



---

ISSN 1710-9477

**Legislative Assembly  
of Ontario**

First Session, 38<sup>th</sup> Parliament

**Assemblée législative  
de l'Ontario**

Première session, 38<sup>e</sup> législature

**Official Report  
of Debates  
(Hansard)**

**Tuesday 29 March 2005**

**Journal  
des débats  
(Hansard)**

**Mardi 29 mars 2005**

**Standing committee on  
social policy**

Accessibility for Ontarians with  
Disabilities Act, 2005

**Comité permanent de  
la politique sociale**

Loi de 2005 sur l'accessibilité  
pour les personnes handicapées  
de l'Ontario

Chair: Mario G. Racco  
Clerk: Anne Stokes

Président : Mario G. Racco  
Greffière : Anne Stokes

---

### **Hansard on the Internet**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<http://www.ontla.on.ca/>

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

### **Copies of Hansard**

Information regarding purchase of copies of Hansard may be obtained from Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Le Journal des débats sur Internet**

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

### **Renseignements sur l'index**

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

### **Exemplaires du Journal**

Pour des exemplaires, veuillez prendre contact avec Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311, ou sans frais : 1-800-668-9938.

---

Hansard Reporting and Interpretation Services  
Room 500, West Wing, Legislative Building  
111 Wellesley Street West, Queen's Park  
Toronto ON M7A 1A2  
Telephone 416-325-7400; fax 416-325-7430  
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation  
Salle 500, aile ouest, Édifice du Parlement  
111, rue Wellesley ouest, Queen's Park  
Toronto ON M7A 1A2  
Téléphone, 416-325-7400; télécopieur, 416-325-7430  
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
SOCIAL POLICY**

**COMITÉ PERMANENT DE  
LA POLITIQUE SOCIALE**

Tuesday 29 March 2005

Mardi 29 mars 2005

*The committee met at 1558 in committee room 151.*

ACCESSIBILITY FOR ONTARIANS WITH  
DISABILITIES ACT, 2005

LOI DE 2005 SUR L'ACCESSIBILITÉ  
POUR LES PERSONNES HANDICAPÉES  
DE L'ONTARIO

Consideration of Bill 118, An Act respecting the development, implementation and enforcement of standards relating to accessibility with respect to goods, services, facilities, employment, accommodation, buildings and all other things specified in the Act for persons with disabilities / Projet de loi 118, Loi traitant de l'élaboration, de la mise en oeuvre et de l'application de normes concernant l'accessibilité pour les personnes handicapées en ce qui concerne les biens, les services, les installations, l'emploi, le logement, les bâtiments et toutes les autres choses qu'elle précise.

**The Chair (Mr. Mario G. Racco):** Good afternoon to all and welcome to the standing committee on social policy in consideration of Bill 118, the Accessibility for Ontarians with Disabilities Act. Before we start, I would like once again to point out several features that we hope will help to improve accessibility for those who are participating in and attending meetings regarding Bill 118.

In addition to our French language interpretation, we will be providing at each of our meetings closed captioning, sign language interpreters and two support services attendants available to provide assistance to anyone who wishes it. Please identify yourself to me and I'll ask for the two people at the back.

The meeting today in Toronto will be broadcast on the parliamentary channel, which is available on cable TV, tomorrow. Also, these meetings will be webcast on the Legislative Assembly website at [www.ontla.on.ca](http://www.ontla.on.ca).

The order of today's business is Bill 118, An Act respecting the development, implementation and enforcement of standards relating to accessibility with respect to goods, services, facilities, employment, accommodation, buildings and all other things specified in the act for persons with disabilities.

Before the meeting starts, has everybody received this package with all the amendments? OK. We all have it.

Section 1: Mr. Marchese.

**Mr. Rosario Marchese (Trinity-Spadina):** I move that section 1 of the bill be struck out and the following substituted:

“Purpose

“1. The purpose of this act is

“(a) to achieve a barrier-free Ontario for persons with disabilities through the identification and removal of existing barriers and the prevention of new barriers that prevent persons with disabilities from fully participating in all aspects of life in Ontario; and

“(b) to ensure that persons with disabilities play a central role in the mechanisms established to achieve the goal described in clause (a).”

There were a number of deputants who came in front of our committee and spoke to this. I am not happy with the current language that's there. The current language says, “The purpose of this act is to benefit all Ontarians by developing, implementing and enforcing accessibility standards” etc. But in my view, the purpose of this act is not to benefit all Ontarians; the purpose of this act is to benefit people who have traditionally been discriminated against and excluded from a variety of activities that all people ought to be entitled to. If someone has a disability and we don't have accessibility mechanisms for them to be able to live as others, that means we're discriminating against them. So the purpose should state that.

I'm not the only one saying this. Other members of this government have stated this. The minister, the Premier and many others have spoken to this in the way that I'm speaking now. So it would seem to me that we should have the kind of language in the purpose clause that immediately acknowledges that we want to achieve a barrier-free Ontario for persons with disabilities. It's for that reason that I move this amendment.

**The Chair:** Any comments?

**Mr. Khalil Ramal (London-Fanshawe):** I don't see any purpose in amending the bill, because this legislation has already included barrier removal. Also, persons with disabilities can play an important role in establishing standards and administering the activities and the future of this bill.

**Mr. Cameron Jackson (Burlington):** I'll be pleased to support the amendment. As all my colleagues would realize, judges, when called upon to interpret this legislation, give great weight to the purpose clause. It becomes the parameter upon which an ultimate judicial decision is made when the legislation in and of itself isn't absolutely clear.

I have spoken to this in the past and support it, and I too would echo my colleague's comments that this is more than appropriate; in fact, it's something the ODAC committee has suggested as well. I would hope that we would also have recorded votes for all these, Mr. Chairman. I'll leave my comments at that.

**The Chair:** Ms. Wynne wishes to speak, and then I'll go to you, Mr. Marchese.

**Ms. Kathleen O. Wynne (Don Valley West):** I just want to make a comment. I want to acknowledge that we did hear from a number of people that there needed to be an acknowledgement in the purpose of the bill that we were dealing with people with disabilities right up front, and the history of discrimination. In fact, the next motion that's going to be introduced by the government does introduce that acknowledgement of the history of discrimination. So I will not be supporting the NDP motion, but I will be supporting the government motion that does amend the purpose.

**Mr. Marchese:** I was about to make reference to the fact that you have your own amendment in this regard. The way the parliamentary assistant was speaking to this issue, one would almost assume that he would speak to his own amendment as well, because, while it is true that, in the body of the bill, there are issues that deal with issues of discrimination, it doesn't say that in the purpose clause.

**Mr. Ramal:** We're following.

**Mr. Marchese:** I'm glad you're following.

My comment is a little sharper and clearer in terms of what we're trying to do. It also says in (b) that it ensures "that persons with disabilities play a central role in the mechanisms established to achieve the goal described in clause (a)." Your amendment doesn't do that, and I'll speak to it again, I suppose.

If you can support your own amendment, I'm not quite sure I understand why you would be opposed to ours. That's why, in your comments—and yours, Ms. Wynne—I don't see why you would object to our amendment—or wording, really.

**Ms. Wynne:** Could I respond to that?

**Mr. Marchese:** Please.

**Ms. Wynne:** My response would be that it's redundant, Mr. Marchese. In fact, the rest of section 1 goes on and provides for the involvement of persons with disabilities. If we pass our amendment, which acknowledges the history of discrimination, then the missing piece that we heard about through the delegations is there. Everything else that's in your amendment is, in fact, already covered off in the purpose.

**Mr. Marchese:** I'm not sure how it does that. Your amendment says, "recognizing the history of discrimination"—which is a fair thing to write. My amendment says, "to achieve a barrier-free Ontario"—the language is totally different—"for persons with disabilities through the identification and removal of existing barriers and the prevention of new barriers that prevent persons with disabilities from fully participating...." It is a statement

that I think is quite consistent with what you're trying to do with this bill. There's no redundancy in that statement.

**Ms. Wynne:** The second part.

**Mr. Marchese:** The second part is something completely different. It says that they should be involved; they should play a central role. It's consistent with your bill.

**The Chair:** Is there any further debate?

**Mr. Jackson:** Is there anywhere else in the bill which specifically states that, at some point, Ontario will achieve barrier-free status?

**Mr. Ramal:** If you go to clause 1(b), it explains it very well and states very clearly that people with disabilities are going to play a central and important role to eliminate the barriers. Also, a big part of the standards committee that's going to establish that—

**The Chair:** Thank you, Mr. Ramal.

**Mr. Jackson:** In fairness, that was not my question. My question was, where in the bill does it specifically say that we will achieve, on a specific date, a barrier-free Ontario?

**Ms. Wynne:** Section 1 says: "The purpose of this act is to benefit all Ontarians by,

"(a) developing, implementing and enforcing accessibility standards in order to achieve accessibility for Ontarians with disabilities"—and then it goes on—"on or before January 1, 2025."

So it actually flips the question that you're asking. As opposed to talking about removal of barriers, it talks about accessibility. So it is, in essence, the same thing.

**Mr. Jackson:** The point is that nowhere in the legislation does this commit this or any future government to creating a barrier-free Ontario. I understand the word "standards"—

**Ms. Wynne:** An accessible Ontario.

**Mr. Jackson:** I took an education, as you did. I understand those words. There's nowhere in this legislation where the words "barrier-free"—they exist in the ADA, they exist in the recommendations put forward by the Ontarians with disabilities advisory committee, and it was put forward by countless groups.

I feel very strongly that if, in fact, we're purporting to create a piece of legislation that will make Ontario barrier-free, why are you afraid to put those words into legislation, rather to yield to the concept of moving toward the goals of accessibility standards and—I can't use the word "accountability"—

*Interjection.*

**Mr. Jackson:** Those were the words that you've replayed for us.

1610

**Mr. Marchese:** I don't want to seem to be obstructing almost, every time a member makes a statement on the other side. Given what you've said, Ms. Wynne, I'm prepared to say that this amendment is consistent with what you're saying. If it's stated elsewhere, why would you not want to state it in the purpose clause?

**The Chair:** If there is no more debate, I will now put the question to you on a recorded vote.

**Ayes**

Jackson, Marchese.

**Nays**

Brownell, Leal, Parsons, Ramal, Wynne.

**The Chair:** The amendment is lost. We move to the next amendment under section 1: number 2.

**Mr. Ramal:** I move that section 1 of the bill be amended by striking out the portion before clause (a) and substituting the following:

“Purpose

“1. Recognizing the history of discrimination against persons with disabilities in Ontario, the purpose of this act is to benefit all Ontarians by.”

