date has not been very effective in providing a barrier-free Ontario for people with disabilities. The MS

Society strongly urges amendments be made to this section to require that municipality plans have timelines, that they be implemented within those timelines and that there be an effective enforcement mechanism, similar to our recommendations relating to the obligations of government ministries in section 10.

Duties of broader public sector organizations: unfortunately, in terms of broader public sector organizations, we have to reiterate our concerns of the duties of municipalities. We fear the mere preparation of an accessibility plan will do little to alter the barriers that people disabled because of MS or other reasons face every day of their lives. The proposed legislation does not provide for timelines, nor suggest that the regulations will contain timelines, and contains no enforcement mechanism.

Earlier this month, an MS Society volunteer was not able to attend a meeting at Hart House on the University of Toronto campus, within view of this Legislative Building, because there was no elevator that would have allowed him to reach the second floor. He felt he could not safely climb the 32 steps up the marble staircase. How many students, disabled because of MS or other reasons, are kept out of that building every day? Will this proposed legislation prevent this exclusion from happening again? We fear not.

Regulations: while the legislation allows regulations to be made which might include various time periods, we urge that the legislation contain timelines for regulations to be enacted. This would provide an objective framework for action. For example, section 22(1) could be amended to require that regulations be enacted within six months after the legislation takes effect. However, we also urge that, as stated above, certain sections of the legislation should include timelines.

Omissions of Bill 125: the most serious omission of Bill 125 is the lack of requirement upon the private sector to contribute to a barrier-free Ontario. As one woman with MS remarked, “I’m more interested in getting into my doctor’s office or in shopping than I am in attending a city council meeting. This legislation does nothing for me.”

The Multiple Sclerosis Society of Canada, Ontario division, believes private sector omission is not only discriminatory, but is costing the province of Ontario money. We have heard from more than one disabled American how backward they find hotels, restaurants and shops in Ontario compared to the United States. We have heard from our own members in Ontario how they would rather travel in the US because the Americans with Disabilities Act has required the business sector to make facilities accessible to the public—all of the public, including people who have disabilities. We are disappointed the current legislation does not begin phasing in requirements for the private sector and urge the government of Ontario to correct that oversight as quickly as possible.

In terms of the proposed legislation, we believe that the changes we strongly recommend will greatly strengthen Bill 125 and bring it much closer to Ontario’s Vision for Persons with Disabilities.

**The Chair:** Thank you very much. We have time for one quick question, one minute, per caucus.

**Mr Martin:** Thank you very much for coming this morning, and for the obvious effort that went into preparing your presentation. You lay out very succinctly and clearly all the shortcomings in this bill and the requirement that's needed for amendment. You also make a very troubling comment, particularly in light of the presentation we heard earlier today from the bilingual legal clinic of the Windsor area, to suggest that in fact this bill may take some things away that are already in place. You ask for an amendment that would protect, that would say nothing in this act or in any regulation diminishes in any way.

Having said that, if the government isn't willing to move on some significant and serious amendments, and as my colleague Mr Parsons has asked a number of times here this morning, in your view, would it be simpler or smarter just not to move ahead with this bill and start over?

**Ms Bugeja:** Personally, I think this bill is a first step. I have MS too. I've experienced many barriers in my lifetime, and I'm going to experience many more. I think it's a first step. There are a lot of changes and a lot of things we have to work on, definitely. But I really believe we should get this passed. I really believe we need this. It's a start.

**Mr Spina:** Please don't make any apologies for—it's up to us to be understanding. I hearken back to Mr MacGregor's comment earlier.

We appreciate your comment, and also the fact that you indicated that it is an important first step. Just because the bill goes through now and it doesn't include everything, it at least will make a significant effort to move forward. We do have the next few months ahead to put a lot of the indications or requests and recommendations that have come forward from the various groups into the regulations. The minister has assured us that he will consult with stakeholders in the implementation of those regulations.

**Mr Parsons:** I have a very close friend who has MS, and he discussed this bill with me. I need to, first of all, mention that your statement about this being a good first step—we need to remember that the regulations will not change the bill; regulations simply implement it. His concern to me, and I'm going to ask your opinion, is that it doesn't matter what's on paper; it requires the public will to make it work. It requires the public support of it. His fear is the public will read in the paper that the ODA is now passed, you have rights, all the barriers have been removed, and that there will be no impetus to do that second step. The first step could in fact become the final step. That's in contrast to your answer to Mr Martin's question.

