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**Official Report
of Debates
(Hansard)**

Tuesday 5 April 2005

**Journal
des débats
(Hansard)**

Mardi 5 avril 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
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
SOCIAL POLICY**

**COMITÉ PERMANENT DE
LA POLITIQUE SOCIALE**

Tuesday 5 April 2005

Mardi 5 avril 2005

The committee met at 1534 in 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. Welcome to the meeting of the standing committee on social policy and consideration of Bill 118, the Accessibility for Ontarians with Disabilities Act.

Once again, I would like to point out several features that we hope 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 service attendants available to provide assistance to anyone who wishes it. I don't see them here today.

The Clerk of the Committee (Ms. Anne Stokes): They should be here.

The Chair: They are here. They will be coming.

The meeting today will be broadcast on the parliamentary channel, available on cable TV tomorrow at 10 a.m., and it will be rebroadcast on Friday, April 8. Also, the Webcast broadcast of this meeting will be available tomorrow, at the same time as the television broadcast, on the Legislative Assembly Web site at www.ontla.on.ca.

Now we will resume our clause-by-clause consideration of Bill 118. We left off at the last meeting considering amendments to section 8. The next motion in order is a government motion to amend subsections 8(7) and (8) on page 32 in your package.

Mr. Peter Fonseca (Mississauga East): I move that section 8 of the bill be amended by adding the following subsection:

“Committee members’ allowance

“(6.1) The terms of reference may,

“(a) provide for the minister to pay members of a standards development committee an allowance for attendance at committee meetings and a reimbursement for expenses incurred by members in an amount that the minister determines; and

“(b) specify the circumstances in which the allowance or reimbursement may be paid.”

The Chair: Any debate on the motion?

Interjection.

The Chair: We are dealing with page 32, which is subsections 8(7) and (8). Any comments, Cam? Again, if there are no comments, I'll call for the vote.

Mr. Cameron Jackson (Burlington): I have a question. I've had calls on this one piece. Previous motions have been defeated that talk about the time. Could anyone from the government side—

Mr. Khalil Ramal (London–Fanshawe): On a point of order, Mr. Chair: You don't have it in your binder. That's probably the confusion. I'm just going to copy it and give it to everyone.

The Chair: OK.

Mr. Ramal: This one here is not in your binder.

The Chair: So then why don't we move on to—

Mr. Ramal: It's just coming.

The Chair: Do you wish me to move to the next item, Mr. Jackson, and we'll come back to this when you've had a chance to read it, or are you clear?

Mr. Jackson: I was receiving some instructions from legal counsel, so I wasn't listening to the motion. I assumed it was in writing. I wouldn't even know what the motion is. I'm looking at this one, which is on our page 32. This precedes page 32?

Ms. Kathleen O. Wynne (Don Valley West): No, Mr. Chair. I believe the motion that was being brought on the floor should follow 34. I believe we're on 32 at this point. So if we did 32, and then when the motion is photocopied—

The Chair: That's what I called for, 32.

Ms. Wynne: Yes, I know. I understand.

Mr. Jackson: Why don't we just withdraw the motion. Then we can proceed, and we can re-enter it.

The Chair: Mr. Fonseca, when you read it, did you read 34 or 32?

Mr. Fonseca: I did not have a number on that motion.

The Chair: Let me go to 32 and we will deal with this matter later on. Mr. Ramal, is anybody going to introduce page 32?

Mr. Ramal: I move that section 8 of the bill be amended by adding the following subsections:

“Terms of reference made public

“(7) After fixing the terms of reference under subsection (6), the minister shall make the terms of reference available to the public by posting them on a government Internet site and by such other means as the minister considers advisable.

“Minutes of meetings

“(8) A standards development committee shall keep minutes of every meeting it holds and shall make the minutes available to the public by posting them on a government Internet site and by such other means as the terms of reference may provide.”

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The Chair: Any more comments? Mr. Jackson, do you wish to comment?

Mr. Jackson: This is very clear, and I support it. I just wanted to know—if the government members have been advised—are we any closer to knowing when the terms of reference will be ready in order to begin this process?

Mr. Ramal: To my knowledge, if this bill passes, hopefully as we finish, we’ll start working on the—

The Chair: Shortly after?

Mr. Ramal: Yes.

The Chair: OK.

Mr. Jackson: So the answer is—

The Chair: Shortly after the bill.

Mr. Jackson: Yes. So there still is no work done on the terms of reference yet?

Mr. Ramal: Hopefully, if the bill passes, we’ll work on them.

Mr. Jackson: Any idea how long that might take? Usually the bureaucrats can advise the minister how long. We’ve abandoned the notion of a time frame. David Lepofsky and the ODA Committee specifically said, “We’d like to have some firmer time frame commitment.” My six months isn’t flying; that’s fine. To be fair, and I realize I’m dealing with not a lot of institutional history here, it’s quite customary to have some comment about how long we think it might take to establish the terms of reference and the process that will be undertaken. If you can’t answer that, then that’s fine, but if you can, it’s rather helpful to the ODA community, which has expressed some concern about the potential time frames that this may take.

It’s quite common in legislation to draft a specific time frame that literally forces the minister to get the job done within a specified time frame. I’m not questioning the motive here. I’m simply saying that it’s an instrument that’s quite often used on something this sensitive.

The Chair: Mr. Jackson, I believe the PA did say that they’re going to work just after the bill is addressed.

What I would suggest to Mr. Ramal is that maybe you can discuss the matter and notify Mr. Jackson.

Mr. Ramal: Sorry, I don’t have a definite answer, but we have a clear direction from the minister that if this bill passes, we’ll work on it right away. That’s my answer at this point in time.

The Chair: Is there any further debate? I will now put the question. Shall the motion carry?

Ayes

Craitor, Fonseca, Jackson, Leal, Ramal, Wynne.

The Chair: All in favour; 32 carries.

Therefore, shall section 8, as amended—

Interjection.

The Chair: Would you like to move it now, please?

Mr. Fonseca: Mr. Chair, if we could vote on the walk-on that I just read previously.

The Chair: Would you mind just reading it into the record, please?

Mr. Fonseca: I move that section 8 of the bill be amended by adding the following subsection:

“Committee members’ allowance

“(6.1) The terms of reference may,

“(a) provide for the minister to pay members of a standards development committee an allowance for attendance at committee meetings and a reimbursement for expenses incurred by members in an amount that the minister determines; and

“(b) specify the circumstances in which the allowance or reimbursement may be paid.”

The Chair: Any debate on the motion?

Mr. Jackson: It’s rather out of the ordinary. I have a PC motion coming up in terms of compensation. It’s my understanding of the standard requirement under the act that the Lieutenant Governor in Council, which is cabinet, for laypeople to understand, will in fact let that rate be established through cabinet.

The reason I support that is because I think it’s important that cabinet support the minister in terms of the levels of compensation. Again, I had this challenge when I took it forward to cabinet and I approved the chair’s salary, which was about \$85,000 or \$90,000 a year, and the vice-chair of the council. Then we set compensation for the members of the council and what expenses would be covered.

I’m not 100% sure that leaving that to the confines of a ministry is in the best interests of the disability community, partially because the minister has yet to determine if she has much of a budget in this regard, and I think this obligates the entire cabinet.

So although I support improving this section of the bill, which addresses the issue, what we heard from the disability community were things like, “We want to be fairly compensated.” As you know, people who are approved by cabinet for provincial appointments to serve can receive, I’ve heard, anywhere from as low as about \$75 a day to as high as \$500 to \$800 a day. I don’t wish

to raise expectations in the disability community. The larger issue for me is the costs associated with their attendance.

There is the additional issue, and this is why I would like cabinet to deal with this, of those persons who are on ODSP who would receive compensation without compromising their ODSP payments. Again, the minister, in and of herself or himself, does not have the right to override that, but cabinet would be able to make the determination to protect persons with disabilities whose sensitivity of their supplementary income—I first encountered this when I constructed the CCAC infrastructure in the province as the Minister of Long-Term Care, and I insisted in the guidelines that disabled persons participate because they were part of the group that received services. I had resignations all over the place because people said, “My per diem for my attendance put me over the max,” and therefore they put at risk what at the very beginning was their welfare, which our government changed to the ODSP plan.

So it is a friendly expression of good advice that I can see an amendment coming out of the minister’s office saying, “Let me decide what it is,” and that will be fine, but there are some larger issues. I’m not 100% sure that Cabinet Office may have actually seen this amendment, and they might rather have suggested that we give that authority to cabinet to support the minister. What does that mean? It means that I support the principle. I just think we would protect people better if it were clear that this was a schedule of compensation.

There’s another thing that this raises. I don’t think the disability community wants any stock in a decision that might lead to, “You represent a business, and you represent a hospital. You don’t get a per diem. Only disabled persons get per diems.” None of us wants any stock in that. That’s not the trend toward normalization and equality that the bill speaks to, nor do we wish to entertain it. So the only other reason the minister would need that flexibility is in order to say, “These businesses don’t have to get a per diem.” You can’t treat people differently, and that’s essentially the message we’re getting from the disability community.

I’ve spoken enough. I’ve made my points. I really would rather have hoped that you would do this in the normal way of drafting, which would be that the Lieutenant Governor in Council—once that’s cabinet, that cannot be messed around with and you’ve got to go back to cabinet if you want to start cutting the terms. Otherwise, the minister can make a decision, as was done recently to reduce the compensation for the members of the access council of Ontario. Those disabled persons who served had their per diems and their honorariums drastically reduced. I just don’t think you do that to the disabled community when they start into a program with a government. You don’t change it in midstream for them.

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That’s my best advice and I would hope you would follow it. Having said that, I would ask guidance. Would

it be possible, should my motion pass, even though they contradict each other, that section 6 could be amended?

The Chair: When we address your motion, if the motion is accepted, if the motion carries, then of course whatever the motion says would be accepted, but we have to go through the process first.

Mr. Jackson: Yes, all right. It’s tricky. The other thing I want to bring to the committee’s attention and to the attention of the disability community who are watching today is that the government says there “may” be compensation for the disabled community to participate. My recommendation says they absolutely “shall” be compensated, and that we will hold the cabinet accountable for the support they give to the minister and to this legislation.

I will unfortunately not be able to support this bill. I just realized that the terms of reference “may” include an ability for the minister to pay people. I don’t think that’s what the minister said, and I don’t think that’s what we have been telling people. For those who were on the road with me, I remember specific meetings where we indicated that there would be compensation.