The aim of this section is just to recognize the history of exclusion of people with disabilities. Out of recognition for them, we are adding this one to basically strengthen our direction and our determination to work with the disabled community across the province to eliminate and stop the discrimination against them.

**Mr. Jackson:** My only question here is that the addition of this—I’m not going to interpret it in political terms; I’d like to try to interpret it in legal terms. Further on in the amendments, we make reference—several of us—to tying standards to the standards set by the Ontario Human Rights Code and the commission, which, as you know is a higher standard than the building code and other codes.

I guess what I’m really asking is if the government intends to support that principle the ODA asked for, because that would be consistent with this kind of—that’s the history of discrimination. If we’re not going to somehow work toward achieving a level of non-discrimination at the level of the Human Rights Commission, then I’m uncomfortable making this statement, because we’re essentially purporting to do something that we’re not prepared to do in the legislation. We will still have a historical gap of discrimination between the standards set by the Human Rights Commission and the standards that may be set out subsequently through this legislation.

**Mr. Marchese:** All I want to say about this amendment is that it’s awkward. It almost seems like cut-and-paste. You understand how cutting and pasting can be awkward sometimes, right? You’ve got a bill that says, “The purpose of this act is to benefit all Ontarians by,” and then you realize it’s a bit problematic. So you say, “Can we throw a line in to make the others feel good?” So you say, “OK, here’s a line,” and then you paste it over the other. It’s just awkward. I realize the awkwardness of the government in doing this. At least I do; I suspect others here in this room might feel the same way. I could be wrong.

I know that Mr. Parsons moved the same motion in 2001, when we were dealing with Cam Jackson’s bill, which is neither here nor there. I’m not trying to criticize

him. It’s just that at the time, the Liberals in committee decided that it would be useful to have an amendment similar to the one I moved, which was theirs. So I argue that if it was good enough then for his bill, as weak as it was, this could be good for your bill, which is better.

**Mr. Jackson:** Maybe not.

**Mr. Marchese:** I think it’s better.

**Mr. Jackson:** Maybe not better.

**Mr. Marchese:** But I think they think it’s better, and that’s even more important, because we’re dealing with people with disabilities, and they think it’s better.

I find this cut-and-paste a bit awkward. It isn’t intended to benefit all Ontarians. This bill isn’t about me; it’s about them. It’s about creating accessibility, not for me, because I can get through a door or through a barrier, possibly in more ways than one, but they can’t. How does it benefit me as an all-Ontarian type?

That’s why I argue that when you throw it in that way, you’re not doing me a favour. The focus ought to be on people with disabilities. This cut-and-paste is awkward. That’s why I was a bit saddened that you defeated my amendment, which was your amendment as well in 2001. Now we have a weakened thing just to make people feel better. I just don’t feel good about it; I’m saddened by it. I don’t even know if I want to support it, because it’s awkward. You’re trying to make me and others feel good. I just don’t know what to say. I might oppose it.

**The Chair:** Thanks for your comments.

Mr. Ramal and then Ms. Wynne.

**Mr. Ramal:** Mr. Jackson, I believe that the Human Rights Code doesn’t specify proactive standards in general, but this act will specify it. That’s why we came up with recognition. As we travelled across the province we heard a lot of people with disabilities talking about discrimination and exclusion. That’s why we came up with this section to acknowledge what they’ve been through in the past.

Also, to Mr. Marchese, I wonder if he’s not going to recognize the discrimination against people with disabilities, and I wonder why he’s sad about this section. I think it’s very important to recognize it as a payback, at least psychologically, for the people who have been suffering for a long time.

**Mr. Jackson:** Mr. Chair—

**The Chair:** I had recognized Ms. Wynne, and then I’ll come back to you, Mr. Jackson.

**Ms. Wynne:** I think that it would be a great shame if the member from the NDP could not support this amendment, because we did hear repeatedly that there needed to be an acknowledgement that this bill was about people who had been discriminated against.

I think the other point that needs to be raised is that there is a real philosophical question about whether all Ontarians do benefit from this act. In fact, when I had my round table in my riding before the public hearings started, people with disabilities came to the CNIB where we held the session, and one of the issues raised was, “Why do you have ‘disabilities’ in the name? Why shouldn’t it be accessibility for all Ontarians?”—because

we talk about the AODA, the Accessibility for Ontarians with Disabilities Act. There was a question of this legislation being important for everyone in Ontario.

I think this is a better piece of legislation, so the amendment you raised, which may have been raised by us in a previous time, is unnecessary. We've addressed the issues that the delegates brought to us, and this act will make Ontario a better place for all Ontarians.

**The Chair:** Mr. Jackson, Mr. Marchese and then Mr. Parsons.

**Mr. Jackson:** I would just like to say to the parliamentary assistant that I did read the material I received from the commissioner, and I would strongly urge you to revisit it. I know it's not going to change your marching orders, but I strongly urge you to revisit it, because it does speak very clearly to the issue of standards, and the ODA has asked us to table those amendments.

I want to caution the member opposite about any kind of suggestion that the voting here, especially in Mr. Marchese's case, that his voting against this suggests for a moment that he supports discrimination against—I would just caution you to be very careful going into that area.

*Interjection.*

**Mr. Jackson:** I would just caution you. It's most unparliamentary for a parliamentary assistant.

**Mr. Marchese:** Did he say that out loud?

**Mr. Jackson:** Yes, you were—

**The Chair:** Mr. Marchese, are you still—

**Mr. Marchese:** I didn't hear Khalil say it. Maybe it is better that I didn't hear it. Just to repeat: "Recognizing the history of discrimination against persons with disabilities in Ontario," we therefore are going to do the following. Do you understand in terms of the language and what would follow from a statement like that? Recognizing this, therefore this. The language here says, "Recognizing the history of discrimination ... the purpose of this act is to benefit all Ontarians"—

**Ms. Wynne:** "By."

1620

**Mr. Marchese:** Yes, "by."

Anyway, the combination is awkward. It almost doesn't make any sense. Only after you go over the comma after "by," maybe you'll—yes, "development, implementation and enforcement" of accessibility standards.

I understand that the indirect effect of this bill is to make us all a better society. I appreciate that. But that it benefits all the others in this bill—I'm just not sure that's what we are really trying to do. I don't know why it's here. I don't know why you people are saying that. I understand the secondary effects, but I really think we should focus on the issue at hand. The issue is historical discrimination against people with disabilities. We want to correct that wrong. We want to prevent those things from happening again. That's really what this bill is about. It's not about benefiting all the others, and it confuses the two when we add them in.

That's all I want to say. I'm going to vote against it.

**Mr. Ernie Parsons (Prince Edward-Hastings):** As an engineer, we're traditionally not deep philosophers, but I strongly believe this bill benefits everyone. If accessibility is denied to a group of individuals in the community—I'm fortunate at this time that I don't have a disability that I know of. Running for politics puts that into question, but not that I know of. But if there is an obstacle to someone else, that deprives me of the knowledge they have or the friendship they have or the contribution that they will make to our society to benefit all of us, and I strongly believe that this bill applies to everyone.

I thank my friend for reminding me of the earlier motion. That motion was made at a time when we were dealing with a bill that, in my mind and in the minds of many others, didn't provide accessibility for anyone in the disabled community. It was a show, but there really was no substance to it. In my mind, this entire bill involves individuals with disabilities. That earlier motion is superfluous in this one, where I thought it was essential several years ago.

**Mr. Jeff Leal (Peterborough):** We may be splitting hairs, but it's a recognition of a societal shift in Ontario which all of us collectively participate in. The societal shift is to make people with disabilities full participants in our society, and that's what I take under this clause by putting the "by" in at the end. So I'm very comfortable with that. It represents a philosophy that's been built on the American with Disabilities Act and indeed Mr. Jackson's bill, as we move down the road. I think we're recognizing that. I see this as a societal shift that we all have a stake in, and I think this recognizes that.

**Mr. Marchese:** I apologize to the others who are here because I'm prolonging it unnecessarily, but the justification of saying, "This is a different bill. Therefore, I can agree with this language now, but the other one was such a bad bill that I couldn't agree with that. The language that I had then was appropriate for that bill, but this language is not appropriate for this bill because our bill is better—the fact that the bill is better doesn't prevent us from including the language that I had proposed. That's not the correct argument, in my view.

I think Mr. Jackson probably had the same intent in terms of where he wanted to go. He may not have had the support of his government, but his intent, I'm sure, was the same as yours in terms of what you're trying to do with this bill, however better it is in many ways.

My point is that to justify on the basis that it's a different bill and therefore you can overlook the language, even though you had it then, I don't find a strong argument.

**The Chair:** Any more debate?

**Mr. Parsons:** I appreciate Mr. Marchese's comments, but the object is also to not feel the bill is superfluous. Since that, in fact, is covered in other places of the bill—we don't want a volume this thick when the bill is done. We'll vote against it.

**The Chair:** Thank you. Any further debate? If there's none, I'll take a recorded vote. They're all going to be recorded. I believe that was the request.

**Mr. Marchese:** It should be called by the people who move the motion, if they want a recorded vote.

**The Chair:** I will go for the vote. So no call?

**Mr. Marchese:** Anybody can.

**The Chair:** Mr. Jackson, am I right that you said at the beginning that you wanted every one recorded?

**Mr. Marchese:** Well, OK. That's fine.

**The Chair:** Anybody can call, so all of them will be recorded. Therefore, I'll ask for a recorded vote if there are no more comments.

#### Ayes

Brownell, Jackson, Leal, Parsons, Ramal, Wynne.

#### Nays

Marchese.

**The Chair:** The motion carries.

We'll move to the next, which is clause 1(a).

**Mr. Jackson:** On a point of order, Mr. Chair: Are you going to close off sections as they're approved? Are you just going to say, "I move that clause 1(a) of the purpose clause be approved"? You're not going to do that?

**The Chair:** We do each section. The page I have here—

**Mr. Jackson:** OK. That's fine, if that's your intention.

**The Chair:** It's section 1 and then section 2. Mr. Leal, you are next.

**Mr. Leal:** I would move that clause 1(a) of the bill be amended by striking out "occupancy of accommodation" and substituting "accommodation."

**The Chair:** Any comments before I go to Mr. Jackson?

**Mr. Leal:** I think it's a very straightforward type of amendment. It cleans up the language. I wouldn't see a great need to debate at length on this one.

**Mr. Jackson:** I guess my question is a legal one, and it's one based on definitions, because we don't have a definition for "accommodation." "Accommodation" can mean two things. It can mean someone's domicile, and it can also mean how one adjusts the environment to make it barrier-free—an accommodation.