Do you have any concern at all that this first step could be an end; that it may address one person's problem, but it doesn't address the societal problem?

**Ms Bugeja:** No. That's a 50-50. It might not be an end, but then it might be an end. That's a 50-50. That's a hard question.

**Mr Parsons:** It took six and a half years to take the first step. Are you ready for six and a half years for a second step?

**Ms Bugeja:** Well, you know what? I've had MS for 20 years. I was paralyzed in a wheelchair, and it took me a year and a half to take my first step again. So if it takes six years, I'll do it.

**The Chair:** On behalf of the committee, thank you very much for your presentation this afternoon.

For the staff and the committee members, lunch will be served in the Riverside Grille. You don't have to cross the road, by the way. It's just inside the building. Also, the room will be secured, so you can leave your personal contents in the room.

This committee is recessed until 1 o'clock this afternoon.

*The committee recessed from 1200 to 1300.*

#### WINDSOR-ESSEX COMMUNITY ADVOCACY NETWORK FOR PERSONS WITH DISABILITIES

**The Chair:** If I can get your attention, I'd like to bring the committee back to order. Our first presentation this afternoon will be from the Windsor-Essex County Advocacy Network for Persons with Disabilities. I would ask the presenter to come forward and state your name for the record, please. On behalf of the committee, welcome. You have 20 minutes for your presentation this afternoon.

**Mr Tom Bannister:** My name is Tom Bannister. I am the chair of the Windsor-Essex Community Advocacy Network for Persons with Disabilities.

I hope the Chair of this committee will not mind advising me at the 10-minute point of my remarks as I don't see well enough to see the clock. I'm sort of like the person in the store who gets the gift and doesn't know when to wrap it up.

**The Chair:** I'll give you notice at 10 minutes.

**Mr Bannister:** Thank you, Mr Chairman.

First of all, to identify my committee, the Windsor-Essex County Advocacy Network, WECAN, was established in 1991 to represent persons with disabilities in Windsor and Essex county. It is comprised of both consumers with various disabilities and agency members who are working in or have some interest in the disability field.

I first joined the committee and was elected chairman two years ago, after moving back to the area from Toronto where I had lived for 25 years. My involvement with the Ontarians with Disabilities Act in fact began in Toronto when I was a member of the CNIB advocacy committee in Toronto, where I sat as a member from the Toronto-East York district board of the CNIB.

I think if I were to give a topic to my reason for being here today, that topic would be that I am concerned. I am a concerned Ontarian who has lived with a disability all my life. I was born totally blind and in those days had to go where I could to get help for my eye condition. That

help was given to me in Detroit, where I received what little vision I have today.

The ODA, the Ontarians with Disabilities Act, should not just be an act that is left on the shelf. The ODA, as it sits now, has wording which concerns me, and it gives me questions: "Wherever feasible," these items will be enacted.

Question 1: Who decides what's feasible? Does the disabled person decide it? Does the business person decide it? Does he decide it out of the benefit of his heart or the goodness of his heart?

The other thing that bothers me about this act is its voluntary nature. As I said, gentlemen, I have lived my life with my vision disability and have encountered different barriers as I have made my way through life.

I remember applying for a job as a social worker at a psychiatric hospital in Brockville. I remember the gentleman who was interviewing me that day, because the gentleman who was supposed to interview me was away. I remember him saying, "You're blind, you know." I said, "Yes. I've been that way all my life." Those are some of the barriers.

Employment is a barrier. We can become educated. I hold a bachelor of arts degree from Waterloo Lutheran University. You know it as Wilfrid Laurier, but I knew it as Waterloo Lutheran University. I also hold a certificate in gerontology and had hoped one day to work in the field of geriatrics. I hold the certificate in gerontology from Ryerson University. When I began looking for jobs in 1994, having completed one career and completed the education to get another career, I was confronted with people who said, "Did you ever think of going back for more schooling?" These are some of the barriers.

Some of the people who represent agencies on my committee face other barriers. We have a group who work with mentally challenged people. These people are special, because although they may not see the world in the same way you and I do, these people still have a life and have a compassion for life and a desire to live life in the community. With the support services they currently have, they can do this, but the act should help bring down barriers and help them live an even fuller life.