So unless you want to change that—why don’t I just do that, Mr. Chairman? Why don’t I suggest an amendment to Mr. Fonseca’s amendment, that the amendment be amended in line 6.1, terms of reference: delete the word “may” and include the word “shall.” I’ve spoken to that.

The Chair: The motion is in front of us. There is an amendment to the motion, which means I will be taking a vote on that amendment after there is any further discussion. Is there any discussion on changing “may” to “shall”? There is none.

I will now put the question. Shall the amendment to the motion carry?

Ayes

Jackson.

Nays

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: The amendment to the motion does not carry. Therefore, I’m left with the original motion. Is there any further discussion on the motion?

Mr. Jackson: Let me ask the parliamentary assistant. Is it your marching orders to come in here and tell the disability community that they may not get compensated for participating? Is that what we’re to get from this? That is not what occurred at the public hearings.

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

Mr. Ramal: I think the motion was clear. It’s not worth mentioning. It’s up to the minister to decide the way she’ll be able to compensate certain groups and other groups according to her judgment, and also with the advice of people around her or him. I have no discussion.

Mr. Jackson: My second question: Do you have a similar motion that covers off the members of the accessibility standards council?

Mr. Ramal: No.

Mr. Jackson: So you're not going to pay them at all.

Mr. Ramal: We're just dealing with section 8.

Mr. Jackson: By Christ, what are you guys doing? OK, that's fine.

The Chair: If there is no further debate, I will now put the question. Shall the motion carry?

Ayes

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: Those opposed? None. The motion carries.

Shall section 8, as amended, carry?

Mr. Jackson: Do I not have some amendments, Mr. Chairman?

The Chair: You have more amendments on section 8?

Mr. Jackson: Yes, on section 8.2 of the bill. I've got page 34.

The Chair: That was section 8 we were addressing. The next one is section 8.1.

The Clerk of the Committee: It's a new section.

The Chair:—which is a new section. So we've split them. We have addressed all the amendments under section 8. Yours is 8.1.

Mr. Jackson: It's 8.2

The Chair: You'll be next.

Shall Section 8, as amended, carry?

Ayes

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: The motion, as amended, carries.

The next one is page 33. Mr. Jackson, your section 8.1, please.

Mr. Jackson: I move that the bill be amended by adding the following section:

"Compensation

"8.2 The members of a standards development committee shall be compensated for their work on the committee and reimbursed for expenses in relation to that work in an amount to be determined by the Lieutenant Governor in Council."

The Chair: I'm just going to give you the proper page—33.

Mr. Jackson: No wonder. You were right, 8.1. I was on 8.2; I apologize.

The Chair: That's why the page number, I think, is the best reliance.

Mr. Jackson: It is, and I will endeavour to pay closer attention to the Chair's wise instructions.

I move that the bill be amended by adding the following section:

"Chair

"8.1 The members of a standards development committee shall elect a chair from among themselves; when the chair is absent through illness or otherwise, the committee may appoint another member as acting chair."

Very self-explanatory, but there was some concern to make that less of a political appointment process and more of a spirit of collegiality in terms of negotiating outcomes that the Chair is chosen from the standards development committee.

The Chair: Any debate on the motion? There is none. Shall the motion carry?

Ayes

Jackson.

Nays

Craitor, Fonseca, Lean, Ramal, Wynne.

The Chair: The motion does not carry. Therefore, I'll take a vote on section 8.1. Shall section 8.1 carry?

Interjection.

The Chair: There are no amendments; you're right. It's the only one, so there's no need for a vote on section 8.1. We'll move to section 8.2. Mr. Jackson, page 34, please.

Mr. Jackson: I've already read this into the record. I move that the bill be amended by adding the following section:

"Compensation

"8.2 The members of a standards development committee shall be compensated for their work on the committee and reimbursed for expenses in relation to that work in an amount to be determined by the Lieutenant Governor in Council."

The Chair: Any debate?

Shall the motion carry?

Ayes

Jackson.

Nays

Craitor, Fonseca, Lean, Ramal, Wynne.

The Chair: The motion does not carry. There's no need to take a vote on 8.2.

We'll move to section 9, pages 35 and 35b.

Mr. Jackson: I move that section 9 of the bill be struck out and the following be substituted:

"Development of proposed standards

"9(1) A standard development committee shall develop proposed accessibility standards in accordance with the process set out in this section.

"Determination of objectives

"(2) Within 90 days after its establishment, a standards development committee shall,

“(a) complete a review of the industry, sector or the economy or class of persons or organizations in relation to which the committee has responsibilities for the purpose of identifying the barriers that affect or exist in the industry, sector or class; and

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“(b) prioritize the identified barriers so as to determine the committee’s objectives and classify the objectives as short-term, mid-term and long-term objectives.

“Short-term objectives

“(3) Within two years of the day a standards development committee is established, the committee shall submit to the minister its first proposed accessibility standard which shall set out the measures, policies, practices and requirements to achieve its short-term objectives.

“Mid-term objectives

“(4) Three years after the standards development committee submitted its first proposed accessibility standard to the minister, and every three years thereafter until the committee is satisfied that it has met its mid-term objectives, the committee shall submit to the minister a proposed accessibility standard which shall set out the measures, policies, practices and requirements to achieve its mid-term objectives in incremental stages.

“Long-term objectives

“(5) On or before January 1, 2024, the standards development committee shall submit to the minister its final proposed accessibility standard which shall set out the measures, policies, practices and requirements to achieve its long-term objectives.

“Extension of timelines

“(6) If the standards development committee believes that it cannot submit a proposed accessibility standard to the minister within the time periods referred to in subsections (3), (4) and (5), the committee may apply to the minister for an extension of the time periods and shall provide reasons for the extension.

“Same

“(7) Upon being satisfied that the need for the extension is reasonable, the minister may grant the standards development committee an extension to submit its proposed accessibility standard within such further time as the minister may specify.

“Earlier proposed standards

“(8) Despite the timelines specified in subsections (3), (4) and (5) for the submission of proposed accessibility standards, the standards development committee may choose to submit proposed accessibility standards to the minister more frequently than is required in those subsections in order to provide for the implementation of measures, policies, practices and requirements over more frequent intervals of time.

“Timelines specified in proposed standards

“(9) A proposed accessibility standard may specify timelines for the implementation of the measures, policies, practices and requirements set out in the standard.

“Majority adoption of proposed standard

“(10) The standards development committee shall not submit a proposed accessibility standard to the minister

unless the proposed accessibility standard has the approval of and bears the signature of the majority of the members of the committee.

“Dissenting report

“(11) A member of the standards development committee or a minority group of members may submit a report to the minister outlining the reasons they have not approved the committee’s proposed accessibility standard and specifying such other recommendations as they see fit to make.”

Very briefly, again, there is this preoccupation amongst the disability community to make sure that there are tighter time frames for the committees to operate once they’ve been chosen.

Secondly, it’s important that progress be measured and reported publicly at all three stages. Clearly—and the minister has alluded to this—post-2024, there will still be ongoing implementation. So it’s important that the legislation speak to short-, mid- and long-term objectives.

The third area of concern is the one where there are dissenting opinions. The minister maintains absolute control of this process, because she and her government can determine exemptions for groups of people, for types of businesses, for individuals, for a whole host of things. However, once the mandate is set—and I’ll take transportation as a good example. Once transportation is set, the presence—and not a majority of the presence now, which has been vetoed—of the membership of a committee will be made up of disabled persons. It is conceivable that the standards being recommended do not satisfy the needs or the wishes of the disability community, or to make matters worse, given that this legislation refuses to embrace the principle of a barrier-free Ontario, fall far short of achieving a public policy objective which is clearly set out in the ADA and is not present in this legislation.

There is some real concern. So the disability community would like to have a window, access to a minority report that exists in the framework,, so they can publicize that to the broader community that they can speak to the public generally.

This simply honours a request made by the ODA committee, in their wisdom, to ensure that the process remains transparent, progressive and on target toward a barrier-free Ontario. That is why I submitted these on behalf of the ODA committee.

The Chair: Any further debate? If there is no debate, then I will now put the question. Shall the motion carry?

Ayes

Jackson.

Nays

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: The next one is from the NDP. Since Mr. Marchese is not here, I would suggest that we—

Mr. Jackson: No, I will table it for them. Do you want to stand it down?

The Chair: I would suggest, if you agree, that we stand down anything to do with the NDP until a member shows up. If not, at the end we can deal with them. Would that be OK?

Mr. Jackson: That's fine.

The Chair: So any coming up will be stood down.

The next one is page 37, from the government side.

Mr. Ramal: I move that the English version of clause 9(3)(a) of the bill be amended by striking out "to accommodate" at the end and substituting "to address."

That's a technical change.

The Chair: Any comments? Any debate?

Mr. Jackson: Legal counsel might be able to come forward in either quarter to determine the difference. I understand the difference. There is a powerful difference here between setting out guidelines that are destined to accommodate and those that are simply addressed. I don't see it as a technical one; I see it as a substantive amendment. English was a good subject for me.

Ms. Wynne: My understanding is that this amendment corrects a wording mistake, so it makes the language consistent. It's in that sense that it's technical.

The Chair: I appreciate that. Mr. Jackson, though, did ask for a legal opinion on the matter. If we have staff—and we do—could you please answer if that's the case, or whatever it is, so we can move on?

In the meanwhile, Mr. Marchese, we just stood down one item, which was your motion. We can go back to it quickly.

Would staff be able to answer, please?

Mr. David Lillico: As was mentioned earlier, this is just to make the language uniform. It's not meant to change the meaning. There was discussion last week in the committee of the word "accommodate" and the phrase "occupancy of accommodation," which appeared in clause 1 (a) of the bill. As a result of a motion dealt with by the committee last week, that was adjusted to make the language more uniform but without intending to change the meaning. This motion that's being discussed now has the same purpose, to change "accommodate" to "address," just to keep the use of the language consistent.

Mr. Jackson: The question has been answered with respect to the net effect, which is for it to be consistent. If legal counsel is unwilling to admit there's a difference between the word "address" and "accommodate"—I understand what consistency means. It means that the word makes more sense if it's referenced somewhere previously in a bill.

I'm saying that I want to understand if the standards development committees are going to be setting their time frames and taking into account the duty to accommodate, which I understand to be rather clear in legal terms, which is an expression that was first introduced to me by the chief Human Rights Commissioner of the province, and where I have seen in previous Liberal

government legislation dealing with employment equity. So I understand that expression.