In the absence of a definition, let me start by asking, what did the original draftspersons of this bill consider "occupancy of accommodation"? In my view, if I were a judge, I would say that deals with my rental premises, my lease premises, the place that I live. "Occupancy" would be a place that I lease, a place that I rent or a place that I own. Could someone answer that?

**The Chair:** Can someone from staff answer the question, Mr. Ramal? Is that what you want?

**Mr. Jackson:** Maybe draw lots.

**The Chair:** I'm going to wait another few seconds before doing that, Mr. Jackson.

Before you answer the question, please identify yourself for the record.

**Mr. David Lillico:** My name is David Lillico. I'm a counsel with the Ministry of Citizenship and Immigration.

This is just a technical amendment. If you look at the long title of the bill, you'll see that it refers to accommodation. There are a number of other places in the bill where the term "accommodation" is used. This is the one instance where the phrase "occupancy of accommodation" was used. It's really just a technical drafting re-adjustment to make this subsection uniform with all the other places in the bill, including the long title, where the word "accommodation" appears on its own.

**Mr. Jackson:** While I have David, then, does "accommodation" mean a building, a rental, an apartment or a leasehold, or does it mean the larger word, which is to accommodate a person with a disability: to accommodate them with speech-language services, to accommodate them with a signer? How are we to interpret this or how is a future interpretation to occur with just the word "accommodation"? Because "occupancy of accommodation," I got that. That was clear, and that's why I'm wondering.

David, you've answered the question, but I guess it must have been put in that way to mean accommodation where you rent space, own space or lease space. I'm wondering if that's what you meant, and you just made it consistent by removing that word, but that's what you interpreted it to be.

**Mr. Lillico:** As was noted previously, there may be more than one way to interpret the term, and there isn't a definition in the bill. There is a motion made later on on this point—I don't know, from a procedural point of view, whether it's appropriate to refer to it at this point—addressing the definition of the term "accommodation."

**Mr. Jackson:** Where might that be?

**The Chair:** Which section is that? Would you make reference, please?

**Mr. Lillico:** It's number 96.

1630

**The Chair:** At the end. OK.

**Mr. Lillico:** It's an adjustment to clause 40(1)(q).

**The Chair:** Is that OK, Mr. Jackson?

**Mr. Jackson:** Well, until I read it. It's 96 in the legislation, not in the amendment package.

**Mr. Lillico:** It's number 96 in the package.

**The Chair:** On the amendments.

**Mr. Jackson:** Oh, sorry. They're paginated. I should have looked. Thank you.

So, in effect, we're saying that the standards committees are going to determine the definitions of "accessibility," "accommodation" and "services." Isn't that what clause 40(1)(q) is?

**Mr. Lillico:** Section 40 is the section that provides for the making of regulations by the Lieutenant Governor in Council.

**The Chair:** Mr. Jackson, should I go to Mr. Marchese, or are you still on the floor?

**Mr. Jackson:** I'm trying to follow through the logic of this. I'll leave it at this, then: If we were to leave "occupancy of accommodation," we would be moving, in the legislation, into the area of the private rental market as defined by the space inside the apartment—if we leave

the clause the way it is. By removing it, we cast doubt as to whether or not this will cover anything other than the common area that a landlord would be responsible for. That's my first immediate concern in interpretation, because "occupancy of accommodation" would put in the legislation a positive onus on a landlord to modify the interior of the apartment, which does not exist, to my knowledge, anywhere in Canada. It does for the common areas, but it doesn't for the occupancy of the accommodation.

I'll leave that on the record. I appreciate what you're able to respond to, Mr. Lillico, but in my view the removal of that would constitute a reduction in the clarity of the bill.

**The Chair:** Mr. Lillico, if you don't mind staying there in case there are any other questions, please.

Mr. Marchese?

**Mr. Marchese:** It's more a matter of curiosity than anything else. I think that's why we're asking these questions—at least me.

In your view, if we had left the word "occupancy" in there, what could that have meant legally by way of the interpretation of that word?

**Mr. Lillico:** As noted earlier, there is no definition in the bill, but there is a proposed motion to come before the committee at a later time where there would be an opportunity to define the term "accommodation" there. The word "accommodation" is used many times in the bill. The phrase "occupancy of accommodation" is used only once, and that's here. So the purpose of the amendment is to adjust the—

**Mr. Marchese:** I understood that. That wasn't my question. I'm not trying to put you on the spot. You're a lawyer, and the point is to ask you: If the word "occupancy" stayed there—if you were to interpret that, what would that mean to you if we were to leave that word?

*Interjection.*

**The Chair:** I am asking her to take a seat.

**Mr. Marchese:** If it's too complicated, I don't mind dropping it.

**The Chair:** That's fine. By the way, I will leave it up to you to indicate to me which member of staff should potentially answer the question, if you don't mind.

**Ms. Katherine Hewson:** I'm Katherine Hewson. I'm acting assistant deputy minister at the Ministry of Citizenship and Immigration. I had thought this was a legal question, but I realize perhaps a policy answer might be more helpful to you.

The intention was not to reduce the coverage of this act through dropping the words "occupancy of." As David Lillico has stated, it was really just to bring it in to be consistent with the rest of the wording.

To answer the earlier question, the intention was not to address issues of accommodation as that word is used in human rights law generally, but it is meant to deal with buildings that people live in. I hope that's helpful.

**Mr. Marchese:** So the word "occupancy" means what again? My question was, if someone were to legally interpret that, what would it mean? And I'm not getting

that answer. I'm getting the fact that you're trying to standardize the language—I appreciate that—from a policy point of view, but that's not what I'm asking. If you were a lawyer and you were interpreting this, what implications are there? That's all I'm asking. If you don't know, that's OK.

**Ms. Hewson:** I think I'll defer that to our legal counsel.

**Mr. Lillico:** In the human rights context, this phrase appears there. It is used in that context of spaces, as was mentioned earlier—rented leased spaces, accommodation, as in housing. It's used in that sense, primarily.

**Mr. Marchese:** So would that have been a problem if we had left that word? Could it be, or might it be?

**Mr. Lillico:** It's more for a matter of consistency, removing the phrase "occupancy of," not meaning to change the scope of the bill, really just meaning to regularize the phrasing, because "accommodation" is used, I think, in that sense in other places; for example in section 6. I don't want to get too—

**Mr. Marchese:** I understand. So "occupancy" could have been limiting in terms of whom it might have covered. It could have been a limiting term; it might not have been as expansive, possibly. Is that another way of putting it?

**Mr. Lillico:** I think probably it just isn't necessary. I'm not sure that the meaning is intended to change.

**Mr. Marchese:** That's OK. Thank you very much.

**The Chair:** Are there any other questions? If there are none, then I will ask for a recorded vote.

### Ayes

Brownell, Jackson, Leal, Marchese, Parsons, Ramal, Wynne.

**The Chair:** The next is Mr. Marchese: clause 1(a).

**Mr. Marchese:** I move that clause 1(a) of the bill be amended by striking out "January 1, 2025" and substituting "January 1, 2020."

**The Chair:** Any comments on that?

**Mr. Marchese:** If there was any consistency from the deputants about an opinion around this bill, it would be this: I would say that 95% of the people who made a deputation felt that the 20-year period was simply too long. I'm a bit surprised that the government hasn't moved the timelines at all. At least, I thought you would do what I'm proposing now, which is to reduce the time period from 20 long years to 15. It isn't as drastic as some of the other people talked about. Some of the other deputants talked about nine years, many talked about 10 and, certainly, others talked about 15, but only a couple thought that 20 years was OK, for whatever reason—for different reasons.

It would seem to me that if you're holding hearings to hear people, and you hear people with disabilities and others consistently saying the time period is too long, you would think that the committee members would hear that and do something about it. The fact that we don't hear



that just makes you wonder sometimes why we have hearings. On a date where there is support from all the people affected by it—some exceptions, I admit. I had a lot of quotes, and it's unnecessary, really, to review for the record the quotes of various people who came before the committee. That is unnecessary and would bore a lot of you for sure. Many people felt that 20 years is too long, that for those who are 60, 20 years would put them at 80. God willing, some of them would survive it. But if you're a child and you have a disability, you have to wait 20 years for the full implementation of these changes.

I think 15 years is reasonable; I think we can accomplish what you want to do in 20. It would force us to speed up the changes we want to make. I think it's doable, and I think most people agree with me that it is doable. There's nothing that would prevent us from doing what we want to do within three five-year cycles instead of four five-year cycles. I just hope that the members of this committee are not tied to the minister or anyone else in terms of their obligation to do what they heard. And if you do what you've heard, then you would be supporting this motion.

1640

**Mr. Ramal:** I will repeat what we said many different times while we were travelling with the committee. The reality of the economic structure of the province and places tells us that 2025 is a realistic time and a logical time to achieve. Also, I want to repeat again that 2025 is the ending time, not the beginning time, and we proposed the five-year increment to study and evaluate the process. I think if this bill passes, we're going to see fast results and many new places being established, being built, being occupied. It's going to be targeted automatically, it's going to be obligated automatically to be accessible. So we're not talking about waiting 20 years or 25 years to be implemented. We're talking about logical economic steps to follow. As I said, we don't want to say that we're going to do it tomorrow. We'd love to do it tomorrow; we'd love to do it yesterday. But the logical, philosophical approach is that we have to set up a time frame for ourselves for logical ones, economical ones, and then we can target it and work on it in order to achieve it. That's why we said 2025 and we didn't say yesterday or tomorrow. That's the big difference between what we'd like to do and the reality. That's what we're talking about. Hopefully, you'll support us and all the members of the House will support us in passing this bill, and we can start seeing results right after we pass this bill.

**Mr. Jackson:** I think Mr. Ramal has raised the issue of what people can afford to do, and that's partially tied into this time frame of 20 years. What's frustrating, I think, is that there has been no financial commitment. We heard from deputants expressing concern that even specific ministries are cutting back on their budget allocation for certain buildings. The courts and the Attorney General—it's right in his report. Anybody can go to his Web site and see that they've taken the money out. That should be a cause for everyone's concern, because if we can't make our courts accessible in 15 years, then we're

in real trouble. If I'm to believe what Mr. Ramal has said, that as fast as we can pass this, the sooner we can get on with it, the fact is that we're spending less today through the Ministry of Citizenship on the disability act than we were two years ago. So there is legitimate concern out there. The fear is that 20 years will take 20 years, and that the spending will occur over 20 years, most of it in the last four or five years, which is essentially what usually happens on these long out-windows. I'm not going to cite the examples that I'm familiar with in my time in this Legislature, such as assistive devices and other programs that the disability community had waited for.