I live in the town of Leamington; Mr Crozier knows it quite well. One of the problems that I faced when I moved from Toronto was transportation. I think the watchword is, "You can't get there from here." Let me briefly explain how I would get to Windsor if I did not have my 81-year-old mother who graciously got up this morning at 5:30. We left Leamington at 7:30 so we could come here today. If I wanted to come by bus, gentlemen, I'd have had to come to Windsor at 4 o'clock yesterday. I would have had to stay overnight and come and address you today. I would then have to stay another night before I could catch the 7 o'clock bus back to Leamington and be in Leamington by 8 the next morning. That's transportation in the rural setting.

As well as being part of the Essex county committee for advocacy, I belong to the CNIB district board. What happened then was that they called me and asked me if I

could attend a meeting in Tilbury. I, of course, said yes, because I had been used to going out the door and stepping on the bus and going down to the CNIB in Toronto and holding my meeting. So I said yes and they said, "Be at the Blue Bonnet Restaurant in Tilbury at such-and-such a time." I got off the phone, turned to my wife, Lyn, and said, "How do I do that?" Another friend of mine was going, and his wife was driving, so he took me.

The reason I mention employment and transportation is that all of the issues that face disabled people are interlinked. You can't get to a job if you can't have transportation to get to a job. If you have a disability condition that prevents you from driving, you either have to move away to a city that has a transit system or you have to try and make some other arrangement, carpooling or the like, hitching rides, to be able to get to a place. What happens to a senior who has been used to doing these things and living in a small community?

1310

**The Chair:** Ten minutes.

**Mr Bannister:** Thank you.

When these seniors are in a position where they can no longer go as freely as they can, they are stuck. They cannot move.

On to the advisory committee: I am concerned that the appointment of people to the advisory committee will, because of its nature, not allow sufficient time for persons with disabilities to be able to submit resumés and to become a part of those committees. You have seen already in Windsor and around the country how capable we are. I choose to put the "ability" part before the "dis." In my life, I choose to look at my abilities rather than my disabilities. I hope that when you consider this act, you will give careful consideration to these amendments.

**The Chair:** We have approximately three minutes per caucus and I'll start with the government side.

**Mr O'Toole:** Thank you very much, Tom, for your presentation and for the story that drives it home. I like the way you phrase it: "I like to look at my abilities as opposed to my disabilities." It is what I've heard these two days so far in the hearings. It is a matter, in many cases, of attitude for people who are trying to make this step with this bill to address the accessibility issues for a lot of different special requirements for people with all sorts of needs. I think this has been asked by every member, but certainly I would be interested. This bill, as some would define it, is a first step. It has probably been in the legislative ballpark, if you will, for many years—not just five years, not just 10 years. As you said, you've had this condition all of your life. Would you like to see this bill as it is currently written, with the regulations to follow, go forward? Or would you like to see it be another attempt to not achieve any first step?

**Mr Bannister:** Thank you very much for your question. It is one that I tried to give serious consideration to when I noticed what some people call flaws and what I call just TABs—temporarily able-bodied people—trying to address issues for disabled people. It is kind of like

Tommy Douglas's speech about the mice electing the cats where they had the choice of the white cats and the black cats. Of course, they made legislation for cats. No human being can make one-bill-fits-all. Basically, I feel it is the beginning of a process. It is kind of like half a loaf instead of no loaf.

If I could be assured that there would be some form of regulation in it, a watchdog agency, a group of people who could be sure to get it right—and that group of people should be comprised of disabled people in your region, in your community. My hope for WECAN, the Windsor-Essex Community Advocacy Network, as its chair, is that it will evolve into an agency to monitor the implementation. You will not get a perfect world.

When we had employment equity we still had alligators swimming under the surface who didn't want to give disabled people jobs, but the equity program that was in worked reasonably well. Vocational rehabilitation services worked very well for educating us, but as a former social worker—I worked as a social worker for a year in a psychiatric hospital—one of the downfalls was that when we finished school and attempted to put the employment part into effect, we met resistance from some employers, which is another one of the faults of the bill: that it only applies to the government.