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I'm now saying that we're now seeing that that is to be subrogated in favour of "to address," and I consider that a substantive change. I'm not quarrelling with you that the net effect is one of consistency. I just think "to accommodate" puts a clear onus on the standards development committee and their terms of reference and their time frames to achieve a level of a duty to accommodate.

The Chair: Thank you. Any further discussion? If there is no further discussion, we'll now put the question. Shall the motion carry? Those in favour?

Ayes

Craitor, Fonseca, Leal, Ramal, Wynne.

Nays

Jackson.

The Chair: The motion carries.

We will jump section 9. We'll go to section 10, on page 40.

Mr. Jeff Leal (Peterborough): On a point of order, Mr. Chair: I have a government motion that needs to be introduced at this time.

The Chair: Is that under section 9?

Mr. Leal: No; section 10.

Mr. Jackson: On a point of order, Mr. Chair: Does the government have any other amendments today besides the one that Mr. Leal is about to table?

The Chair: Mr. Ramal, do you have an answer to the question?

Mr. Jackson: It's not a tough question.

The Chair: None.

Mr. Jackson: No? That's the last one we're going to see that we haven't been given notice of? Your staff are nodding, saying there's more.

Mr. Ramal: Yes.

Mr. Jackson: Could I ask for a five-minute recess so we can get a copy of those, Mr. Chairman?

Mr. Ramal: We have them.

The Chair: Do we have them here? A five-minute recess has been asked for. We have to have it.

Mr. Jackson: Mr. Chairman, if they can give that to the clerk—this is an open process.

The Chair: So you are flexible?

Mr. Jackson: There are members of the disability community who have come here today and would like a copy of it so that they can offer some comment, and I just think that would be fair. I mean, one or two is fine, but it appears that you've got several that you're—

The Chair: Leave it with me. Mr. Ramal, could you please inform me: Do you have a problem if they are distributed now?

Mr. Ramal: I will provide them.

The Chair: OK. Mr. Marchese, I'll update you. We're going to get all the motions of the government so that everybody knows which other amendments there are. In addition to that, we were going to go to section 10. But because you were not here, under section 9, you've got three motions that you introduced, and we should address them before we move on.

Mr. Leal: This is a section 9 amendment. I'm sorry; I apologize.

The Chair: OK. That's beautiful. I'm going to recognize your amendment now, and then I'll go back to Mr. Marchese's.

Mr. Leal: I just want to make sure that Mr. Jackson and Mr. Marchese have the necessary paperwork.

Mr. Jackson: No, not yet, but it is easier to follow if I've got it in front of me.

The Chair: The clerk is distributing it. Madam Clerk, have you given Mr. Leal's amendment to both Mr. Marchese and Mr. Jackson?

The Clerk of the Committee: We could go back to Mr. Marchese's.

The Chair: Did you give them number 9? Not yet.

So then, can I go back to the normal agenda, which means going back to page 36? In the meantime, the clerk will provide the amendment under section 9 to everybody. I'm going to go back to page 36.

Mr. Marchese, are you ready to move it?

Mr. Rosario Marchese (Trinity-Spadina): Yes. I move that subsection 9(2) of the bill be amended by striking out "January 1, 2025" at the end and substituting "January 1, 2020."

The Chair: Any comments?

Mr. Marchese: Just a couple. I was just trying to find the summary of recommendations for Bill 118, the Accessibility for Ontarians with Disabilities Act, where it lists all the organizations. Here it is: "Determination of Long-Term Objectives." It's just a long list of what people have said:

"Support is given for a 10-year time frame" for organizations.

"Change to a more significant compliance date such as 2009."

"Accessibility standards should be developed by 2020." Six organizations say that.

"The long-term goal date should be moved up to 2015." Two organizations say that.

"Implement standards on or before January 1, 2010." One organization says that.

"Twenty years is a long time in terms of the implementation of public policy." Two organizations say that.

"Twenty years is too long to wait." Many, many say that.

"By the time everyone is made to comply with Bill 118, it will be too late for many people with disabilities to benefit by it." Two organizations say that.

"Shorten the time frame to ensure that time is not lost for those who continue to wait," and so on.

That is just to give you the benefit of the fact that we are not alone in saying this. A whole lot of people are saying that. These are people who came before this committee. These are organizations and people with disabilities saying the time frame is too long. I'm speaking on their behalf and pleading with the government to change that date.

The Chair: Any further debate on the motion?

Mr. Jackson: I've had occasion to think about this amendment for some time, both because my friend in the New Democratic Party told me early on that he was proposing it, and secondly, the disability community. I'm somewhat torn here. The head of the ODA committee, Mr. Lepofsky, has indicated that he's not having any real difficulty with this time frame, so one tends not to want to go offside with anything. In a perfect world, I'm sure he'd love to see it done in 15 years. I'm having concerns about the fact that this is an unusual piece of legislation that's going to have to survive a minimum of five provincial elections. That creates some difficulty.

We had an Ontarians with Disabilities Act with regulations saying that within 10 years ministries will be compliant, and sections of the bill said that a committee, a majority of whom were disabled persons, would create regulations, policies, guidelines and standards. The current minister, in her wisdom, determined that wasn't worthwhile work for the last 18 months. So here you've got a year and a half where the disability community has been preoccupied with consulting with a government—and patting it on the back, quite frankly, and some of that is well deserved—but nothing really has happened with respect to the current legislative infrastructure. I'm concerned about that.

The government is abandoning this notion of a five-year review of this legislation. Five years is historically deemed to try to correspond with changes in governments so that stakeholders have access to the legislation, can actually get their hands on the legislation and work with it and say to a new government that made promises, "These are the changes that didn't occur in the last five years. Here are the changes." That doesn't exist in this bill.

1620

When you look at all that, the only real empowerment that will drive reforms is if we put pressure on the government in terms of time. As one disabled person said, "If you say 20 years, you'll take 20 years. If you say 15 years, you'll take 15 years."

Mr. Marchese: It was me.

Mr. Jackson: Wise advice.

Mr. Marchese: And the others too.

Mr. Jackson: And from the others.

I'm very concerned that the current Ontarians with Disabilities Act was proclaimed in February 2002. We're now into 2005. The work on standards has been suspended for 18 months. I don't really want to see another government do that with this bill, with the previous bill or with a future bill. In my view, I think it's worthy. I will be supporting the change in the time frame because

we've stripped away many of the instruments that will guarantee an outcome.

I'm very concerned that this legislation is now becoming a negotiation instrument with the citizens of Ontario and not an empowerment instrument that will guarantee the removal of barriers, and will not guarantee the right to accessibility and will not create any vision that determines a barrier-free Ontario. If the current government is re-elected and we're looking at eight or nine years under this framework, they will still have another 15 years left to complete the work.

I would, for a whole lot of reasons that have been troubling me since the first day of the committee hearings that culminated in our clause-by-clause activity—I think it really is worthy of support. I know Mr. Lepofsky won't be offended by my reference, but I think I've appropriately put it into context for him. I'm sure, if he could get this done by 2020, he'd be thrilled. And in no way does that mean he doesn't support it being done by 2020; he just said that wasn't the big issue here. But to Mr. Marchese and myself, I think it has become a big issue.

The Chair: Is there any further debate? I will now put the question.

Ayes

Jackson, Marchese.

Nays

Fonseca, Leal, Ramal, Wynne.

The Chair: The motion does not carry.
The next item is page 38.

Mr. Marchese: I move that clause 9(7)(b) of the bill be amended by striking out “on or before January 1, 2025” and substituting “on or before January 20, 2020”.

I think the argument has already been made. I'd hate to have a monologue with myself, and with Mr. Jackson. I'm ready for the vote.

The Chair: Is there any further debate from anyone? If there is none, I will put the question.

Ayes

Jackson, Marchese.

Nays

Fonseca, Leal, Ramal, Wynne.

The Chair: The motion does not carry.
Page 39.

Mr. Marchese: I move that section 9 of the bill be amended by adding the following subsection:

“Minister's reply

“(9) Within three months after the day the minister receives a proposed accessibility standard from a

standards development committee under subsection (6) or clause (7)(d), the minister shall,

“(a) decide whether to,

“(i) recommend to the Lieutenant Governor in Council that the proposed accessibility standard be adopted by regulation under section 6,

“(ii) recommend to the Lieutenant Governor in Council that the proposed accessibility standard be adopted by regulation under section 6 with such changes as the minister recommends, or

“(iii) return the proposed accessibility standard to the committee for further consideration; and

“(b) advise the committee in writing of its decision.

“Decision made public

“(10) The minister shall make his or her decision and the reasons for the decision available to the public in the prescribed manner.”

What this does is make sure that a standard becomes accepted as a regulation; otherwise, it's not law. So we're forcing the minister to actually take a position vis-à-vis the accessibility standards.

Mr. Jackson: I have a question. Can someone who's following along, legally, remind me: Have we approved amendments to this point that indicate that the work of the standards development committee or committees—their recommendations to the minister—will be posted on a Web site and made public, so we'll have that public input prior to the recommendation to cabinet? I know that was an ODAC recommendation. I just want to—

The Chair: Madam Clerk, will you tell me who the best person to answer that question is, please?

Ms. Sibylle Filion: I could suggest, Mr. Jackson, that it's in section 10 of the bill that the proposed accessibility standards get published and there are public comments made on those standards, if that answers your question.

Mr. Jackson: So it's understood that this is prior to her or him going to cabinet.

Ms. Filion: This happens before the regulation gets made, once the proposed standard is submitted to the minister from the standards development committee.

Mr. Jackson: OK. Very good. Thank you.

The Chair: Any further debate on the motion?

Mr. Ramal: Just for the record, basically, on principle, we agree with Mr. Marchese, but we are going to introduce a motion by Mr. Leal later on that will talk about the same principle but with better technical wording. That's it.

Mr. Jackson: Could we be directed to that?

Mr. Ramal: Section 9 of the bill.

Interjection.

The Chair: Yes, it's coming. It's the one we just gave to you, so we're going to deal with it next.

Mr. Jackson: Fair enough, but that means the government is about to defeat this one. I'd like to know which one might be better. That's why I want to read it. I appreciate being directed to it. Is it the one that says, “Minister's response”?

Mr. Leal: Yes.

Mr. Jackson: Just give me a second.

Mr. Marchese: Section 9 of the bill.

Mr. Leal: It started with, “No later than 90 days”—

Mr. Marchese: Sorry. Parliamentary assistant, you’re saying—this motion says, “No later than 90 days after receiving a proposed accessibility standard under subsection (6), the minister shall decide whether to recommend...” You understand that what you’re saying and what we’re saying are two different things, right? This motion says “the minister shall decide.” It leaves it open. It says he or she may decide “whether to recommend to the Lieutenant Governor in Council that the proposed standard be adopted...” My motion says, “recommend to the Lieutenant Governor in Council that the proposed accessibility standard be adopted...”