I will be supporting the amendment. I had to think about it long and hard because of the fact that the first bits of legislation had penalties and a framework and a positive legislated responsibility of the government of Ontario to make its buildings fully accessible. That time frame, according to the cabinet minutes—and the same bureaucrats who drafted my bill drafted this bill—was to be done in 10 years. So it would be improper for me not to support it. Yes, there are some sectors of our society that may need the 20 years, but the fact that the government of Ontario can take 20 years, in my view, is absolutely indefensible.

I have two concerns. One is that the framework doesn't obligate the government of Ontario in a specific way; it only obligates sectors. Secondly, there is no real budget being allocated this year or no dollar amounts being indicated by the ministry in terms of any future commitments. I just think this is very problematic. After the party's over, when this bill is passed, the hard work and the costing begin. Doing it over 20 years, in my view, will not get us there, specifically since we—let me put it to you another way. Mr. Marchese, in effect, is trying to reduce the historic discrimination against persons with disabilities in this province by five years. Are we up to the challenge?

**Mr. Parsons:** The analogy that 20 years is too long for someone who is 60 means that 15 is too long for someone who is 65 and 10 is too long for someone who is 70. That's not a realistic analogy. This bill, in contrast to the other bill, which, although it was only a 10-year time frame, didn't apply to very much—it applied to almost nothing.

**Mr. Jackson:** It applied to the government of Ontario. It's right in the bill.

**Mr. Parsons:** It didn't apply to business. It didn't apply to residences. It didn't apply to the vast majority of issues that someone faces.

I don't want to focus on just mobility issues, but I've got to reinforce that 20 years is not the starting point; it's the finish point. If any of you ever have occasion to visit small-town Ontario, you'll find that on most of the streets there is a one- or two-inch slip going into the buildings, simply because of lack of thought at the time they were constructed. There are some things that are going to take 20 years to rectify, but I don't believe that's the intent of the people in Ontario. Certainly the ones I've spoken to,

and again focusing on mobility, said, "I want to do something, but I want a level playing field. I want it to apply to everyone and then I can do it, so my competitor has no financial advantage over me." I would actually suggest back to them, as I have, that making it accessible gives them a financial advantage over the others.

Nevertheless, recognizing that it has taken 200 or 300 years to construct many of the barriers, it's going to take 20 years to get the last of them eliminated. But I expect the vast majority of the bill to be satisfied in the first five to 10 years.

**Mr. Marchese:** I just wanted to begin my remarks where Mr. Jackson left off because that's what I wanted to talk about. This is the reality: We're discriminating against people with disabilities. That's the reality. The reality is that we now, with the passage of our amendment, recognize the history of discrimination against persons with disabilities in Ontario, but they have to wait 20 years. That's the reality.

The defence for it is, "That's the end point, so don't worry; a lot will happen in between." The problem with the end point is that we all work not to correct a problem in the early couple of years; we all work to the deadline. So if the deadline is 20 years, I can bet my boots, to the parliamentary assistant, that this government and any future government will leave most of the work to the last moment. It's the way we are. I know you guys are going to be different because you're different and you're better—I hear that.

My view is that just like students—most students, except the great ones, and particularly women, who are better at this than us—tend to leave the essay until the last moment, and some need an extension. With few exceptions, that's the way we behave. It's no different in government, and in fact worse in government, and particularly so now that you are faced with budgetary problems. If you're faced with budgetary problems, it's going to be a little more complicated. I'm not saying you're going to do that; I'm just delineating for the others a context that will make it more complicated for you at this time. You're not going to rush to do some of these things. You're not. It's not that you don't want to, but there are some difficulties, financial in nature, that are going to prevent you from doing what you want to do.

The point of the timeline is, if you've got 15 years, you're going to work to that. If you've got 20, you're going to work to the 20. If you had made it 30, you would have worked to the 30. So there is no magical thing about logical. There is nothing logical about this. There is nothing logical about a time date, except we choose a time date.

My view is that the reason why you choose a 20-year timeline is to allow you, in a slow, turtle-like way, to do some things manageable by government by way of finances, and work with the corporate sector in case, my God, they might object to this. We want to give them 20 years to get used to it, because if you give them less time they might attack you. Right? So let's do this nice and easy, spread it out, don't intimidate, don't frighten any-

one, so that we can get through this slowly. The problem is, it's going to take 20 years.

The reality is discrimination against people with disabilities. We should be thinking of that in terms of the timeline because, if you have a 15-year timeline, you can still say the end line is 15 years, except we will accomplish things much faster because we've reduced that time. There's nothing, in my mind, that prevents us from doing what we want to do in 15 years—nothing.

**1650**

**Mr. Ramal:** I would like to add one comment about when Mr. Marchese was speaking about the logic of business. In order to be competitive and able to capture the new market and more customers, you have to be competitive. In order to be competitive, you have to be accessible. That's why many business people, in a logical sense, are not going to wait 20 or whatever years to accommodate their facilities in order to absorb or accept or be accessible to make more business. That's what we're talking about, in a logical sense.

**Mr. Marchese:** Here's the problem with that logic: If we use that logic, we're saying that employers can discriminate because of economics. That's what we're saying with that logic. Even if it's not intended, that's the consequence of that argument. If the issue is cost, then whether it's in 15 years or 20 years, it'll be the same thing; the argument remains the same. The other argument that we've heard from people with disabilities is that it doesn't cost much to accommodate. All it requires is the will not to discriminate; that's what it requires.

So, sorry, I don't buy into these arguments and ideas about the logic of economics and the logic of the economy, the market. No. If we say they should not be allowed to discriminate, and 15 years can do it, and the cost ought not to prevent them—in fact, most of them argue that the costs are not prohibitive. I think you should think about supporting this.

**Ms. Wynne:** I just need to make a comment, because there's a piece that hasn't been dealt with here. We're talking about 15 years or 20 years. In fact, once a standards development committee has been struck and standards have been put in place, and after the implementation dates have been set, they can't be more than five years after the date of the committee being established. So in fact the issue is getting the standards development committees up, because once that happens, once the standards are set, the implementation target dates are in place and they have to be within five years of the committee being struck.

I understand why politically this discussion is going on, but I think if we read the act and we understand that the committees are going to begin to be established as soon as we can get the legislation through, then people are going to start to see changes within five years. The sooner we can get the bill passed, the sooner we can get those committees up and running and the standards in place.

**Mr. Jackson:** Ms. Wynne has raised another issue, and I really didn't want to get into this, because what sits

at the seat of her response is the fact that the disability community doesn't determine those five-year cycles. If they did, I'd be more comforted in the knowledge. But one of the first questions I asked during my briefing was, how many committees are we talking about? The number we got ranged from 12 to 20, and possibly more. When you cross-reference that with the fact that there's still no budget line for the activities of these committees, no clarity in terms of the guidelines—I just hope we've got the resources to get all these committees up and running. There's a huge number.

The minister already indicated before this committee the three areas that she felt were her priorities, and fine; she's in a position to do that. But I think that to argue that as soon as we get them up and running we'll get all this done as quickly as possible wouldn't be a fair analysis of the outcome because of the enormity of the work that's ahead of us.

The disability community has spoken to us, and has said very clearly, "We want to make sure that the priority items are being dealt with in a reasonable time frame." It's why the construct of previous attempts at legislation was to say that the government must be more accessible by a certain time frame. In this instance, we don't know. That's an uncertain turf for the next 20 years.

To the credit of the minister, she has identified transportation early. She has identified people wanting to get into a restaurant as a priority and people wanting to rent a hotel room as a high priority. That's fine. But there are a lot of people out there who came to us, who have an autistic child, who will be on social assistance by the time the bill is passed—and they're not even in school yet. It's almost better to say that there will be some areas that will need a five-year extension and target the 15, but 20 years for certain groups that are left to, with all due respect, a bureaucratic or a political decision as to where the priorities are going to be—the disability community is not driving that bus. The government will get input from the standards council, but they're still not driving outcomes that they can feel comfortable with, that they can reach within the 20-year period. The net effect is to shorten the period to help us identify priorities. If there are areas that we can't—we know we're not going to take 20 years to make the local Delta Chelsea hotel accessible. They've done an extremely good job already. They don't need 20 years. But how do we look an autistic child in the face, how do we look at a deaf-blind person, and say, "We've got 20 years to address your needs"?

I think that's the point, and I'll leave it at that. That's the last I'll speak to this amendment.

**Mr. Marchese:** I have two quick remarks, because Mr. Jackson covered a lot in that one. I'm agreeing with you, especially as it relates to the standards committees, how many are going to be set up and when.

In spite of the intent of the minister, in terms of what Mr. Jackson is saying, we don't know what will in fact be delivered and by what timelines. We don't have a clue. It all depends upon the wish of the government or the minister, in terms of how fast they move. That's why

timelines are so critical. If you shrink them, you're forced to act. If you extend them, you say, "It's OK. We've got 20 years." That's one.

Second, in my view, 90% of the deputants, whom I found intelligent, passionate and reasonable, said the timeline is too long, and I think we should listen to them.

**The Chair:** Is there any other comment or debate on the issue? If there is none, I will ask for a recorded vote.

### Ayes

Jackson, Marchese.

### Nays

Brownell, Lalonde, Leal, Parsons, Wynne.

**The Chair:** The motion does not carry.

We'll go to the next clause, 1(b).

**Mr. Marchese:** I move that clause 1(b) of the bill be struck out and the following substituted:

"(b) providing for the involvement of persons with disabilities, of the government of Ontario and of representatives of industries, of various sectors of the economy and of employees in those industries and sectors in the development of the accessibility standards."

What I am adding here is employees. If we follow with the argument that the Liberal members of this committee have put forth today in their government motion 2, which says the purpose of this act is to benefit all Ontarians, then it would seem to me that we should be involving employees as well, where it's applicable. We make the argument that employers should be involved, and we don't include the fact that employees in those industries or sectors should be involved in the development of the accessibility standards. I think we should include them, unless there's some legal or policy argument against it with which I may not be familiar. I think this would be a good addition.

**Mr. Ramal:** I think that Bill 118 already creates an inclusive process for standards development which will allow participation in many sectors to establish a standard. We'll see it in the future, and we'll also have a clause that will come in the future, when we're doing clause-by-clause, talking about the minister's right to invite other sectors to enhance the standards and help the minister establish the standards to fulfill Bill 118.

1700

**Mr. Jackson:** I think the amendment has merit. I think it's fairly benign. If the government is suggesting that it envisages a situation where the only individuals representing industry will be owners, managers or shareholders, then I think this is a reasonable, simple amendment, and I don't see anything problematic with it.