I appreciate what the government does. I spent 17 years serving you gentlemen cigarettes and candy bars down by your members' dining lounge, so I got to know you all fairly well, at least the ones who were there during the Bill Davis era and the Stephen Lewis era. I'm hoping that you will take the spirit of Bill Davis and the spirit of Stephen Lewis and implement that. Let's not be tightwads. Let's not cut back programs so we can see how much we can save the taxpayers of Ontario, because as I said, you are all TABS—temporarily able-bodied—but one day you may have a stroke, one day you may come out of the casino and be struck by a car. One day you may be in my place and I may be in your place.

**Mr Crozier:** Mr Bannister—or Tom, as I prefer to call you—appreciating the fact that you have, I think, acknowledged that this is a first step and that you would like to see it enacted with some amendments and some regulations, if this bill were to pass—and we all acknowledge that if the government wants it to, it will; if the government wants it amended, it will be amended; if the government does not want it to be amended, it won't be. Having said that, point 11 of the Ontarians with Disabilities resolution—that was proposed by my colleague by Dwight Duncan and was passed unanimously—said: “The Ontarians with Disabilities Act must be more than mere window dressing. It should contribute meaningfully to the improvement of the position of persons with disabilities in Ontario.” Will this act as it's proposed, unamended, do that?

**Mr Bannister:** Thank you, Bruce. I frankly do not believe that it will. The reason that I do not believe that it will is that I have not seen an intention of the present government to establish an agency to administer the act. I have not seen any mandatory regulations. I have seen

voluntary regulations. It is unfortunate to say, but with voluntary anything, it is very much up to the kindness and generosity of the person to whom you are speaking whether or not anything that is voluntary is passed.

**Mr Martin:** Thank you for coming today, Tom. Just right off the top, what happened to your little job at Queen's Park, at the store?

**Mr Bannister:** Oh, you all banned smoking. And as a man says, if you run a McDonald's and they ban hamburgers, you can't make a living selling mustard and relish. But as much as it was the end of an era, for me it was the beginning of an era, because I got to participate in a dream.

1320

I had a friend who went to university with me in the 1960s who worked for I believe it was the Ministry of Labour that had the Transitions program. Through the Transitions program I was able to take courses which trained me as a life skills coach. I now use that in my volunteer work with the CNIB where I lead peer support groups to help the newly blinded. Through Transitions I was able to pay for courses at Ryerson in their gerontology program. I was able to do so well when I felt I had such commitment to the money you gave me, that it had to be used wisely. I earned a place on the dean's honour roll and earned a certificate of merit for participating in continuing education, because I did it all by continuing education.

Had my health not broken, I would have hoped to have gotten a job working in nursing homes, but what I do now is friendly visiting in nursing homes. I serve on the board of the Canadian National Institute for the Blind, Essex-Kent district, where I'm vice-chair and in charge of advocacy. I joined the Leamington Lions; I'm involved that way. My wife, who is also disabled, is secretary of WECAN. She too is very involved in the community, in helping at the centre for community living. Our church pastor, if I may be so bold, has asked us to do the church services for the Sun Parlour Home when our particular church comes up. I hope you won't feel that I wasted the investment you made in me, because I dearly love to give back to my community.

**The Chair:** We've run out of time. On behalf of the committee, thank you very much for your presentation this afternoon.

#### SURANDRA BAGGA

**The Chair:** Our next presentation is from Surandra Bagga. I would ask the presenter to please come forward and state your name for the record. On behalf of the committee, welcome. You have 15 minutes for your presentation this afternoon.

**Mr Surandra Bagga:** My name is Surandra Bagga. Ladies and gentlemen, brothers and sisters, I sit here as an individual, although I come here wearing many hats, but maybe no hat today. I'm one of the parents of a disabled son. I have a total of three sons. I'm an architect.

I'm a member of various committees related to disability issues.

About four days ago, I had four thoughts: whether I should come here as an individual, with ODA, another group or not at all. However, when WACDI honoured me with the Sheila French Award last week and Ms Teason called me with a reminder of today's meeting, I decided that I must come. I owe it to the community to at least say a few words here.

I must congratulate the authorities that steps are finally being taken to establish the ODA. My sincere hope, however, is that whatever is written in the act will lead Ontario to be the best place in the world, providing accessibility to people requiring the same in each aspect of their lives.