Mr. Ramal: Same thing. We went to technical and policy writers, and they said the same.

Mr. Marchese: If I can ask the lawyer who is here—legislative counsel, perhaps.

Ms. Filion: I must admit, Mr. Marchese, that your motion in clause (a) says “shall decide whether to recommend.”

Mr. Marchese: It says, “decide whether to recommend to the Lieutenant Governor in Council that the proposed”—

Ms. Filion: If I understood the point.

Mr. Marchese:—“accessibility standard be adopted by regulation under section 6.” OK. And in your view, is the language similar?

Ms. Filion: Very similar.

Mr. Marchese: If they are very similar, why do you think we have a different motion before us? They’re about to move a different motion after they defeat mine. If they’re very similar, why would we be dealing with that?

1630

Ms. Filion: I think you should ask—

Mr. Marchese: Mr. Parliamentary Assistant, if they’re very similar, why are we dealing with it?

Mr. Ramal: Yes, they’re very similar, because this motion has been structured in a way that doesn’t conflict, from a language point of view, with the whole stature of the bill.

Mr. Marchese: It makes no sense. If the lawyer says that they’re very similar—Madam Counsel, legislative counsel, they’re very similar in terms of the effect. Or is there some difference, do you think? Either lawyer.

Ms. Filion: In my view, the government motion—I’ll let Ms. Wynne speak to it.

Mr. Marchese: Any other lawyer?

The Chair: Mr. Marchese did ask that staff provide an answer. I think, if you don’t mind, I prefer that staff attempt to answer and then we can go back to the political party, if they want to comment on it. Could you please provide an answer to the question?

Mr. Lillico: Yes. I think substantively they’re similar and the wording is slightly different.

Mr. Marchese: Sorry. It’s not much different? You’ll have to speak up because I can’t hear you very well.

Mr. Lillico: I think that substantively they’re similar and the wording is slightly different.

The Chair: “Slightly different,” I heard.

Mr. Marchese: You say that one is slightly different. Which one is that, Mr. Legal Counsellor?

Mr. Lillico: Well, the NDP motion has a greater number of subsections than the government supplementary motion.

Mr. Marchese: That’s it?

The Chair: Mr. Marchese, that’s the answer. There are two other people who wish to comment.

Mr. Jackson: Mr. Chairman, as I read this, the only real difference is that the decision by the minister, we’ll say, in this case, is not to proceed with the regulation. Under the government, her written statement would go to the standards committee. Under the NDP, the minister’s written decision would be available to the public in a prescribed manner. That’s the only difference between these two motions.

In my view, the NDP motion suggests that since the meetings of the standards committee are not open and are in camera, and therefore the public doesn’t have access to them, I would hate to think that under the way the government motion is read, a disabled person in this province wanting to know why the government isn’t proceeding with a regulation would have to go and make an application for a freedom of information request in order to get a copy of the minister’s letter. The reason I suggest that it is highly plausible is that, given that we have not seen the terms of reference for the operation of the standards committee, it is quite customary—I know I used to have to sign these documents as a minister—that all persons who participate are sworn to confidentiality and secrecy, that their matters are limited to the minutes of the meeting and not for any commentary and so on and so forth. That’s quite common practice.

If I can be so bold as to suggest, I believe that what the NDP was suggesting and what we have heard during the deputation is, if a standards committee recommends to the government that they do something to change the law in Ontario and the government doesn’t proceed with it, not only should the standards committee be told why their advice isn’t being followed, but the public generally should be informed. I think that is what ODAC asked us, and I think that’s what this amendment recommends. I consider this a different kind of motion, unless the government wishes to admit that was a minor oversight and it was their intention not to keep this information secret, because the way it’s written now, it’s possible that the public will never have access to that written statement.

Mr. Marchese: There are some other differences, having had the opportunity to read their amendment here. We have (a)(iii), which says, “return the proposed accessibility standard to the committee for further consideration,” which isn’t in your motion. So that’s quite different. But (a)(i) and (ii) are similar to your (6.1). It’s all put into one section, which is fine.

“Decision made public,” subsection (10), is very different, in terms of “The minister shall make his or her

decision and the reasons for the decision available to the public....” This is the addition that they took out. And your “Same”—I’m not quite clear—says, “On making a decision under subsection (6.1), the minister shall inform, in writing, the standards development committee that developed the proposed standard in question of his or her decision.”

Can you explain to me what that means, any one of you? Shall inform the standards development committee of what? Does anybody know?

The Chair: Could staff respond?

Mr. Lillico: The subject matter of (6.2) is the minister informing the committee of a decision made under (6.1). The range of possible decisions made under (6.1) is set out in (6.1). It could be a decision on whether or not to recommend that the proposed standard be adopted by regulation, either as it was received from the committee—the entire thing—or part of it, or with other modifications.

Mr. Marchese: But would you agree with me that if you don’t say that, it’s unclear? If you don’t say the minister “shall inform,” dot dot dot, it’s unclear that the minister will inform whomever about whatever?

Mr. Lillico: I’m not sure I’m following that.

Mr. Marchese: Let me go through this: “On making a decision under subsection (6.1), the minister shall inform, in writing, the standards development committee that developed the proposed standard....” Does that make sense to you?

Mr. Lillico: It does to me.

Mr. Marchese: That’s why lawyers get paid the big bucks.

Mr. Lillico: It goes on to say that what the minister would be informing the committee about is the decision. So the minister would—

Mr. Marchese: Where’s the decision in there?

Mr. Lillico: It’s the last word in the subsection.

Mr. Marchese: Shall inform the committee that developed the proposed standard “in question of his or her decision.” I see. OK. I’m telling you.

Mr. Jackson: It’s just to the committee.

Mr. Marchese: I quite agree. That line—written poorly, in my mind—doesn’t say what we’re saying. It’s not quite the same. Yours, in (6.1), speaks to my (a)(i) and (ii), and it omits (iii), the decision should be made public, and yours doesn’t. They’re very different, so I’m glad we sorted that out. We’re ready for the vote, quite clearly.

The Chair: Mr. Jackson has more to add, I believe.

Mr. Jackson: I have a question to Mr. Ramal. Was it your intention here not to be able to report the government’s decision? Because Mr. Marchese’s wording—your wording is tighter. I may not agree with him. I think you’ve accommodated everything, save and except the fact that the minister’s letter may never see the light of day by virtue of the fact that we don’t have the guidelines and the confidentiality requirements for all matters before the committee. In other words, they can just publish their report. Is it your intention that the public not see the reasons for this? That’s the net effect.

Mr. Ramal: Not really. The public is entitled to know whatever is necessary to know. We made it clear before in different motions that results from the committee should be minuted and posted on the Web site.

Mr. Jackson: All right. Obviously, you’re going to defeat this amendment from the NDP.

Mr. Marchese: Do you get that impression?

Mr. Jackson: What I recommend is that when you table your section 9—“no later than 90 days” etc.—I will propose an amendment that’s (6.3). I will add that, and then I’ll give you the opportunity to support your own expression of support. Thank you for that, Mr. Ramal.

The Chair: I guess we’re ready, so let’s take a vote on this amendment. I will now put the question. Shall the motion carry? All those in favour?

Ayes

Jackson, Marchese.

Nays

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: Mr. Leal, do you have an addition?

Mr. Leal: I move that section 9 of the bill be amended by adding the following subsection:

“Minister’s response

“(6.1) No later than 90 days after receiving a proposed accessibility standard under subsection (6), the minister shall decide whether to recommend to the Lieutenant Governor in Council that the proposed standard be adopted by regulation under section 6 in whole, in part or with modifications.

“Same

“(6.2) On making a decision under subsection (6.1), the minister shall inform, in writing, the standards development committee that developed the proposed standard in question of his or her decision.”

The Chair: Any debate on the motion?

Mr. Jackson: I would like to propose an amendment to the amendment. I have it right here. I’ve almost got it all written out.

I move that the governing party’s motion be amended by adding a section (6.3) to read:

“The minister shall make his or her decision and the reasons for the decision available to the public in the prescribed manner.”

The Chair: Any debate on (6.3), which is the amendment to the motion?

Mr. Marchese: I just think it’s such an eminently reasonable amendment, and it simply says that the public should have access to that decision. I’m convinced that Liberals want this, I really am. I suspect—

Mr. Jackson: Mr. Ramal is voting for it, we know that.

Mr. Marchese: But I suspect, individually, they would really like to support simple things like this. It’s not that complicated.

The Chair: Thank you.

Mr. Marchese: No, no, I'm not finished. If individual members were given the power, on their own, without being advised by any assistant or the minister's assistant to take a position, they, on their own, would want this. Because there are absolutely no problems that they would have to deal with in making the decision of the minister with respect to this available to the public. I'm sure you agree, Mr. Chair. I know you've got to be neutral, so it's difficult for you.

The Chair: But I'm listening very carefully.

Mr. Marchese: I know; exactly, and those who listen very carefully probably would agree too. If they were given, or had, the free will to be able to do what they wanted, they would probably agree with this amendment. Given that we had this in my proposal, I think this is a reasonable amendment Mr. Jackson makes, and I support it.

The Chair: Any other debate?

Ms. Wynne: Mr. Chair, could I ask for a five-minute recess?

The Chair: Yes. Five minutes are given. We will be back at about 14 minutes to 5.

The committee recessed from 1642 to 1647.

The Chair: Can we all have a seat, please? The quorum is sitting already. The request for five minutes was from you, Ms. Wynne. Do you wish to start the debate, please?

Ms. Wynne: OK. I need to make a point about the drafting of this motion as opposed to the previous one and the reason why we wanted to support this motion. The issue is around our concern about binding cabinet, whether it be the cabinet of this government or future governments.

So I'm wondering if Mr. Jackson would accept an amendment to his amendment so that the language would read, "The minister shall make his or her decision public by whatever means are appropriate."

Mr. Jackson: Which decision are we talking about?

Ms. Wynne: The decision about the standard. The previous part of the motion reads, "On making a decision under subsection (6)(1), the minister shall inform, in writing, the standards development committee;" right? So it's that same decision: The minister shall make his or her decision public by whatever means are appropriate.

Mr. Jackson: Having been the minister responsible for the chief Human Rights Commissioner, he schooled me in the notion that the reasons for a decision are sometimes even more important than the decision itself. Abandoning the reasons, you will simply be compliant by saying, "I am not recommending that motion." Then you will have complied with this section. So the reasons are the powerful instrument.