My concern is that a simple majority of persons with disabilities—this will come up in amendments that I'll propose further on. I have concerns about people taking a civil servant with poor vision and putting them on and saying, "You're a member of the disability community,"

when in fact they're representing the government. That's another issue, but I think it would be inappropriate if we find out that all the members of the advisory committee are men and there are no women; I think it would be wrong if all of them were owners of companies and not employees or union reps, and so on. I think that's a principle of fairness, access and equity. I consider this to be very benign; I'd be surprised if the government has any serious objections to it.

**The Chair:** Mr. Leal and then Mr. Marchese.

**Mr. Leal:** My understanding is that, as we move through the amendments—I think 27 allows the minister the authorization to include unions and other employee groups to be active participants in the standards development, which I think is appropriate to make sure that employees, as my friend Mr. Marchese has talked about, have their opportunity. Often they're there on a day-to-day basis, implementing what the standards are all about. In my understanding, amendment 27 covers it.

**Mr. Marchese:** I understand that amendment 27 speaks of: "that the bill be amended by adding the following paragraph:

"Such other persons or such organizations as the minister may consider advisable."

That may be a nice, flexible thing for the minister to have; it's not a problem. But you're at the mercy of the minister deciding whom she or he will invite. She may or may not invite some people; she might decide she likes another group and invite another group. You understand the point. You're at the mercy of somebody deciding that. It's not like there are criteria, right? It's not as if we're supporting criteria that say, "The minister shall involve other persons or organizations on the basis of," so that you could say, "OK, on the basis of that, the minister can choose whomever." It would be good if we had such criteria, but there are no such criteria.

All I'm trying to do is understand the objection to employees. That's all I'm trying to understand. If you think it's harmful in some way, tell me that, so that I understand. I'm not sure. But if you're saying in this section that it can involve persons with disabilities, the government of Ontario and representatives of industry, and you don't include employees, is there a problem? If there is, I'd like to understand it. If there isn't, that's fine; you'll reject it, and we'll move on. But I would like to hear from somebody.

**Mr. Ramal:** The minister, I guess, in section 27, would be given the chance to seek more advice, and might go to the union and might not. In some sectors already, within the sector is a union, so it's up to the sector to choose the union or not. This gives the chance to the minister—

**Mr. Marchese:** This is employees, not unions.

**Mr. Ramal:** I'm talking about employees and unions. It would give the chance for the minister to have some kind of flexibility to seek any advice she or he might think is important to strengthen the bill and make it go forward.

**Mr. Marchese:** Do you think it's wrong or a problem not to include employees in this case?

**Mr. Ramal:** When we talk about the amendment we're proposing to section 27, you're going to notice that it gives the minister a chance to seek any other advice. There's no need to duplicate issues and make it bigger. We're trying to move forward on this issue.

**The Chair:** Any further comments or debate on the matter? If there is none, I'll ask for a recorded vote.

**Ayes**

Jackson, Marchese.

**Nays**

Brownell, Leal, Parsons, Ramal, Wynne.

**The Chair:** I declare the amendment defeated.

We have done all of section 1. Shall section 1, as amended, carry?

**Ayes**

Brownell, Jackson, Leal, Marchese, Parsons, Ramal, Wynne.

**The Chair:** Before we move to section 2, just a reminder that there are two people in the back of this room for anybody who needs assistance, and, of course, we have translation. If anyone needs such services, please indicate that to me.

There are no amendments to section 2 and section 3. Shall sections 2 and 3 carry?

**Ayes**

Brownell, Jackson, Leal, Marchese, Parsons, Ramal, Wynne.

**The Chair:** Next is section 4. Mr. Marchese.

**Mr. Marchese:** I move that section 4 of the bill be struck out and the following substituted:

"Application

"4. This act applies to every person or organization in the public and private sectors of the province of Ontario, including the Legislative Assembly of Ontario."

As will be noted in subsequent amendments, which will become redundant after we pass this motion, I think it may have been an oversight of language not to include the Legislative Assembly, in terms that obviously that body ought to deal with issues pertaining to this bill. We're happy to move that and happy to support it.

**Mr. Ramal:** We'll speak about this section later on in the bill, but we agree with this motion. I think we'll vote in support.

**Mr. Jackson:** We've tabled a similar motion. I was surprised at the amount of resistance to this from the Speaker's office three years ago. I would hope that by

entrenching it in a more direct way, we'll get some tangible results.

Again, it's a principle I adhere to; that is, that the first level of accommodation should be the level of government that can most afford it. We should be showing by example.

There are autonomy issues here, and I suspect the Speaker will be compliant. But our Legislative Assembly and the legislative precinct are a very independent group, and I would just hope that the legislative precinct is inclusive of the reference to the Legislative Assembly of Ontario. I would hope that we get on with the cost of doing that.

Just to put a fine point on it, recently all caucuses received a presentation from the Speaker and the Clerk with respect to public safety and members' safety. I asked what progress had been made in terms of accessibility. Let's just say that I hoped for a more fulsome response because of the million or so dollars that they felt were essential to make it safer for us. I felt it was far more appropriate to be making this place more accommodating to the public with those kinds of dollars being sought after and budgeted.

1710

Perhaps this will cause the Speaker and the Clerk to revisit those budget dollars that they were looking for. They certainly would not be party to a standards committee; they hold that degree of autonomy. So I suspect it would be up to all three parties to drive that outcome, which is our responsibility under the committee of the Legislature responsible for it.

I feel very strongly about this issue. I know it's something that Gary Malkowski felt very strongly about. He experienced some early successes with it, but it was very difficult for Gary Malkowski.

**Mr. Marchese:** But they did make changes.

**Mr. Jackson:** There were changes, and they weren't inexpensive.

Again, this gets back to the issue of full accessibility, which is something that is not included in the legislation, but it is within the reach of this Legislative Assembly for it to be fully accessible, even though the province will not be able to in this legislation.

As I have tabled the amendment, I too will support it, and I'm pleased all three of us can agree on that.

**The Chair:** I will now put the question. Anyone in favour? It's a recorded vote.

### Ayes

Brownell, Jackson, Leal, Marchese, Parsons, Ramal, Wynne.

**The Chair:** That carries.

Section 4, page 7.

**Mr. Marchese:** That now becomes redundant. It's the same motion.

**The Chair:** It's up to him. Do you want to remove it?

**Mr. Jackson:** No, we're fine. We're not here to decide who gets credit for what amendment; we're here to get the bill looking good and being better. So let's not worry about that.

**The Chair:** As I understand it, page 7 is out of order, so we'll remove it and then we'll move on to the next one.

**Mr. Jackson:** It's not out of order. Let's be careful.

*Interjection.*

**Mr. Jackson:** No, I don't want to withdraw. It's redundant because we've passed it. If you withdraw it, it sounds like it's not in order.

**The Chair:** It's redundant. That's what—

**Mr. Jackson:** I just don't want someone to stand up and say, "You withdrew your amendment."

**Mr. Marchese:** It's the same motion, therefore it becomes unnecessary. That's about it, right?

**Mr. Jackson:** It's the same motion, therefore it becomes unnecessary, and there is all-party agreement on the motion.

**The Chair:** That's why, Mr. Jackson, I had asked you to tell us what you want. I think you just did, and that's fine.

**Mr. Jackson:** I said it was redundant. That's what I said.

**The Chair:** Fine. So we can move on to the next one, then.

**Ms. Wynne:** Mr. Chair, I have a procedural question. I have been on committees previously when members of Mr. Jackson's caucus have withdrawn motions when there has been an identical motion passed. My understanding was that the procedure was that we could withdraw our motion in recognition of the fact that the identical motion had just been passed. Is that accurate?

**The Chair:** I would ask that the clerk clarify this technical point. Say it loud so everybody can hear the same thing, please.

**The Clerk of the Committee (Ms. Anne Stokes):** When there's an identical motion, it can be withdrawn. If the member chooses to move it, it would be ruled—

**Mr. Marchese:** Out of order.

**The Clerk of the Committee:** Presumably it would be out of order because it would be redundant. It has already been debated and considered.

**The Chair:** OK. Can we move on?

**Mr. Jackson:** We can proceed. I have no intention of withdrawing it, but if you'd like me to move it, I will, and we can vote on it. I think we'll just keep it simple.

**The Chair:** We couldn't vote, as I understand. He made a statement that it's redundant and he has accepted.

**Mr. Jackson:** I don't trust them. It's real simple.

**Ms. Wynne:** Just don't move it.

**Mr. Marchese:** If you were to simply say that there is a Conservative motion that is similar to the one we just passed, we'd just acknowledge it and move on.

**The Chair:** Exactly. I recognize that page 7 is redundant and therefore there is no motion on the floor.

We'll move on to the next one, which is page 8. Mr. Parsons, you have the floor.

**Mr. Parsons:** I think this is a great motion, but it is redundant and I simply will not move it, Chair.

**The Chair:** OK. So I declare it to be redundant and I'll move on to number 9. Mr. Jackson.

**Mr. Jackson:** It's very clear what I'm trying to achieve here: that the bill, in and of itself, discriminates among those Ontarians to which an accessibility standard applies. In the front end, we argued laboriously about the fact that this act is for everybody, but this is the first instance where we are saying, "Yes, it's accessible for everybody, unless, of course, you're one of those persons to which an accessibility standard does not apply." This is a contradiction.

Secondly, Mr. Parsons eloquently referenced the fact that he could walk out of here today—and he's fully ambulatory, but he could be—

**The Chair:** You are debating a motion, but you didn't move it.

**Mr. Jackson:** I apologize. I move that section 4 of the bill be amended by striking out the words "to which an accessibility standard applies" at the end.

**The Chair:** Mr. Jackson, I find this motion to be out of order. The committee has amended the bill so that this motion is inconsistent with a decision already made by this committee. Therefore, it's out of order.

**Mr. Jackson:** Why would it be out of order when—

**The Chair:** We already addressed this item—

**Mr. Marchese:** Where?

**The Chair:** Section 4.

**Mr. Jackson:** OK. Fair enough. So you're saying that this act now applies to every single person without regard to an accessibility standard applying to them.

**The Chair:** Section 4 has already been struck out, and what it has been replaced with is this section, which says: "This act applies to every person or organization in the public and private sectors of the province of Ontario, including the Legislative Assembly of Ontario."

**Mr. Jackson:** It includes everybody.

**The Chair:** OK?

**Mr. Jackson:** That's fine.

**The Chair:** So you're satisfied?

**Mr. Jackson:** Yes.

**The Chair:** Thank you.

**Mr. Marchese:** Hang on.

**The Chair:** We changed the language under section 4. If you want, I can read it again.

**Mr. Jackson:** No, it's his amendment.

**Mr. Marchese:** Yes, and I'm just trying to remember how I—

**The Chair:** Do you want the page? I can read it to you.

**Mr. Marchese:** Yes. Read it again, please.

**The Chair:** "This act applies to every person or organization in the public and private sectors of the province of Ontario, including the Legislative Assembly of Ontario."