This act is as strong as the action team behind it; otherwise the words in the act are majestic words with no real meaning. I also trust and hope that this act is not an assembly of all the existing provisions for people with disabilities in various acts like the Human Rights Code, the building code and so on, but a step to bring close to a full barrier-free place and community for each member of society.

I further urge that sufficient funds with a schedule of dates of completion for various provisions to overcome disabilities are provided in the act. This will make resources fully utilized by each member to help society in each part of Ontario.

My notes are included and I have given them to the secretary. What I have done here is read the form of the disabilities act and put comments for each sentence, clause or paragraph. It apparently needs much more analysis, involvement, thought process and action which hopefully will be available as the time moves on. From here, I will probably go over my comments. I have tried to bold some of the important points during my writing of the notes. As I said, I did it in the last couple of days. I think the second page of the thing should be the first page, where the word "Act" is written on top there.

I have referred to items in the act. I think the very first item is where the act indicates that it is to "improve." The word "improve" seems OK to me as long as the word has some clear, identifiable and goal-specific meaning. "Improve" is a very subjective term. To some the status quo may mean that we are better or we have improved compared to 20 years ago or compared to other countries. Then I refer to the complementary amendments.

In items 23 to 31, I think it refers to various acts. I was a little bit concerned as to whether these are the only acts which need amendments or if there are more. I would like somebody to look at that, from the earliest to the latest, and indicate whether each one is affected or not affected. The term "support" needs to be obtained by provision in all facets of life where disabilities have put them on an unequal footing. It needs to be ascertained that that commitment in ODA is carried out as it says.

The next item is the preamble in the written portion of the act. In paragraph 3 it establishes the commitment of Ontario. I mean to say here that it should be a proactive

role to prevent any upcoming possibilities rather than only reacting to the problems.

In the second portion of paragraph 3, it says that every person and every element of Ontario is responsible to achieve the goals. I want to bring to your attention that some people, although they want to be responsible, will need assistance to be responsible, whether it be in financial, human or social terms, to fulfill their responsibilities.

I'm now going to the item under paragraph 7 which refers to the building code. In many places it says that the building code will be complied with. I think in much of the building code only minimum items are referred to. For example, in a building the code says that as a minimum one entrance should be accessible. Even if you have 10 entrances to the building, all they want is one entrance to be accessible. Or if you have a three-level restaurant, all you have to do is go to one level and give a washroom, and it complies with the code. That means a person can't go to the second or third level, has to stay close to a washroom, sit in a chair and hopefully get served there.

#### 1330

In paragraph 9, where it refers to the Education Act, I don't know how good or bad it is, but I know one of my friends has a teenager who has a hearing disability and a little bit of a speech disability. He could not get the course he wanted to have because the school said he's not capable to do it, and I know personally that he's very intelligent, a genius person.

With the Workplace Safety and Insurance Act, I personally have had very positive experiences. They sent me two candidates and they helped them a lot so they could be in the field where they were working with me. So I have a good experience there.

In paragraph 14—I wish I could be reading, but probably I'll be out of time—the word used is that it is "desirable." That word should be changed. Rather than being desirable, it should be "necessary" or "mandatory."

Interpretation: It again has the word "improve." The idea is to improve the quality of life. I think it should say it should "provide a good quality of life for people with disabilities."

Going to item 2 of the duties of government, it refers that it will comply with the Building Code Act, 1992, if I remember correctly. I just want to bring to your attention that we are in the year 2001, and it is going to comply with 1992. We may be behind on that. The code itself is already behind. It does not comply with everything and it indicates that it will put a wide level of accessibility to the Building Code Act, 1992.

In reference to the different requirements, the terminology used is "may" or "different times" or "different buildings." I think they have to be a little more specific, whether you do it by act or by regulation.

"Duty to comply": The terminology used is "significantly renovates." These words should be removed and the words should be changed to "mandated to be made accessible."

I guess my presentation is probably much more boring than Mr Tom Bannister's. He was much more lively, but what I did was I went clause by clause and gave my comments on that. If you don't have the thing in front of you, it's probably a little bit too technical.

Under the term "new leases," if the government establishes new leases, it says they will "have regard to the extent" for the needs of the disabled people. I think "have regard" is a very unknown or unclear term. It has to say that it will "have full compliance to the needs of" rather than "have regard to the extent."

The term "Not regulations" is not clear to me.