There will be litigation that will flow from some of these regulations unless, under this legislation and perhaps even the previous one—because this legislation does not offer the guarantee. So there won't be as much litigation flow out of this, but publishing the reasons as to why, I think, is essential. That was the spirit of Mr. Marchese's motion and it's the spirit of mine.

If you wish to defeat it—but you're stating that the decision essentially will be public to a degree. It's the reasons for the decision, and those reasons, as you can well speculate, are that it's too expensive, it doesn't have broad appeal, it doesn't fit within the government's mandate and it would be too much of a compromise of the integrity of the infrastructure. I think the disability community, which has embarked on this journey with the government, has at least the right to know at the end of that journey, if you're going to let go of their hand, why you did.

Ms. Wynne: What I am trying to do is find wording that will allow cabinet to do its job and will not bind cabinet in a way that's not reasonable. That's why I'm suggesting, "The minister shall make his or her decision available to the public in such manner as the minister considers appropriate." That's the language that I would like to see.

Mr. Jackson: You can defeat my amendment, but the fact is, I want the reasons.

Ms. Wynne: I understand, and that's the part that I can't accept.

Mr. Jackson: You don't support that. It doesn't compromise why they're not—you see, the point is, she is giving reasons why she's not recommending it to cabinet. If you were saying to me, "I'd like to have the reasons why I did something in the positive," I might suggest to you that it's a moot point about whether or not you want to explain it. For those who have ever served in cabinet, you get your slides of the presentation, which set out the rationale as to why you are doing something or not doing something. In this instance, let's be mindful that what we're talking about is something that Minister Bountrogianni will not be taking to cabinet. So that is entirely her decision not to take it to cabinet. Therefore, if the accessibility standards committee, we'll say for transportation, recommends, and they're unanimous, that this should happen, and she says, "You know what? I'm not even taking that to cabinet, and here are my reasons," then I think you're presuming that the minister would take it forward, it would get defeated by cabinet and then she has to report that it was defeated by cabinet. That's not what this says. This says if you're not prepared to move it forward—the minister shall decide to take it to cabinet; right? When she decides not to take it to cabinet, the disability community wants to know why won't she take it forward.

I was offered, would I like 20 years for an Ontarians with Disabilities Act. I said no, I won't take it forward. I thought it was too long. If anybody asked me that opinion, I told them. I wasn't required to give it in writing, but because that proposal was never rejected by cabinet, I refused to present it. It's not a protection for cabinet. It's a matter of, if you're not going to recommend it to cabinet, then you're not using cabinet secrecy or in some way compromising cabinet. Cabinet can plead ignorance because they never saw it. But the disability community has the right to know and the members who've been working on regulations for five

years should know why the minister rejected it and didn't even take it to cabinet.

Mr. Marchese: Mr. Jackson has said this quite clearly a few times, for emphasis, I understand. To just agree with him briefly, the reasons are important to us. The fact that the minister makes a decision one way or the other, without explanation, is almost meaningless, really. So their amendment doesn't really help us. I just thought I'd point that out. This is a useful one. The other one, you might as well just not even introduce it.

The Chair: Any further debate on the amendment to the amendment? That's all we've got. If there's no more, then I will now put the question. Shall the motion, as amended, carry?

Ms. Wynne: Sorry. Are we voting on just Mr. Jackson's amendment?

The Chair: Yes, which is (6.3). Those in favour?

The Clerk of the Committee: Wait a minute. What are we voting on?

The Chair: It's (6.3).

The Clerk of the Committee: Just a minute. We're voting on the amendment to the amendment?

The Chair: Yes.

The Clerk of the Committee: Ms. Wynne's?

Interjection: No, we're dealing with his amendment.

The Clerk of the Committee: We're not dealing with hers.

Mr. Marchese: Not with hers, no. She hasn't moved it.

The Clerk of the Committee: Fine. That's what I wanted to know.

The Chair: On (6.3), those in favour?

Ayes

Jackson, Marchese.

Nays

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: The amendment to the amendment has been defeated.

There is only the amendment on the floor at this time. I will now put the question to the amendment. Those in favour?

Ms. Wynne: Are we voting on our motion?

The Chair: That is the only one on the floor.

Ayes

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: The amendment carries, with no change.

At this point, we have dealt with section 9, so I will take a vote. Shall section 9, as amended, carry? Those in favour?

Ayes

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: Section 9 carries, as amended.

The next one is section 10, page 40. Mr. Jackson?

Mr. Jackson: I move that section 10 of the bill be struck out and the following substituted:

"Public consultations

"10.(1) In developing a proposed accessibility standard, a standards development committee shall consult with the public, including with persons with disabilities.

"Public meetings

"(2) Every meeting of a standards development committee shall be open to the public unless it is necessary to prevent the public from attending the meeting in order to protect the privacy of an individual or organization.

"Public proposed standards etc.

"(3) Upon receiving a proposed accessibility standard from a standards development committee or a report from a committee member or group of members under subsection 9(11) or a progress report under section 11, the minister shall make the standard or report available to the public by posting it on a government Internet site and by such other means as the minister considers advisable."

The Chair: Any further debate?

Mr. Marchese: This motion is consistent with the Liberal promise made to the public prior to the election, where they spoke loquaciously about issues of openness and transparency. I only mean to support them in this regard. I hope that they wouldn't want to contradict their philosophy of pre-election versus post-election stuff.

So, public consultations, public meetings equal increased openness, increased transparency, which is what McGuinty and so many other Liberals, before they got elected, spoke about, that they were just going to let so many doors open, open so many windows. Transparency was to be the philosophy of the day. This motion assists Liberals in achieving their goal. I would hope that the Liberal members would support this, given that it's their pledge.

Mr. Jackson: It was so prominent an election promise that the ODA Committee assumed it was an oversight in the original draft, and that's why they recommended before this committee on many occasions that these amendments be submitted, and that's why they have been submitted.

1700

Ms. Wynne: I just want to make the point that the way the legislation has been written, the standards development committees are made up of representatives of the public. They are made up of representatives of organizations. They are made up of members of the disability community. What we're trying to do is get the standards in place. The minutes will be posted. What we don't want to do is put in process something that's going to delay the development of standards any further. That's why I won't be voting for this amendment.

Mr. Marchese: I am convinced, given that they have given themselves 20 years to accomplish this, that having a couple of more meetings is not going to delay this process by very much. I could be wrong. It's quite possible that this might delay it to 30 years; I don't know. But I suspect it won't.

I also suspect that if you ask people with disabilities, they will probably agree with me that people with disabilities who would be representing others as members of a standards development committee wouldn't disagree with public consultations and public meetings. I suspect that they would not think it would delay by one day the time frame that you've set for yourselves. Trust me: 20 years is a long time. If they have a couple of meetings, I'm sure they will stay within the time frame.

Please, your arguments are feeble. I'm trying to help you out. This is your stuff. Before the election, you guys wanted to be transparent. Stick with your plan. Don't change it.

Mr. Jackson: One of the reasons for this is something that we all experienced when the original ODA was being proposed. Mr. Leal was a member of a council that voted to make Ontario barrier-free. He passed a motion at Peterborough council calling for all the principles inherent in what the ODAC called for. Municipality after—

Interjection.

Mr. Jackson: This is a fine point.

When I went to see municipalities, they said, "Unless you're going to pay us to do this, we're not doing it." I said, "Why did you do this resolution?" "That's a resolution in principle. We in municipal life are quite accustomed to stating a principle, but that doesn't mean we're committed to it financially." OK. Fine. We all know that AMO pushed back and said, "There's no way. You'll be bankrupting us if you bring in accessibility standards for municipalities."

Mr. Leal is now here in Toronto at Queen's Park and someone well-intentioned has replaced him on Peterborough council. Let's say that that person on Peterborough council now comes and sits on a standards committee. I don't think he's going to be taking the position Mr. Leal does. I think he or she is going to take a position that, "I'm here on behalf of my municipality and we just can't afford to do this." Should that be in a public meeting? If we want to protect municipal politicians who want to say one thing and do another, then we need to protect them. It gets more acute when you're dealing with members of the private sector.

This notion of transparency isn't a footnote like the speeches we're hearing about democratization. This is a real issue of whether or not people are going to be forthright in their level of commitment at the standards development committee, where they are negotiating with other people in the province as to what constitutes an acceptable, financially tolerable standard for access in our province.

I've been harsh. To be fair, there were a few people in municipalities, like Ken Boshcoff in Thunder Bay, like the mayor of Windsor, mayors who made substantive contributions. There were municipalities that were prepared to move toward barrier-free, but there were a lot of municipalities—and I'm not going to name them—that not only were resisting it and saying, "We can't afford it; we're not going to do it," but we've heard before this committee that they were blatantly flaunting the

effectiveness of the accessibility advisory committees in their community.

This isn't just a catch phrase about openness; this is about making sure that people don't get to hide behind closed doors and not come to the clear support of the disability community, that they aren't able to say, "Look, I'm here representing my municipality. My municipality feels that we just can't afford to do this, even over 10 years." I heard it time and time again.

That's the level of transparency that's important here. This is not an empowerment piece of legislation; this is an enabling piece of legislation that negotiates every single detail of accessibility in this province. That is a very marked departure from a government being held accountable to groups of people behind closed doors determining what constitutes accessibility for Mr. and Mrs. Smith's developmentally disabled child in London, Ontario.

That's what the difference is, and that is a huge difference—not a small one, not a subtle one, but a very huge distinction about how this legislation will be played out over the next 20 years.

The Chair: I will now put the question: Shall the motion carry?

Ayes

Jackson, Marchese.

Nays

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: The amendment doesn't carry.

Therefore, I will ask for a vote on section 10. Shall section 10 carry?

Ayes

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: Section 10 carries.

Now we are on section 11. Is there a new amendment to section 11?

Ms. Wynne: Yes, there is.

The Chair: OK. Who has it? Ms. Wynne? Go ahead. Section 11, the new—

Mr. Jackson: Mr. Chairman, could I suggest we do the practice of numbering these pages? I'm going to number mine 40A. Is that OK with everybody?

The Chair: Yes. Under section 11, I would say 40A is fine.

Mr. Jackson: Thank you. Then I know what I'm dealing with.

Ms. Wynne: I move that section 11 of the bill be amended by adding the following subsection:

"Progress reports made public

"(2) Upon receiving a report under subsection (1), the minister shall make it available to the public by posting it

on a government Internet site and by such other means as the minister considers advisable.”