So, Mr. Jackson, do you want to move the motion?

**Mr. Jackson:** No, no.

**The Chair:** OK. So then I'll just say that this section is out of order.

**Mr. Jackson:** I'm happy. It's out.

**The Chair:** OK. Good. All right. So we'll move on. That deals with section 4, so I will take a vote. Shall section 4, as amended, carry? It's a recorded vote. Anyone in favour?

**Ayes**

Brownell, Jackson, Marchese, Parsons, Ramal, Wynne.

**The Chair:** Section 5: There's no amendment. Therefore, shall section 5 carry? Recorded vote. Anyone in favour?

**Ayes**

Brownell, Jackson, Leal, Marchese, Parsons, Ramal, Wynne.

**The Chair:** Now we go to section 6. The first one is Mr. Marchese, on page 10.

**Mr. Marchese:** I'm going to, for clarity purposes, say that I'm going to withdraw the amendment, because the intent of what I wanted to achieve is not in this amendment, but the government does have a motion that speaks to the same thing. So we'll leave it to the government to move it, and we'll support it. I'm withdrawing that amendment.

**The Chair:** Thank you. So page 10 has been withdrawn.

We now go to the next one, which is Mr. Ramal or Mr. Brownell.

**Mr. Jim Brownell (Stormont-Dundas-Charlottenburgh):** I move that subsection 6(3) of the bill be struck out and the following substituted:

"Same

"(3) An accessibility standard may apply only to a person or organization that,

"(a) provides goods, services or facilities;

"(b) employs persons in Ontario;

"(c) offers accommodation;

"(d) owns or occupies a building, structure or premises; or

"(e) is engaged in a prescribed business, activity or undertaking or meets such other requirements as may be prescribed."

It's much like what my good friend Mr. Marchese presented, in that we went a little further in providing that the words "to the public" be removed to make it consistent with the Ontario Human Rights Code, and really this is creating a more accessible society.

**1720**

**The Chair:** Any debate on this?

**Mr. Marchese:** We had a number of deputants who spoke to this in their briefs. Not everybody tackled that, but it was clear that many did. They said that if they

included this language, it would be inconsistent with the language of the Ontario Human Rights Code and therefore it would be a problem. So it's a useful amendment. We support it.

**The Chair:** Any further debate?

**Mr. Jackson:** Just to indicate that I too had tabled amendments to achieve the objective of the motion that's currently before us, so I will be supporting it.

**The Chair:** Any further debate? If not, I'll ask for a recorded vote.

### Ayes

Brownell, Jackson, Leal, Marchese, Parsons, Ramal, Wynne.

**The Chair:** The motion carries.

Mr. Jackson, page 12. It's clause 6(3)(a).

**Mr. Jackson:** I wish to propose an amendment. I move that the bill be amended by adding the following subsection:

"Same, Legislative Assembly

"(3.1) An accessibility standard that applies to the Legislative Assembly may impose obligations on the Speaker of the assembly and may apply with respect to all or part of the Legislative Building or of such other offices that fall within the jurisdiction of the Legislative Assembly and are identified in the accessibility standard."

**Mr. Ramal:** Where are we? Sorry.

**The Chair:** It's page 12, which is clause 6(3)(a).

**Mr. Jackson:** I'm on page 15, because 12, 13 and 14 are redundant.

**The Chair:** No, Mr. Jackson, it's number 12.

**Mr. Jackson:** Which?

**The Chair:** What we are dealing with is page 12, which is clause 6(3)(a). That's what we are dealing with.

**Mr. Jackson:** I've indicated that they are redundant by virtue of the fact we've just passed the other section.

**The Chair:** So number 12 is redundant.

**Mr. Jackson:** It's redundant. So are pages 13 and 14, all motions that I tabled, now. But you know, as page 15—

**The Chair:** But it's the government that will do that.

**Mr. Jackson:** Oh, it's a government motion. Sorry.

**The Chair:** Ms. Wynne.

**Ms. Wynne:** Subsection 6(3.1) of the bill: I move that the bill be amended by adding the following subsection:

"Same, Legislative Assembly

"(3.1) An accessibility standard that applies to the Legislative Assembly may impose obligations on the Speaker of the assembly and may apply with respect to all or part of the Legislative Building or of such other offices that fall within the jurisdiction of the Legislative Assembly and are identified in the accessibility standard."

This amendment is necessary in order for the amendment in section 4 to be implemented and realized.

**Mr. Marchese:** I would just like to ask the government members: "An accessibility standard that applies to the Legislative Assembly may impose obligations." Is there a reason why you say "may"? It's as if we are alerting the assembly that this could impose obligations on them, as if to advise them. That's not the purpose of it, right? We don't want to just advise them this will happen. Is there an obligation on the Legislative Assembly, yes or no? If there is, why do we say "may"?

**The Chair:** Ms. Wynne, do you want to answer, please?

**Ms. Wynne:** I'm not a lawyer, and we maybe should have a lawyer answer this question, but I think the "may" is that the thing may exist, as opposed to "shall."

**The Chair:** Do you wish to have someone answer?

**Ms. Wynne:** Can we have the lawyer answer the question?

**Mr. Marchese:** Or reword it so that they actually do what they've got to do.

**The Chair:** Maybe you can keep those two lovely seats in case there are future questions, please. Thank you.

**Mr. Lillico:** The question again is about the use of the term "may"?

**Mr. Marchese:** If we are now obliging the assembly to fall under this act, why do we use the language "may" as if to advise them, "By the way, this may affect you"?

**Mr. Lillico:** The standard doesn't exist yet. I don't think we know what the text of it would be until it's in effect, what the content of it would be.

**Ms. Wynne:** Is this "may" used in order to basically give permission for such a standard to apply to the Legislative Assembly? Is that what the "may" means, as opposed to the way I think Mr. Marchese is interpreting it, that there may be obligations? It's permissive in terms of such standards being created. Is that correct?

**Mr. Lillico:** Yes.

**Mr. Marchese:** Except, Kathleen, motion 6 says, "This act applies to every person or organization in the public and private sectors of the province of Ontario, including the Legislative Assembly of Ontario." If that is so, the law applies to the Legislative Assembly. That amendment 6 already says that the Legislative Assembly is obligated to do what it has to do under this act, and this motion says it "may."

**Ms. Wynne:** It gives it permission.

**Mr. Marchese:** But the amendment already does that.

**The Chair:** There seems to be a legal issue here, so I'll ask again, Mr. Lillico, if you can answer. Then I'll go to Mr. Jackson.

**Mr. Lillico:** This provision is to provide greater clarity. In other provisions of the bill, it's clear that standards can be made applicable to various industries and sectors of the economy. There are already existing provisions in the bill as originally tabled to deal with that. But the bill as originally tabled did not make any reference to the Legislative Assembly of Ontario, and the committee has just considered section 4 to add that. What this language does—motion number 15 to add a sub-

section 3.1—is make it clear and specific that under this motion there would be, as was mentioned earlier, legal authority to prepare a standard that would impose obligations as set out here.

**Mr. Marchese:** I find it so odd. If amendment 6 says the act applies to the Legislative Assembly of Ontario, that couldn't be clearer, whereas when I read this amendment and you throw in the word "may," it just implies that they may or may not, could or could not. You know what I mean, right?

**The Chair:** Let me recognize Mr. Jackson and we'll go around again.

**Mr. Jackson:** I apologize for reading this into the record accidentally and I'm glad that Hansard won't record that I actually moved it, because I have some concerns with this. Again, I'm tapping into some of the information that was shared with me when the two people before us and I were working together to draft the first bill.

There are serious problems with obligating the Legislative Assembly. It has a historic independence from the crown. It has an historic independence. I don't know how to better say it. Since they put the bar down on the door, the mace, to not let King Charles come in, that has carried over to this day.

Having said that, this was a problem for me and now it would appear to be a problem for this government—or this legislation; I don't want to personalize it. However, this solution I don't think is doing that, because Mr. Marchese is absolutely correct: "may" allows you to drive a hole through this.

I'm going to give a practical example. The Supreme Court of Canada, absent of an appeal, could rule that all court proceedings have to provide Braille services and/or deaf-blind interpretive services. That could be the law. OK? So that would put an obligation—and governments have had to do this in the past on disability issues—on our courts and whatever, and that would become the standard for the province, save and except the Legislative Assembly. I'm having real difficulty with that. Our building is not accessible. We've known that for a long time. The current government and administration is making an excellent attempt at trying to make this process more accommodating. It is horrendously expensive, and I don't believe it was intended to be paternalistic, to suggest that this is the only legislation of interest to the disabled community and that's why we bent over backwards to accommodate them. This should be the norm in a province that is committed to being barrier-free.

1730

I want no stock with something that gives a clause this big to drive a truck through for the Speaker of the day. I really wish we could have consulted a little more with the Speaker and with Claude DesRosiers, the Clerk of the Legislature, because we're poised to spend a couple of million dollars—apparently, we need this much more safety and protection around here—but we're not prepared to commit those dollars with respect to access for the disabled community. This theme is going to come forward when we discuss my amendments with the

Election Act, because the old legislation wasn't adequate, but it's still silent in this legislation. We are obligating an allegedly arm's-length level of government to meet a standard, and this is tricky.

If we do nothing and do not pass this, our Speaker is obligated to perform to the highest standards possible in this country. I'm comfortable leaving it alone. I really have a hard time supporting this motion, whose net effect is to say, "These are all our lofty goals. But you know what, Speaker, if you don't want to make that your budget—"

This is out of line, but not out of order. We have a conflict here, because the monies that pay for our compensation package, the money that pays our mileage, the budget that pays for the perks we get around here, all come from the same pot of money that we need to make a commitment to the disability community. I'd be less than honest if I didn't say that that was part of the point of resistance. I certainly, for one, want to sleep at night knowing that we've at least stated that our level of accommodation is not with regard to our financial benefit and not to our self-interest but to the larger interest as purported and professed eloquently, that this applies to everyone in the public and private sector and the Legislative Assembly. That's my final say on the matter. I cannot in conscience pass this.