In the item "Government goods and services" it says it will be depending on "technical feasibility." I think it has to be much more specific. Feasibility needs to be more specific rather than saying that it will depend on the technical feasibility.

We'll go to the third page. Over here I'm saying that all of these sentences of the act should have more teeth when you're dealing with employment and employers and the people who are supervisors. It should be made completely clear that they have to follow these requirements and there could be penalties if they did not follow them. It should not be too loose.

Then I'm going to this item of "Ministry accessibility plans." It seems good and neat, but it needs specific times, to be more specific. I remember that Ontario's Fire Marshals Act had requirements that the building had to be retrofitted for fire safety, and they had some time requirements for that.

"Accessibility advisory committees": I think, as Tom was indicating, it is very important that these people be provided with some stipend and transportation, so that they can be encouraged and have it made easy for them to participate in meetings like this, or any other items of those kinds.

Again, I refer here and there to terms like "address" and so on. It should not only be addressed but be made to happen.

I'm just reading the highlighted points here. I would like to go to item 22, where it talks about regulations. I'm saying that they should be carefully drafted where exemption is provided to any exempted from participation and compliance with ODA. It talks about "a significant renovation." Again, it's a very subjective term. To my thinking, if anywhere is renovated, even 5% to 10% of the areas, that should be considered significant and it should comply with the requirements. As a matter of fact, all the existing buildings should be mandated to comply with the act.

In the Election Act it seems to indicate, unless I read it wrong, that there will be a report prepared—this is item 23—three months after the polling day. I would have thought that they should review the polling station prior to the polling date and accessibility be provided before that—unless, as I said, these legal terms may not be clear to me.

Item 25 refers to the fines, from \$300 to \$5,000. To be fair to people, I think that's a little too high. It probably should come closer to \$2,000 or something like that.

I have a lot of other items which I've listed but did not read. I think I may be on time or not on time. That's about all for now.

**The Chair:** Thank you very much. You've basically used all your time, but I'll allow for a quick question from each caucus and I'll start with the official opposition.

**Mr Parsons:** As an engineer, I think I have some of the same problem-solving approaches as architects do. I'm sensing as I read this—and I guess I'm going to ask for your comment—that as an architect I think it's fair to say you strongly believe that you do the design before you actually start to construct the building. As I read all your suggested amendments, I am sensing from you that the building is a long way from designed at this stage.

**Mr Bagga:** I would say I completely agree with that.

**Mr Martin:** I just wanted to thank you for this wonderful term here: "majestic words with no real meaning." We'll remember that as we move forward. You obviously are concerned that we have a lot of fine language, terms that were referenced by other presenters, like Mr Bannister just a few minutes ago, where it speaks of "where feasible," "have regard to," "may" and those kinds of things. You're suggesting if that continues to be the axiom, we in fact probably won't get much done. Would that be correct?

**Mr Bagga:** As I said, they are only words, and you have to have an action team behind them. The action team should have the clear goal to meet the needs of the disability. If the action team is good, these words are good. If the action team is not there, it has no meaning.

1340

**Mr Hardeman:** Thank you very much for the presentation. I noticed in your presentation—and a number of other groups spoke to it today too—about the relationship between other acts and the ODA and to make sure that this act doesn't overtake what is already in place. I think there were some who suggested this morning that there was greater protection for the disabled in the Human Rights Code than there was in the ODA. I just wanted to reaffirm that the act specifically states that the Human Rights Code is in fact supreme over the ODA, so there's no opportunity for this one to make it less restrictive or less helpful in any of the other acts.

I just wanted to quickly ask about the duty to comply. "All existing buildings need to be mandated to be made accessible." Is it your suggestion that the act should make them, at a certain point in time, all comply, or is that meant to say that as buildings are renovated they must all be done?

**Mr Bagga:** If I had the chance I would like to have all of them be mandated to become accessible whether they are renovated or not renovated, because if a building doesn't get renovated for 100 years, are we going to keep it inaccessible? I think it should be mandated. The way I think the Ontario Fire Marshals Act did that was that they said "all apartment buildings" and so on "have to be retrofitted" to their requirements. I think that kind of requirement should be established, that in the next four

years or three years all the buildings have to be accessible.