The Chair: Any comments?

Ms. Wynne: This is actually in response to the call to make progress reports public. So we’re attempting to meet the spirit of that.

The Chair: Is there any further debate? I will now put the question. Shall the motion carry?

Ayes

Craitor, Fonseca, Jackson, Leal, Ramal, Wynne.

The Chair: The motion is carried.

Therefore, we’ll vote on section 11, as amended. Shall section 11, as amended, carry?

Ayes

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: Section 11, as amended, is carried.

Now we’re on section 11.1, and it’s page 41.

Mr. Jackson: I move that the bill be amended by adding the following section:

“Adoption of proposed standards by regulation

“11.1 Where a standards development committee submits a proposed accessibility standard to the minister under section 9, the minister shall, within 120 days of receipt of the proposed accessibility standard,

“(a) submit the proposed accessibility standard to the Lieutenant Governor in Council for adoption by regulation under section 6 with no changes or with such changes as the minister may recommend;

“(b) return the proposed accessibility standard to the standards development committee for further consideration for such reasons as the minister may specify and require the committee to submit a further proposed accessibility standard at such time as the minister may specify.”

1710

One of the more compelling presentations we received was from the deaf and deaf-blind community. They fought very hard and vigorously for legislation, which is now many years old and to this day there are still no regulations. Although I attempted to include that in this legislation, legal counsel has advised me that it is a very awkward and difficult thing to force the government to bring forward regulations in a bill that has already passed. I accept that legal advice. However, I am interested in the political pathology of leaving the impression that we’re acting on something when we don’t proclaim the regulations. Members are quite familiar with my concern that the penalties section of the ODA was never proclaimed by the new minister and that the other aspects of that bill aren’t proclaimed.

In my view, you need this kind of prescriptive approach which says that once you’ve been to cabinet, you must proceed with your regs. and you must get on

with the business of getting them done so they don’t sit in limbo. There is real potential in this legislation to do that. I don’t think that’s really intended, but it does preserve the flexibility for this and future cabinets to say, “That’s all well and good; you’ve done your job, Minister, you’ve recommended it to us.” I can remember some items that had been sitting on cabinet tables for as long as eight years, and we had to look at them.

I’ll leave it at that. But there is no end to the things that get referred to cabinet for decisions, and I was shocked at how many things can languish there. This is one that I think we shouldn’t allow to. It does guide the minister and the government more directly, but I think that’s why we’ve gone through this whole exercise and why I strongly recommend that we consider adoption of proposed standards by regulation, so that they are gazetted and the expectations are out there.

The Human Rights Commissioner will tell you that if you haven’t told the public, it’s pretty hard for them to know that there are rights that they have. The effective regulation is that they are then gazetted and copies are in every library. I’m telling people here in the room something they know, but for people who are watching these proceedings, that’s an important distinction to understand: the power of the Ontario gazettes. Every lawyer gets them and they then know those are rights you now have and they are now the law of our province.

I’ve said all I want to say on this. I urge the members to follow the ODAC recommendation accordingly.

Mr. Marchese: For the record, I just wanted to say that I appreciate what Mr. Jackson is saying. He has had experience with his own bill, Bill 125, and he speaks from that experience. He’s trying to prevent this government from doing what happened to him in his government. My suspicion is that the Liberal members of this committee think it won’t happen to them, but it will. I’d wager anything on that—it will. I know they’re all well-intentioned. They mean well and they hope this won’t happen to them. Only people who have had government experience can tell you that. That’s why I appreciated Mr. Jackson’s clarity and comments on this.

I suspect the Liberal members in this committee will defeat it, but the purpose of this is to make sure that governments proceed with regulations that have been passed.

There’s a time frame. The 120 days is a reasonable time frame. It says to the government, “Once you’ve done this, you’ve got to proceed.” I think it’s a reasonable time frame. Obviously, governments don’t want to be bound, and that’s the kind of legal advice you would be getting from staff: “You don’t want to bind yourself, Minister, just in case.” We understand that.

I just thought I’d offer this advice to the Liberal members, knowing full well they’re about to defeat this motion.

The Chair: I will now put the question. Shall the motion carry?

Ayes

Jackson, Marchese.

Nays

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: The amendment does not carry. Therefore, I'll take a vote on section 11.1—we don't need to take an overall because there are no amendments.

We'll move on to section 12 and page 42. Mr. Marchese, it's yours.

Mr. Marchese: I move that section 12 of the bill be struck out and the following substituted:

“Assistance for standards development committees

“12. The standards development committee may retain, appoint or request experts to provide advice to a standards development committee.”

For the benefit of those who are following this debate, the current section says, “The minister may retain, appoint or request experts to provide advice to a standards development committee.”

The difference to those who are following this is very obvious. If we leave it to the minister who “may retain, appoint or request experts to provide advice to a standards development committee,” it may not happen. That's just the way it is. If we allow the standards development committee the power to, “may retain, appoint or request experts to provide advice to a standards development committee,” then something might happen.

The point is obvious. It's the standards development committee that does the work and they know what expertise they require. They shouldn't have to rely on the power of the minister to make this happen. The committee shouldn't have to plead with the minister, “Please, we need some help in this regard.” We should allow the committees to judiciously act on this based on their expertise and knowledge about what they know and what they don't. If they don't know enough and require expertise, they should be empowered to do so.

It says “may.” It uses the same language. It doesn't mean the standards development committee is being proscribed or proscribed or that they've been told they must. It says they “may” if they need the expertise, but you're leaving that power in the hands of the standards development committee and not the minister.

Mr. Leal: Just briefly, you're making the assumption that the minister, he or she, is not a hands-on minister and is not consulting with the standards development committees during the development of the process. That's an assumption you're making. I would assume something else, that a minister would be consulting with these committees. If the committee says, “We need Mr. Marchese because he's an expert in the engineering of such a building,” then the minister would respond to that kind of request.

Mr. Marchese: Quite right. There are a couple of things. First, you never know whether that same minister

will be there. You may have full confidence in this one. You never know how long ministers stay in their portfolios. They tend to rotate a fair bit for different reasons. So you may have a hands-on person and you may not. You may even have a hands-on person who might decide, “We can't afford it.” It could be a question of money, possibly. I don't know. All I'm saying is, if you empower the standards development committee to have the ability to do something, they will get the work done much faster and with greater ease. They shouldn't have to plead or beg.

The Chair: Is there any further debate?

Mr. Jackson: To be fair, although I understand the point my colleague Mr. Marchese has presented, I think the minister is required to strike a budget every year that governs what these people can spend. Although I've participated in the amendments to sort of define what was being spent, in the back of all that I realize that the minister has to go before Management Board and get the money. There's a distinction between those things I'm trying to influence that are cost items that I think the legislation should contain and those which give the minister flexibility.

1720

After all, the minister isn't consulting as to the first two or three or four subcommittees that are going to be done. That's out of the legislation. She gets to choose that. The onus should be put on her to make sure that it's done properly. I don't think it's critical. I think the current legislation says she has the right to do that. Therefore, it's under that legislation that she would be empowered to go back to Management Board and say, “You know what? We've hit the wall on transportation, because we've got a report that said it's going to be \$850 million to make our subway system in Toronto accessible. I need to bring in an expert from Seattle who found a way of doing it for half the money.” I think that's something—yes, the committee will know it, but if they've got to spend \$30,000 or \$40,000 to bring in this expert, then I think the minister should be able to budget that.

I was concerned if it wasn't in the legislation. It recognized, for those of us who have worked in this field, that you're not going to survive without getting some outside consulting assistance in some of these areas. Some of those people will be unwilling to do it for either no compensation or \$75 a day or whatever the minister is ultimately going to come up with. These people are not going to be prepared to give up that amount of work if they're not compensated. That's the reality out there. So I'll support—

The Chair: The amendment?

Mr. Jackson: No, I am not going to support the amendment, because I think the current one in this instance is more than adequate and, frankly, the minister has to go get the money in order to do it. You can't have a committee saying, “We need these 12 consultants,” and then her whole budget is gone.

The Chair: Any further comments? If not, I will now put the question. Shall the motion carry?

Ayes

Marchese.

Nays

Craitor, Fonseca, Jackson, Leal, Ramal, Wynne.

The Chair: The motion does not carry. The next one is page 43 and 43a.

Mr. Jackson: These are not numbered correctly, so if people could follow through with me and mark their page, it would be helpful and I would appreciate it.

I move that section 12 of the bill be struck out and the following substituted:

“Accessibility standards adviser

“12(1) There shall be appointed, as an officer of the Legislative Assembly, an accessibility standards adviser for the purposes of this act and the regulations.

“Appointment

“(2) The accessibility standards adviser shall be appointed by the Lieutenant Governor in Council on the address of the assembly.

“Term of office

“(3) The accessibility standards adviser shall hold office for a term of five years and may be reappointed for a further term or terms, but is removable at any time for cause by the Lieutenant Governor in Council on the address of the assembly.

“Nature of employment

“(4) The accessibility standards adviser shall devote himself or herself exclusively to the duties of the accessibility standards adviser’s office and shall not hold any other office under the crown or engage in any other employment.

“Non-application

“(5) The Public Service Act does not apply to the accessibility standards adviser.

“Salary

“(6) The accessibility standards adviser shall be paid a salary to be fixed by the Lieutenant Governor in Council.

“Functions

“(7) The functions of the accessibility standards adviser are,

“(a) to advise the minister on the establishment of standards development committees;

“(b) to assist the standards development committees in the development of proposed accessibility standards by various means including providing the committees with technical support and retaining experts and technical advisers when required by the committees;

“(c) to monitor the implementation of this act and of the accessibility standards and the work of the standards development committees; and

“(d) to carry out such other responsibilities as may be provided under this act.”

“Report

“(8) The accessibility standards adviser shall every year prepare a report on the development of accessibility standards and the implementation of this act and shall submit the report to the minister and make the report available to the public in accordance with the regulations.”

I thank the committee for its patience in the way I had to amend my amendment.

The Chair: Mr. Jackson, am I correct that what you did was to eliminate (3) and (4), and renumber—

Mr. Jackson: I modified number (3).

The Chair: Sorry, number (3) was modified.

Mr. Jackson: Number (4) was removed, and I’ve renumbered it accordingly.

The Chair: OK, that’s fine. Any comments?