**Ms. Wynne:** Again, the caveat that I'm not a lawyer, I just need to clarify my understanding of this, which is that we've just said in section 4 that this act is going to apply to the Legislative Assembly of Ontario. There are always moments in these committee hearings where you really need Noam Chomsky at the table, because my understanding is that this is—

**Mr. Marchese:** Did you say "Noam"?

**Ms. Wynne:** Noam Chomsky.

This is "may" as opposed to "may not," not "may" as opposed to "shall." So my understanding is that there needs to be a legal authority that exists in order for section 4 to be implemented, and that that's what this section does. It gives the legal authority to the standard that has been written to put these obligations on the Speaker. That's my understanding. I'm getting nods, so I think that's what it's here to do: not to give wiggle room not to implement, but rather to give legal authority for the standards to be imposed.

**The Chair:** Is there any further debate?

**Mr. Jackson:** You've opened it up with that statement. That in fact is not the case. The fact of the matter is that we have a Legislative Assembly committee. It's a standing committee; it's in the law of the land; it's required. We have a responsibility as legislators to bring into effect those matters that occur within the legislative precinct. It's a bad analogy, but it's like people thinking the Vatican is a city in Italy. It's a separate state, and it has a separate head of state. The OPP and RCMP have to get permission to come on to our property, because we have our own security—issues like that.

Yes, staff are nodding. They're the same staff who nodded to me years ago when we had the problem with this.



“May” impose—so we get a standard. Like I said, it’s OK in the courts to have this standard, it’s OK for my corner Beckers store to have this standard, but it’s not OK for the Leg Assembly, because they “may” impose an obligation on our Speaker. I’m not passing it. The disability community got the difference between “may” and “shall.” This isn’t “may” and “not may.” Frankly, it’ll be April by the time we’re done, but it’s not “may.”

**Mr. Marchese:** I think Cam Jackson is on the wrong track in terms of the argument. I suspect the reason why “may” is here is that, as he points out, we have a difficulty in terms of what we can impose on the Legislative Assembly. That’s the real political problem. So this language is here to say, “We’re going to work things out. We’re going to work with the Speaker and the Legislative Assembly, and hopefully we can get a whole lot of things done.”

It could impose some obligations on the assembly. That’s what this is really about. It doesn’t eliminate the wiggle room at all. It doesn’t do that. It really is intended to say, “I hope that they co-operate and that we can get the Legislative Assembly to respond to this act in appropriate ways.”

**Mr. Jackson:** I’ll just put it to you in this context: It would be illegal to have legislation that impels an MPP to serve on a committee outside of the Legislature. It’s against the law. So if you think this through, we’re going to have a standards committee developed without MPPs. Who thought that one up?

I went through hours of briefing on this, because it aggravated me. I can’t stand the fact that this building is not accessible. It’s terrible. It’s a crying shame. And here we are, arguing about “may” or “will” and wiggle room.

**Mr. Marchese:** Could I ask the lawyer, briefly: If we were not to include this amendment, and simply have amendment 6, which says, “This act applies to every person or organization in the public and private sectors of the province of Ontario, including the Legislative Assembly of Ontario,” wouldn’t that do it? Could we not withdraw the other one?

**Mr. Lillico:** As I think has been mentioned before in the committee, there are inherent constitutional privileges enjoyed by the Legislature of Ontario and other Parliaments in Canada, and if those Legislatures choose to abrogate that privilege by submitting themselves to a law passed, of course, by majority vote in that Legislature, then that can be done. It’s legally permissible for that to be done; it’s constitutionally in order.

In order for the abrogation of privilege—in this circumstance, for the application of an accessibility standard to the Legislature—to be effective, as was mentioned earlier, it’s legally appropriate to bolster what has already been voted on in section 4 by this more specific language in 6(3.1).

**Mr. Marchese:** I just don’t see that.

**The Chair:** He’s giving us his professional opinion.

**Mr. Marchese:** He has a legal opinion, and I just don’t see it. But God bless. OK; let’s move on.

**The Chair:** Have you finished your explanation, sir?

**Mr. Lillico:** If I could just make one further comment: The question, then, is whether section 4, as has been amended by the committee, is clear, unambiguous and unarguable, on the basis of section 4 alone, that an accessibility standard could be applied to the Legislature.

**Mr. Marchese:** Yes, very clear.

**Mr. Lillico:** My view would be no. It is ambiguous; there is room for interpretation. If the wish of the committee is to make it clearer and more specific that there is legal authority to have an accessibility standard apply, according to the structure that’s in the bill for other standards development committees and so on—if it’s the will of the committee to do that, then my advice would be that it’s appropriate to bolster section 4, already voted on, by adding this one as well.

**Mr. Jackson:** I would propose an amendment to the amendment that replaces the word “may” with “shall” in the first and second lines of the motion before us.

1740

**The Chair:** It’s normally requested that you put that in writing so that there is no confusion on the matter. Maybe the clerk can assist. We will give a copy to all—

**Mr. Jackson:** The legal counsel is busy doing just that. Two “shalls” is—

**The Chair:** See how quick our staff is today.

*Interjection.*

**The Chair:** Let me ask the question. That’s your amendment to the amendment. Is there any question on the amendment? Does anybody have any debate on the amendment to the amendment? That’s first.

**Mr. Marchese:** I’m prepared to support it on the basis that it is consistent with amendment 4, which says that this act will apply to the Legislative Assembly. If we have “shall,” then it will apply, and if we have “may,” we’re not certain. Quite simply, I think there’s no reason why we couldn’t obligate the Legislative Assembly to do this if we required them.

**The Chair:** Mr. Ramal, you’re next.

**Mr. Ramal:** As a result of the legal advice, I think we’re going to go against the amendment, because it would conflict with what’s been said.

**The Chair:** Any other debate on the amendment to the amendment? If there is none—you’ll write it down. Is it necessary?

**Mr. Jackson:** No, everybody gets it.

**Mr. Marchese:** I think we’re going to lose it, so let’s just vote on it.

**The Chair:** I think we all understand what it is.

Can I then ask, only to the amendment to the amendment?

**Ayes**

Jackson, Marchese.

**Nays**

Brownell, Leal, Parsons, Ramal, Wynne.

**The Chair:** The amendment to the amendment is defeated. We still have the amendment on the floor. Is there any further debate on the original motion?

**Mr. Jackson:** I have one question: How is this—maybe the parliamentary assistant can get some advice from this side. How do we obligate the Legislative Assembly committee to participate and perform in this regard?

**The Chair:** Mr. Ramal, do you wish to answer?

**Mr. Ramal:** I guess it's been mentioned in section 4 and it's been voted on. Also, we sought legal advice on the section we've been talking about now. I think to be in compliance and uniform with the whole bill, that's why we're going against the amendment to the amendment, and we support this amendment.

**The Chair:** Any further debate? If not, I'll take a vote.

**Mr. Marchese:** I just want to point out that the legal counsel said that if we left it to amendment 4, there would be no certainty that this bill necessarily would apply to them, unless you have this amendment. That's what you were arguing, right? Is that what you said?

**The Chair:** OK. Please. Mr. Marchese has finished his comments. I thank you.

**Mr. Marchese:** If that's what he said, then that's fine.

**Mr. Ramal:** This amendment came to clarify section 4. Otherwise, motion 4 wouldn't be feasible, wouldn't be good in order to strengthen the bill.

**The Chair:** If there is no further debate, I will now put the question.

### Ayes

Brownell, Leal, Marchese, Parsons, Ramal, Wynne.

**The Chair:** It carries. Page 15, let's call it, carries.

Mr. Marchese, page 16.

**Mr. Marchese:** I move that section 6 of the bill be amended by adding the following subsection:

“Same—level of accessibility

“(5.1) Where an accessibility standard sets out a measure, policy, practice or other requirement for the removal of a barrier and the subject matter of that accessibility standard was dealt with under the Ontarians with Disabilities Act, 2001 as it read on the day this act received royal assent or under a standard or guideline that was in force under the Ontarians with Disabilities Act, 2001 on that day, the accessibility standard shall provide equal or greater protection to persons with disabilities as was provided by the Ontarians with Disabilities Act, 2001 or the standard or guideline under that act.”

Not everybody who came in front of the committee spoke to this. I think there were a number of people who have expertise, like Mr. Lepofsky, who is here, and others, who spoke to this in their briefs, representing many organizations. Part of what they were saying is that there are provisions in the current ODA, 2001, which should be retained, and they say specifically sections 24 to 32 of the ODA, 2001, which amend a series of other Ontario statutes, i.e. the Election Act; the Election

Finances Act; the Highway Traffic Act; the Human Rights Code; the Legislative Assembly Act; the Municipal Act; the Municipal Elections Act, 1996; the Planning Act; and the Social Housing Reform Act, 2000—those provisions, they argue, should be retained.

My amendment attempts to deal with all of those, except in a very collective way, so that whatever was achieved under the previous bill, we don't want to lose. This amendment says that we will provide equal or greater protections to persons with disabilities with this bill, but nothing of the previous bill gets lost.

I will be interested to see what the government members and their legal staff or others have to say with a view in support of this or not. I think that this is intended to provide not just protection for the gains that have been made, but to build and not lose one single thing. If we don't do this, I'm not sure that any of the amendments that we have here will deal with it in this way.

**Mr. Ramal:** While this amendment being proposed by the NDP asks for quick action, it also has a negative side and will work against the collective processes to develop the standards. It will be an obstacle to the development of the standards and to making the whole process work smoothly and diligently.

Also, the government side will actually propose an amendment in section 32 to make some adjustments for the director of the disability committee to make it more accessible, more practical. Many standards of this bill will provide some kind of commitment to delivering this bill and making most of the places in Ontario accessible.

We also talk about the minister in some sections of the bill having the right to seek advice and seek some kind of support from other sectors in order to achieve her goals.

**Mr. Marchese:** Just to continue asking the question: Sorry, it wasn't clear to me that this motion somehow would become an obstacle to you doing or what this act is—

**Mr. Ramal:** We're talking about the quick movement—

**Mr. Marchese:** Yeah, quick: over 20 years. What this says is that whatever was in Bill 25, I think—

**Mr. Jackson:** 125.

**Mr. Marchese:** —Bill 125—whatever gains people with disabilities made under Bill 125 should not be lost. Some argued that unless we include a measure like mine, we could lose some of those potential gains that were made. I read out a number of areas where gains were made. I agree that it's very general and not as specific as it should be, but those of you who have the knowledge will remember that gains were made under the Election Finances Act, the Highway Traffic Act, and so on, and that they could potentially be lost unless they are included. Could we get a legal opinion that might help me to be clear on this?

**Mr. Lillico:** If the concern is that the provisions in question would be repealed when the ODA, 2001, is repealed, as is proposed here, that would not be the case. Bill 125 contained the text that became the ODA, 2001. It also had a series of complementary amendments in it.