In terms of the acts—as I said, I did this in the last two days; I read it quickly—I'm saying that you have listed about eight or 10 acts here. I'm saying that we should go from the beginning to the end, list all the acts and say that this is applicable or not applicable, that this will be changed to provide the needs of the accessibility. In addition, I do not care whether it's the human rights act or the Ontario disability act. The Ontario disability act should not reduce any of the existing provisions of any other act. That was my meaning.

**The Chair:** We've run out of time. On behalf of the committee, thank you very much for your presentation this afternoon.

**Mr Bagga:** Thanks for having me. Goodbye.

#### WINDSOR ASSOCIATION OF THE DEAF

**The Chair:** Our next presentation is from the Windsor Association of the Deaf. I would ask the presenter to please come forward and state your name for the record. On behalf of the committee, welcome. You have 20 minutes for your presentation this afternoon.

**Mr Beau Cockburn:** Hello. My name is Beau Cockburn and I'm the recently elected president of the Windsor Association of the Deaf. So if you'll just please excuse me, I'm a bit nervous today.

I recently received a copy of Bill 125 and had a read-through. I'm very happy that this has started, something has started and we have something on paper, but I don't believe it's strong enough, especially the voluntary portion of it. I broke it down a little bit into some categories.

I think the biggest concern in the deaf community that I represent is the interpreting issue. We need legislation to break down the barriers so that we have the right to ask for interpreter services. But businesses out there are not accepting of the fact that they need to provide interpreter services. I should be an Internet network engineer at this point in my life and I'm not because the private school that I needed to go to would not allow having an interpreter in the classroom. So here I am. I think that I need your help in order that the legislation be set up to accommodate this. Hospitals too: you go to the hospital for service and you need an interpreter. They say, "Your sister's here with you. Won't that do? Won't she be able to help communicate?" I don't want my sister. I want a professional interpreter, a qualified interpreter; and I say "qualified," not just any interpreter.

Here in Windsor we do not have anywhere near enough interpreters. It's a very big concern for us. We need to have appropriate education so that we end up with more qualified interpreters that we can access.

Also, take a look at this room for example. How would I know while I sit here if there were to be a fire alarm? I don't see any flashing lights to indicate that there's a fire alarm. On a daily basis, deaf people are going out into the community and to places of employment where they are at risk. They are there doing their

job; suddenly they look up, everybody's disappeared and they don't know why. We're talking about a risk factor that could cause death.

If Bill 125 is passed, will this government enforce it? I don't want it to be quickly passed and quickly forgotten, that it's just something on paper—sort of the trophy on the shelf—instead of something that actually comes out of this so that there is action.

The ODA needs more specifics, as many of the presenters before me have mentioned, even including the building code. Each category of disability, whether it be visually impaired, physical, mental, deaf and hard of hearing—they need to have specifics outlined for all disability groups as far as a building code goes. It also needs to include the private sector. They are the ones who present us with the most barriers in being successful in our futures. If we don't have an interpreter, if a private business or school won't provide an interpreter, what is our future going to look like? I'm just envisioning a job interview with no interpreter. How could I get that job?

The bill also addresses guide dogs for the blind. I want some more specific information, I guess actually an expansion. When we speak to guide dogs, I have a hearing-ear dog. This dog is necessary for me to indicate that there's someone at the door or that the phone is ringing, but there are buildings who won't allow me in with my hearing-ear dog because it's not a guide dog; so probably some kind of rewording there so that any kind of a dog that acts as a guide for a disabled person for whatever reason should be allowed into whatever building for the purposes of accessibility.

My hope is that the ODA bill will be successful with amendments with more specifics. That's, I think, all I have to say for today.

**The Chair:** Thank you very much. We have approximately three minutes per caucus and I'll start with Mr Martin.

**Mr Martin:** Thank you very much for coming today. You certainly raise, I think, some important issues. I just want to focus on the comment you made at the beginning. You had a read-through of the bill, which indicates to me that you really haven't had the time to actually go through it in any detail so that you might understand how it will ultimately apply to you. Out of that I'm reading that—do you feel that we need more time to consider this bill? Would an appropriate message to the government be, let's take that time, let's not be in a hurry, let's wait and use the months of January, February and March before the House comes back in the spring to make sure we have this right before we put it in place?

**Mr Cockburn:** Yes, I do agree. I basically had two days' notice to come here and a quick read-through was definitely the way I had to go, but more time—more time for me to interact with my consumers, my deaf community, to really talk to people about what the real issues are in order for me to have been able to do a better job at this, and more time for you to be able to make the amendments that are necessary before passing the bill.