Mr. Jackson: Briefly. This issue was raised by David Lepofsky in his presentation by the ODAC committee and by several other organizations too numerous to mention at the moment. They were trying to advise the government and this committee that somehow we need an independent—reference was made to a disabilities Ombudsman, in effect. The models that currently exist in the province are ones that the government is currently struggling with in terms of the Environmental Commissioner. That Environmental Commissioner is at arm’s-length. They report annually. There are several examples. So the disability community is asking us, as legislators, to put that into the legislation. They do that for a lot of good reasons.

The role of the Accessibility Standards Advisory Council has been somewhat watered down in relation to the gains they made in the Ontarians with Disabilities Act, Bill 125, where that council had real power and authority and had the ability to report independently. Those rights that the disability community won are being removed in this legislation and modified to the extent that the council will be sort of a forum to which the minister can refer items. Nowhere in this legislation do we have the role of an independent watchdog—a terrible word, I know, but it explains to our viewers who are watching and listening today that those are the kinds of protections and enforcements that are required. This is done on matters of a serious nature in our province. Our province has a long history of it, because we had the first Human Rights Commissioner—arm’s length—the first Environmental Commissioner—arm’s length—the first Ombudsman in North America—arm’s length—and the list goes on.

There is a rich history in our province of recognizing that our democracy changes its policy perspective from time to time. In particular, this legislation, because it’s not prescriptive—I keep repeating it, but it’s a huge distinction between the two legislations. This does not set out requirements; it sets out a negotiated instrument, and nowhere do we have an independent body. I’m sure David Lepofsky and the ODAC would like to get on with their lives and do all sorts of other things and not devote a lifetime to becoming the unpaid watchdogs of this

legislation. Therefore they genuinely and honestly approached the government to set out what they felt was a reasonable request to protect the disability community. It would be non-partisan, it would have its own budget, it would report independently, in much the same way as the auditor does today.

Those are the reasons I tabled it. I thought it was a legitimate request. In jurisdictions in the United States that have moved in the direction of prescriptive legislation, there wasn't the presence of this. Where there was a regimen set up—in parts of Australia, in a couple of countries in Europe—where there was this negotiated outcome, they had to have a third party, because the government has a vested interest because it is going to be called upon to pay a lot of bills.

1730

For that reason, the direction and shift to this bill is going more toward that negotiated outcome. I think we need someone, independently, to speak to the people of Ontario on whether we are or are not making progress over the next 20-some years.

The Chair: Any further debate? I will now put the question.

Mr. Marchese: I was just waiting for some Liberal to speak.

Here's why I support this motion. Section 12 says for the standards development committee, "The minister may retain, appoint or request experts." I argue that the minister may or may not. In some cases, I suspect he or she may not; in some cases, he or she may. The expertise may be sufficient or it may not, but it will rely on the minister to decide who they appoint.

The point of having an accessibility standards adviser is that this person would be seen to be independent of the minister, which in my view is a good thing. You don't want the public to think that the people you're appointing to give whatever expertise have any kind of political influence rather than the kind of support that the committees require.

In the same way that the standards development committee may retain, appoint or request experts, as I indicated in my amendment—the one you defeated. In the same way that involves cost, this involves cost, too. This is up front, and the other one is not, but they both involve money. However you pay for this expertise, it's money.

I am as supportive of this motion as I was of mine. It's an important technical support position to put in place, because I think the standards development committee is going to need it. It's good for the government to have such a position, it's good for the public, it's good for transparency and openness and it's good for accountability, by the way. I know the Liberals pride themselves on wanting to be transparent and accountable. They may want to consider this position as something that fits into their philosophy.

The Chair: Any further debate? I will now put the question. Shall the motion carry?

Ayes

Jackson, Marchese.

Nays

Fonseca, Leal, Ramal, Wynne.

The Chair: The motion does not carry. Shall section 12 carry?

Ayes

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: Section 12 carries with no amendments. Section 12.1, Mr. Marchese, page 44.

Mr. Marchese: I move that the bill be amended by adding the following section:

"Compensation

"12.1 The members of a standards development committee shall be compensated for their work on the committee and reimbursed for expenses in relation to that work in an amount to be determined by the Lieutenant Governor in Council."

I refer the members to this report: Summary of Recommendations: Bill 118, the Accessibility for Ontarians with Disabilities Act, 2004, page 43. A whole number of people spoke to this issue: "To encourage the participation of the disabled, we recommend that expenses be reimbursed and honorariums that do not jeopardize their ODSP or pension plans be considered for those that participate on these committees or offer their expertise in any consultations." Two organizations said that: BFCAC and PUSH-NWO.

"[T]o ensure the participation of persons with disabilities on SDCs and any other committees, stipulate in the bill that there will be financial support for individuals and organizations participating in this process": OFL, SC DLC, TBDLC and OPSEU-DRC. These are acronyms; they don't have the full name of these groups.

"Provide individuals with disabilities with financial compensation for their expenses related to work on the SDCs": ETFO, YSSTAB, QUOUAE, NFB-OG and AS.

"Financial resources for disabled persons organizations could come from the 'special fund' established under s. 40(2)(h)"—

Interjection.

The Chair: Just one moment, please. Mr. Ramal?

Mr. Ramal: On a point of order, Mr Speaker: We debated this motion a long time ago.

Mr. Fonseca: Section 8.

Mr. Ramal: Yes, section 8.

The Chair: Is that what staff is trying to figure out? Let me make sure that staff agrees, and then I will make a decision on the matter. Is Mr. Ramal correct, Madam Clerk?

The Clerk of the Committee: If it has already been moved and defeated—

Ms. Filion: Mr. Jackson's motion, which is number 34, was, in substance and word-for-word, the same as this motion, in fact.

The Chair: Mr. Marchese, therefore there is no purpose for debating this item since it has been addressed. Any comments from you, Mr. Marchese?

Mr. Marchese: I just wanted to say that the list goes on and on. What the Liberal members of this committee rejected was the advice of countless people and organizations. Since the Liberals have already defeated a similar motion, I will withdraw mine.

The Chair: I would ask with the highest respect that the best thing to do next time is just to remove it, staying away from comments. There's lots of space for comments later on. Thanks very much, though.

So this has been removed, and we'll move on. There is no vote to be taken under section 12; therefore we'll go down—well, for section 13, there is no amendment. We'll take a vote on section 13. Shall section 13 carry?

Ayes

Fonseca, Leal, Ramal, Wynne.

The Chair: Those opposed? None opposed. So section 13 carries.

Section 14: First is page 45.

Mr. Jackson: Thank you—

The Chair: I'm sorry; just one moment. Mr. Leal, on section 14?

Mr. Leal: On a short point of order, Mr. Chair: We did make an amendment back in section 8 that dealt with compensation for members that would be serving on the committee, and I'd be remiss if I didn't get that on the record. So I'll leave it at that.

Mr. Jackson: Mr. Chairman, you've allowed the comment, and I think the distinction that you've missed is the reasonable expenses.

The Chair: Is that the word, "reasonable"?

Mr. Jackson: No, you've not passed expenses. You've said the minister may deal with an honorarium.

Ms. Wynne: And expenses. Read the amendment.

Mr. Jackson: All right.

The Chair: OK, so we cleared the air. Can we move on, please? Mr. Jackson, you still have the floor, under page 45.

Mr. Jackson: I move that subsection 14(4) of the bill be struck out and the following substituted:

"Content

"(4) Within the prescribed period after this section comes into force, the accessibility standards adviser shall make recommendations to the minister as to the information that should be included in an accessibility report made under this section.

"Guidelines

"(5) Within the prescribed period after receiving the recommendations of the accessibility standards adviser, the minister shall prepare guidelines as to the information that is to be included in an accessibility report and may,

in so doing, adopt in whole or in part the recommendations of the accessibility standards adviser.

"Guidelines made public

"(6) The minister shall make the guidelines prepared under subsection (5) available to the public in the prescribed manner.

"Compliance with guidelines

"(7) Every person or organization that is required to prepare an accessibility report under this section shall comply with the guidelines prepared by the minister under subsection (5)."

Self-explanatory, Mr. Chairman.

1740

The Chair: Any further debate on the amendment?

Mr. Marchese: Even though the Liberals defeated the possibility of having an accessibility standards adviser, should there have been one, the motion says that the minister should include recommendations as to the information that should be included in the accessibility report made under the section. Under "Guidelines," "the minister shall prepare guidelines as to the information that is to be included in an accessibility report and may, in so doing, adopt in whole or in part the recommendations of the accessibility standards adviser."

I'm just trying to comment on these recommendations by removing the standards adviser, Mr. Jackson, as a way of showing that what you are adding to this section is very useful and important and that without the information that you're trying to put in there, the recommendation that's currently there will be weak. I will be supporting it.

The Chair: Is there any further debate? I will now put the question. Shall the motion carry? All those in favour?

Ayes

Jackson, Marchese.

Nays

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: The motion does not carry.

The next one is you again, Mr. Jackson: 46 and 46(a).

Interjection.

Mr. Jackson: Hope springs eternal. I didn't want to presume that they would defeat the motion, but I prepared something that strengthens section 14 but doesn't necessarily acknowledge an independent body. Therefore, I move that subsection 14(4) of the bill be struck out and the following substituted:

"Content

"(4) An accessibility report shall contain such information as may be prescribed or required by the guidelines prepared by the minister under subsection (6).

"Consultation

"(5) Within the prescribed period after this section comes into force, the minister shall consult with prescribed persons with respect to the information that

should be included in an accessibility report in addition to any information that is prescribed by regulation.

“Guidelines

“(6) After completing the consultation under subsection (5), the minister shall prepare guidelines as to the information that is to be included in an accessibility report in addition to any information that is prescribed by regulation.

“Guidelines made public

“(7) The minister shall make the guidelines prepared under subsection (6) available to the public in the prescribed manner.

“Compliance with guidelines

“(8) Every person or organization that is required to prepare an accessibility report under this section shall comply with the guidelines prepared by the minister under subsection (6).”

One of the things this new bill does is it retains the accessibility reports that were required of municipalities. We heard, when the minister failed to bring in the penalties section for municipalities that weren't cooperating—and there were quite a few; I understand that now over 75% of the municipalities in the province have stopped doing accessibility reports—that we have to get that back on track.

The work the ministry was doing before it was suspended 18 months ago was to set those standards and guidelines. They were not put in the new legislation. I feel very strongly that they should be. As I say, some of the best examples in our province are coming from municipalities and some of our most disappointing results are coming from municipalities. The members of the disability community spoke to this committee rather cogently about which ones they were. It's not helpful to go over who they were. It's sufficient to say that there are municipalities that just really don't care about the previous bill, and there may be some that don't care about this one. I think it's a powerful instrument. It was something that disabled persons fought long and hard to get, and they would like to make sure that they are able to impact the removal of barriers in their communities through any of these accessibility committees and reports that are coming out, either municipally or otherwise. So thank you, and I would hope that this has the support of the government.