Those include, as has been mentioned, the Election Act, the Election Finances Act, the Highway Traffic Act, the Human Rights Code, the Legislative Assembly Act, the Municipal Elections Act, the Social Housing Reform Act and a few others. When those provisions came into force—most of them on September 30, 2002, in Bill 125—at that point those complementary amendments moved into those statutes. So on September 30, 2002, to take one example, that provision in the Election Act became part of the Election Act. It's not now part of the ODA, 2001. Therefore, the repeal of ODA, 2001, would not affect the provision you're referring to, I think, in the Election Act and those other acts, because those provisions are not part of ODA, 2001. They're part of those other acts now.

1750

**Mr. Marchese:** Where specifically in the act does it say that, so that I'm clear?

**Mr. Lillico:** I wonder whether legislative counsel might be able to give a fuller answer on how these provisions fit together.

**Mr. Doug Beecroft:** I don't know the section number of the Election Act where that provision appears, but there is a provision in the Election Act now that deals with that issue. It came from Bill 125. It's now in the Election Act. This bill makes no changes to the Election Act. The Election Act is staying the same.

**Mr. Marchese:** Or any of the other parts that I mentioned?

**Mr. Beecroft:** Exactly—the Human Rights Code etc.

**Mr. Marchese:** I see. That should make a whole lot of people out there feel good.

**The Chair:** Any other debate on this? If there is no other debate, I will now put the question.

### Ayes

Jackson, Marchese.

### Nays

Brownell, Leal, Parsons, Ramal, Wynne.

**The Chair:** The amendment doesn't carry.

We'll move on to page 17.

**Mr. Jackson:** I move that section 6 of the bill be amended by adding the following subsections:

“Interim standards

“(5.1) A regulation may be made under this section adopting an interim accessibility standard before a standards development committee has submitted a proposed accessibility standard to the minister under section 9.

“Same

“(5.2) A regulation adopting an interim accessibility standard shall not be made unless the minister has completed a time-limited consultation process that complies with the regulations.”

Much of this has to do with the fact that there was a considerable amount of progress made by the Access-

ibility Advisory Council of Ontario. In fact, they had drafted and done a considerable amount of work in terms of access to the hospitality sector. Those regulations were being drafted. So that work is done. That was clearly communicated to me by three or four members of the current Accessibility Advisory Council of Ontario.

The minister and her government saw fit to suspend some of that activity. That's her right. But there has been a considerable amount of work done and I was pleased when, in tabling this in the Legislature, she referenced and used as an example the fine work that the restaurant association had done. That came out of Bill 125. So those regulations are ready.

I'm having difficulty with this, and I'll keep repeating it, because we have further amendments that address this issue, that we have no guidelines, no criteria, no time frames for the establishment of the standards committees, whether we're going to compensate people, what the composition of them will be—a whole series of outstanding questions.

On the other hand, in a couple of areas—we're very close within the university community, for example, with the filing of their accessibility reports within the 10-year accommodation framework set out in the previous guidelines of Bill 125. There's a considerable amount of work that has been done. I think it would be wonderful if the legislation had within it the ability to say, “Do you know what? We're ready to proceed on this basis. We'll call them interim regulations.” The minister could say, “The chief Human Rights Commissioner of our province, the Honourable Keith Norton, has made strong, cogent arguments. It's his legal opinion; we agree with him. Therefore, these are interim regulations.” The ODA committee could say, “This is great.” We don't need to subject it to two years to ramp it up and the five years that the legislation says it gives them. So I merely put this as an instrument for the minister and future governments in order to bring in interim guidelines.

I'll give you another example. Most of us were in St. Catharines for the public hearings, as I was, and we heard about a judge who, in his so-called wisdom, discounted the fine for violating a handicapped parking space. His argument was that there were others there; it didn't need the protection. I've subsequently written to the minister and I've subsequently written to the commissioner. The commissioner fully supports that. But the minister of the day has written me back to say, “You know what? It's not a provincial matter. It's a municipal matter.” I'm very disturbed by that. Here we have a piece of legislation saying that the minimum fine in Ontario for violating or abusing a space is \$500. We had a judge say, “Do you know what? That's way too much money. I'll just fine you 100 bucks.” We don't have anybody from the current government out there to defend it.

What's missing here is any kind of mechanism for the government to plug those kinds of holes that are going to emerge. Common sense and reasonable people will agree that this is something that should be fixed for the disability community, and should be fixed right away. My

fear is we're going to say, "You know, it's a heck of a good idea. You put that on the table with the 200 items that the transportation subcommittee is going to be struggling with over the next five years."

I really strongly believe we should empower the minister with an instrument that allows them to do that as well as to uphold what the ODA has asked, which is the second part of this, that we use the current government Web sites and other mechanisms to ensure that the disability community has full opportunity to comment and provide input when an interim measure is being proposed in the best interests of the disability community.

That's why I crafted this motion. It came out of those two expressions of frustration from the ODA committee saying, "This could take forever." The current access council has done good work. The previous act clearly states that they can recommend regulations, codes, guidelines, penalties, all of that, and that work of the last three years should not be undone.

**Ms. Wynne:** I understand the point about work that's been done and changes that have been made and I think we addressed that in the conversation about the last motion, that sections already embedded in other pieces of legislation will not be repealed.

In section 32, there is an amendment that the government is putting forward that I think addresses this issue, because what we're talking about is a desire not to undermine the collaborative process that this bill lays out. We recognize that there has to be a good discussion about what these standards are going to look like. At the same time, there's work that has been done. So in that section, what we're saying is that there could be an opportunity for persons and organizations to be informed about accessibility standards and preliminary measures that they might put in place that would be based on some of the work that's already been done. That's the mechanism that we're suggesting would be more appropriate, would recognize the work that's been done and wouldn't undermine the collaborative process of putting that standard in place in the long term. So that's the suggestion that we're making in 32, which is why I won't be supporting this motion.

**Mr. Marchese:** I'm not quite sure if 32 does it, in terms of what Mr. Jackson is getting at, although I find the way it's worded between 6(5.1) and 6(5.2) it's almost contradictory. It seems like (5.1) says you can—"A regulation may be made"—and then (5.2) says, "Yes, but it shall not be made unless..." I'm almost thinking that all you need is (5.2), that says, "A regulation adopting an interim accessibility standard shall only be made after the minister has completed"—

**The Chair:** Mr. Marchese, can you slow down a little? Sorry. Our friends are trying to translate, but not as quickly as you are speaking. You're fast.

**Mr. Marchese:** Sorry. I apologize. It's good that she reminds us. She's very good at that.

I wondered whether or not we could accomplish what you wanted, Mr. Jackson, by saying—I don't think the

government would support it anyway—where a regulation adopting an interim accessibility standard shall be made only after the minister has completed a time-limited consultation process. Would that do it? I think what you're getting at is OK.

**Mr. Jackson:** If I may, the purpose of this section is not to have this the only section in the bill that speaks to the issue of the consultation with the displaying—

**Mr. Marchese:** No, I understand that, because there are many other amendments.

**Mr. Jackson:** That is going to be covered in another section.

**Mr. Marchese:** Yes.

**Mr. Jackson:** You can merge them if you so choose; that's not my concern here. My concern is to have the flexibility so that the government can implement a regulation almost immediately, which this legislation doesn't.

Ms. Wynne is quite correct when she says there is some movement on the issue of posting it on the government Web site and making minutes available.

**Mr. Marchese:** That's not enough.

**Mr. Jackson:** No, it comes close. She used in her narrative—and Hansard will show it—that the preliminary work that could be done and approved—well, that's not what this wording says. This wording speaks nowhere to the issue of an interim standard. That's all I'm asking for.

**Mr. Marchese:** Cam, I'm willing to support your motion. Let's get on with it.

**Mr. Jackson:** No, no. At this point, I'm trying to clarify Ms. Wynne's suggestion that her amendment on page 32 addresses what I am trying to achieve. She's absolutely wrong in that regard, because nothing in her amendment talks to the issue of an interim amendment. That's all.

**Ms. Wynne:** He's looking at the wrong amendment.

**Mr. Jackson:** Page 32.

**Ms. Wynne:** Section 32.

**Mr. Marchese:** Oh. I thought you said amendment 32.

**Ms. Wynne:** Section 32, page 84. It's page 84 in your motions.

**The Chair:** Well, why don't you have a look, and if there are any other comments from anybody—if there are none, then we'll wait until you're ready, Mr. Jackson.

**Mr. Jackson:** Mr. Chairman, unless we've run out of time and you wish to call an adjournment—

**The Chair:** I would like to, if you can finish it—

**Mr. Jackson:** No. This thing has opened up a significant—

**The Chair:** If that is the case, it is 6 o'clock and therefore I will have to adjourn this meeting until Monday at the same time, 3:30, here. I will adjourn this meeting until next Monday at 3:30. Thank you, and have an enjoyable evening.

*The committee adjourned at 1802.*







# CONTENTS

Tuesday 29 March 2005

**Accessibility for Ontarians with Disabilities Act, 2005, Bill 118, Mrs. Bountrogianni /**  
**Loi de 2005 sur l'accessibilité pour les personnes handicapées de l'Ontario,**  
projet de loi 118, M<sup>me</sup> Bountrogianni ..... SP-843

## STANDING COMMITTEE ON SOCIAL POLICY

### Chair / Président

Mr. Mario G. Racco (Thornhill L)

### Vice-Chair / Vice-Président

Mr. Khalil Ramal (London–Fanshawe L)

Mr. Ted Arnott (Waterloo–Wellington PC)

Mr. Ted Chudleigh (Halton PC)

Mr. Kim Craitor (Niagara Falls L)

Mr. Peter Fonseca (Mississauga East / Mississauga-Est L)

Mr. Jeff Leal (Peterborough L)

Mr. Rosario Marchese (Trinity–Spadina ND)

Mr. Mario G. Racco (Thornhill L)

Mr. Khalil Ramal (London–Fanshawe L)

Ms. Kathleen O. Wynne (Don Valley West / Don Valley-Ouest L)

### Substitutions / Membres remplaçants

Mr. Jim Brownell (Stormont–Dundas–Charlottenburgh L)

Mr. Cameron Jackson (Burlington PC)

Mr. Ernie Parsons (Prince Edward–Hastings L)

### Also taking part / Autres participants et participantes

Ms. Katherine Hewson, acting assistant deputy minister;

Mr. David Lillico, counsel, legal services branch,  
Ministry of Citizenship and Immigration

### Clerk / Greffière

Ms. Anne Stokes

### Staff / Personnel

Mr. Doug Beecroft, legislative counsel

Mr. David Halporn, legislative counsel