**Mr Martin:** How much consultation did you do with your community before coming here today, being as you're the president, on this bill?

**Mr Cockburn:** Not very much, because the time was so limited it didn't permit for much. I would have liked to have brought people together and talked about things more in depth in order that I could have brought this to the committee. I'm sure I've missed a lot of points and I sort of feel this overwhelming responsibility that this will now go back and get passed without all those pieces I felt I needed to bring from my community, and then it won't be an effective bill.

1350

**Mr DeFaria:** Thank you, Mr Cockburn, for your excellent presentation. I just want to mention to you the fact that from the presentations that we have had it seems that different disabled groups have different concerns and different problems that have to be addressed by the legislation. Would you agree that this process of having advisory committees that will have input into the regulations is the right process to make sure that all different groups are able to have input into the regulations that will be part of this bill?

**Mr Cockburn:** I believe, yes, that all disability organizations need to be involved in this work together in order that we have a successful piece of legislation that breaks down the barriers.

**Mr Spina:** Welcome, Mr Cockburn. I understand and appreciate that it was difficult perhaps to do some consultation within the time frame. However, I can assure you that the minister will be consulting with the various groups over the winter to ensure that all of the stakeholders, the various groups who have a distinct interest in making this bill work, will have the opportunity to participate and have further input to define the definitions of "disabled," the time frames for implementation, and

also to address many of the comments that have been brought forward during these hearings as well.

Just as an aside, with response to your hearing-ear dog, there is a specific clause in the bill which expands the context of the Human Rights Code to include all kinds of service animals so that they will be accepted in society for people like yourself.

Thank you for your input today.

**Mr Cockburn:** No problem.

**Mr Parsons:** It has struck us as terribly ironic that the group that has the greatest challenge to communicate has been given the least opportunity to do that communication with this bill. Nevertheless, though I appreciated your presentation, what I heard you ask for was not special privileges, not something unique for you or for your community. You've asked for the right to a job; you've asked for the right to medical care; you've asked for the right to know if the building you're in is on fire—simple as that.

The bill, as it stands—there can be all the consultation you want, but once it's passed, that is the bill. Does this bill give you what you believe are equal rights to every other citizen in Ontario?

**Mr Cockburn:** I feel I need to say that I don't know that I'm qualified enough to respond to that, but I'd say we'd be on shaky ground. Well, let's say, we've got a bit of Swiss cheese here and I'd really like to see some of the holes filled up.

**The Chair:** On behalf of the committee, thank you very much for your presentation this afternoon.

Before we adjourn, as this is our last presentation, I would like to remind the members that cabs will be available at 2:45 at the main door and this committee will meet again tomorrow at 9 am in room 151 at Queen's Park. This committee is now adjourned.

*The committee adjourned at 1355.*



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## CONTENTS

Monday 3 December 2001

<b>Ontarians with Disabilities Act, 2001, Bill 125, <i>Mr Jackson</i> / <b>Loi de 2001 sur les personnes handicapées de l'Ontario</b>, projet de loi 125, <i>M. Jackson</i>.....</b>	F-489
Ontarians with Disabilities Act Committee, Windsor/Essex county chapter .....	F-489
Mr Dean La Bute	
Windsor Advisory Committee on Disability Issues .....	F-492
Ms Carolyn Williams	
Windsor-Essex Bilingual Legal Clinic .....	F-494
Ms Stephanie Spiers	
Mr David Dimitrie .....	F-496
Ontario Brain Injury Association, Windsor chapter .....	F-499
Ms Janice Kominek	
Ms Nancy Nicholson	
Canadian National Institute for the Blind, Ontario division.....	F-502
Ms Arlene Bailey	
Canadian Hearing Society, Windsor region .....	F-505
Mr David Kerr	
Mr Kevin MacGregor .....	F-508
Multiple Sclerosis Society of Canada, Ontario division .....	F-511
Ms Dora Lee Bugeja	
Windsor-Essex Community Advocacy Network for Persons with Disabilities.....	F-513
Mr Tom Bannister	
Mr Surandra Bagga .....	F-515
Windsor Association of the Deaf.....	F-518
Mr Beau Cockburn	