Mr. Marchese: I support this motion; it's very clean and clear. When I look at what's already in section 14, it reads: “A person or organization to whom an accessibility standard applies shall file an accessibility report with a director annually...” Then, it says in section 14(2), “A person or organization shall make an accessibility report filed under subsection (1) available to the public.” and 14(3) says, “An accessibility report shall be in the form approved by the minister and the minister may require that the report or a part of the report be provided electronically in a format approved by the minister.”

What Mr. Jackson adds is not there, in the section that I read. Why is this important? It's important because many of the groups that came to speak to us and offer

advice, because we asked for their advice, spoke to this. I believe this is a reasonable amendment that we should be listening to. It speaks to consultation. I remind you that you've got 20 years. Within that 20 years, you could hold a couple of meetings and it won't hold this up too much.

It says: “Within the prescribed period after this section comes into force, the minister shall consult with prescribed persons with respect to the information that should be included in an accessibility report...” That's all it says. I don't think we'll bog ourselves down if we have a meeting with people to talk about what information should be included in an accessibility report.

Secondly, it speaks of guidelines. “After completing the consultation under subsection (5),” of which I just spoke, “the minister shall prepare guidelines as to the information that is to be included in an accessibility report...” It speaks of guidelines. So we meet with the public—don't hold this report back any longer than 20 years—and we establish guidelines as to what those accessibility reports should be, and then we make those guidelines public. That's the extent of this amendment. I'm telling you, it's not serious. It won't bring your government down. It won't slow down your report, because we've already got 20 years. I just urge some flexibility on the members of this committee to say: “This is not so bad. Marchese thinks this is a good amendment.”

The Chair: Any further debate? I will now put the question.

Shall the motion carry?

The clerk isn't here. I can do it.

Ayes

Jackson, Marchese.

Nays

Craitor, Fonseca, Leal, Ramal, Wynne.

Mr. Marchese: I feel exactly like Sisyphus—you recall him? Pushing the rock up that mountain?

1750

Interjection.

The Chair: Yes, I did already. Therefore, I'm going to take your vote on the entire section. There is no change.

The Clerk of the Committee: Do you know what the result is?

The Chair: It was two in favour, and the other five opposed. I'm satisfied. If you don't have a problem, we can now move on.

Shall section 14 carry? There were no amendments approved.

Ayes

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: Section 14 carries with no changes. We'll go to section 15. Mr. Ramal, page 47.

Mr. Ramal: Clause 15(1)(b) of the bill: I move that the French version of clause 15(1)(b) of the bill be amended by striking out “un dirigeant” and substituting “un cadre dirigeant.”

The Chair: Any debate?

Mr. Marchese: I’m going to support it, Mr. Chair.

The Chair: I’m happy to hear it. Any comments from anyone? None?

I will now put the question.

Ayes

Craitor, Fonseca, Jackson, Leal, Marchese, Ramal, Wynne.

The Chair: I’m very happy to see that everybody supported it. The amendment is carried.

Shall section 15, as amended, carry? Those in favour?

Ayes

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: Carried.

The Clerk of the Committee: We can do 16 and 17 together.

The Chair: OK. We’ll do them together. Sections 16 and 17: There are no amendments. Shall sections 16 and 17 carry?

Ayes

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: Both carried.

We’ll go to section 18. Mr. Marchese, page 48, please.

Mr. Marchese: I move that subsection 18(1) be struck out and the following substituted:

“(1) The minister shall appoint inspectors for the purposes of this act before the first accessibility standard is established under section 6.”

Section 18, at the moment, reads: “The minister may appoint inspectors for the purposes of this act.”

I refer you to this document again. It’s called the summary of recommendations, Bill 118, Accessibility for Ontarians with Disabilities Act.

Here’s what a number of people had to say:

“There needs to be more specific detail about how the bill will be administered. How many inspectors will there be for each sector or industry?” AAC said that.

“Create a short-term time frame for the hiring of inspectors. (CNIB)

“Ensure that inspectors are appointed at the appropriate time to ensure effective and timely compliance with accessibility standards. (MSSC, MSSC-N)

“The government should publicly commit to a proper number of inspectors to ensure that the legislation is enforced. (CAW)

“This should state that the minister ‘shall’ appoint inspectors. The powers and duties are defined in detail, and inspectors would seem to be essential to the success of the bill. (MSS-O, MSSC-L)

“Provide that the minister shall appoint inspectors beginning at the time the initial accessibility standards are enacted. (OFL, YUFA, ARCH, TBDIWSG, SCDLC, NFB/AE, CHS-H)

“Give priority to selecting disabled persons as trained inspectors,” which I found very intriguing, by the way. I was very supportive of that. Three organizations said that: YUFA, AAC, RH&CB.

“Rather than the minister appointing a new set of inspectors whose sole responsibility is the enforcement of the accessibility standards, consider utilizing existing building inspectors....

“Give careful consideration to the circumstances under which an inspector is able to enter a clinical environment where care is being conducted without the consent of patients. (OHA)

“Inspectors should be provincially appointed. (NF)”

Anyway, I was just trying to make a point. A whole number of people said that the way the act is written—“the minister may appoint inspectors for the purposes of this act”—is weak. It does not give us assurances that proper enforcement will happen.

If we say what I am saying, then people with disabilities are given assurances that this Liberal caucus and this Liberal government are serious about enforcement. You are not serious if you don’t say this. If your language is “may appoint inspectors,” you’re not serious about making sure enforcement happens. I think that if you don’t pass this, it will be another defeat for people with disabilities—myself included, of course.

Mr. Ramal: Just to comment on Mr. Marchese: I believe that without the established accessibility standards, it would be premature to talk about the inspectors.

Also, the government is putting a motion to talk to the same point. I think that it’s in subsection 18(1), when we talk about, “The deputy minister shall appoint one or more inspectors for the purpose of this act.” So we talk about what you mentioned, Mr. Marchese. We consider your point. Therefore, we are going to talk about it when we get to the motion on subsection 18(1). Hopefully, your concern will be eliminated when we’ve reached that point.

In terms of the inspector, it would be premature to start appointing an inspector before you have the standards. It would be impossible to determine how many—maybe one or two or maybe five or 10—before that; it would be very difficult.

Ms. Wynne: Just to follow up on my colleague, our motion on page 50 does exactly what Mr. Ramal laid out and addresses the issue that Mr. Marchese has raised.

Mr. Jackson: I tend to agree with the point that appointing them prior to the regs might be premature and perhaps an unnecessary expense. Of course, my amendment that follows sort of says that.

I am, however, concerned about this whole notion of how we're going to do the inspection of this process. I'm almost speaking to the government motion, but they've already stated for the record that they'll defeat this and my motion because they think they have a better one. So I think it's important that we at least—because I may not submit mine, but amend the government motion.

My concern is simply this: When we received our briefing from the government, they indicated that they didn't feel it might be necessary to have inspectors, that there are elevator inspectors in the province now doing elevator inspections, that municipalities have building inspectors.

Municipalities that have spoken to us as a committee have said, "Whoa. Hold the phone here. We don't want this to be another form of downloading, that this is now an additional process," that they're going to have a new expense. ODAC has said, "Wait a minute. How can they really inspect themselves if it's municipal inspectors inspecting municipal buildings?" I've had one very bad experience with nursing homes over the years, where an inspector was in conflict with his employer, a fire marshal's office.

I'm a little concerned about this. So although I can see that this will be defeated, and I'm sure that mine will be defeated, I'm worried that the deputy minister will be in compliance with this act by appointing one inspector for the province. The purpose of that one inspector is to coordinate the regulations we have yet to see. We won't be able to see ones in this kind of detail. So it would be unfair to say that we should see it now. But that regulation could simply say that municipalities are responsible for these inspections, school boards are responsible for these inspections or hospitals are responsible for these inspections. Clearly, the disability community cautioned us about that.

Someone will hopefully explain why we've gone from the minister to the deputy minister, but that's not of great a concern to me. I think that the legislation should clearly set out an expectation that inspectors—plural—will be appointed. "One or more" means that the compliance with this legislation is that they can appoint one person to be an inspector for the entire province—17 million-plus people—and somehow that will satisfy it.

So I've stated that for the record. This one will be defeated. I won't submit mine, but I will amend the government one, if time will allow us.

The Chair: Mr. Marchese, the last comments.

Mr. Marchese: Just to finish up, the reason why I prefer my motion to the government's motion—at least it says they "shall" appoint an inspector, which is better than what they had—so that's good—and they listened in part to this. The reason why their motion is not helpful—and they specifically say "one or more." The reason why

they say "one or more" is because of what Mr. Jackson said. If they hire one, they've accomplished their goal: They're compliant with their motion. But if you leave it that they "shall appoint inspectors," it's different. They know that and Marchese knows that, right? That's why they have "one or more." That's why Marchese is against their amendment being written in this way.

Secondly, the reason why Marchese is moving this amendment, saying, "Before the first accessibility standard," is for this reason: clearly written up in their amendment, which says that they will appoint "one inspector or more" after the regulations within a reasonable time. In government terms, "reasonable time" could be a 20-year time frame. You understand what I'm saying? That's what that problem is all about.

If you're developing an accessibility standard and you know that, then my motion says that the minister, knowing this, will appoint inspectors, because you know what's coming up, right, and you'll know how many you need. My motion is very clean, very clear and it forces the government to act. It doesn't say "one inspector"; it says "inspectors," and it says "before," not "after" a reasonable time, meaning a 20-year time frame.

I'm ready for the vote.

The Chair: I will now put the question. Shall the motion carry?

Ayes

Jackson, Marchese.

Nays

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: The amendment does not carry.

Mr. Jackson, do you want to do item 49, to remove it, as you indicated, and we'll start at 50?

Mr. Jackson: Yes, let's proceed to the government motion.

The Chair: It's already 6.

Mr. Jackson: Oh, it's 6. All right.

The Chair: Do you wish to remove it?

Mr. Jackson: Leave it, then. You've been advised that it's 6 of the clock.

The Chair: OK. So we'll end this evening having dealt with page 48. We'll start at page 49 next Monday.

I would suggest that you may want to plan next Monday and Tuesday in your agendas, if possible, for continuing this debate—at least next Monday and Tuesday. Thank you. Goodnight.

The committee adjourned at 1802.

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