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**Official Report
of Debates
(Hansard)**

Thursday 28 April 2005

**Journal
des débats
(Hansard)**

Jeudi 28 avril 2005

**Standing committee on
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Chair: Pat Hoy
Clerk: Trevor Day

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
FINANCE AND ECONOMIC AFFAIRS**

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

Thursday 28 April 2005

Jeudi 28 avril 2005

The committee met at 0903 in room 151.

**TOBACCO CONTROL STATUTE LAW
AMENDMENT ACT, 2005**

**LOI DE 2005 MODIFIANT DES LOIS
EN CE QUI A TRAIT
À LA RÉGLEMENTATION
DE L'USAGE DU TABAC**

Consideration of Bill 164, An Act to rename and amend the Tobacco Control Act, 1994, repeal the Smoking in the Workplace Act and make complementary amendments to other Acts / *Projet de loi 164, Loi visant à modifier le titre et la teneur de la Loi de 1994 sur la réglementation de l'usage du tabac, à abroger la Loi limitant l'usage du tabac dans les lieux de travail et à apporter des modifications complémentaires à d'autres lois.*

ONTARIO MEDICAL ASSOCIATION

The Chair (Mr. Pat Hoy): The standing committee on finance and economic affairs will now come to order. This morning we will be hearing presentations from the public on Bill 164. Our first presenter of the morning is the Ontario Medical Association. Would you please come forward.

Good morning. You have 10 minutes for your presentation. There may be up to five minutes of questioning following that. I would ask you to identify yourselves for the purposes of our recording Hansard. You may begin.

Dr. Ted Boadway: Good morning, Mr. Chairman and members of the committee. Thank you very much for giving us the opportunity to present to you today. I'm Dr. Ted Boadway, executive director of health policy of the Ontario Medical Association, and with me is Michael Perley, director of the Ontario Campaign for Action on Tobacco.

Every physician sees the effects of tobacco addiction in their practice, no matter what their specialty. Our president, John Rapin—who would have been here with me today, except he's with Mr. McGuinty at the Lakeview announcement—is a specialist in emergency medicine, and I myself practised emergency medicine for many years. I thought today that it might be most appropriate to look at this through the eyes of an ER

physician, who probably sees more of the devastatingly acute effects of tobacco addiction than any other.

Tobacco addiction causes heart disease, and when people have heart attacks, they come to the emergency department acutely ill, and sometimes dead on arrival. When tobacco causes a stroke, they come paralyzed. When the addiction causes an abdominal aortic aneurysm and it ruptures, it is a catastrophe requiring complex management and surgical intervention to preserve life. These cases constitute a serious challenge in the emergency department. And when patients present with acute congestive heart failure, or the smothering respiratory effects of emphysema, they take some of their worst and last breaths in the emergency room. As a result, the personal experiences of an emergency room physician dealing with the ravages of tobacco addiction lead us to understand how serious the problem really is. But the entire medical profession understands this as well, and it leads us to strongly support actions that can decrease the amount of tobacco addiction in our community.

Tobacco addiction is the result of a complex societal interaction that leads people to be involved in an activity that would not be customarily considered rational. Our society has been structured, both by accident and by design, to make tobacco use seem a normal activity and to provide role models and societal norms which lead to behaviours no one would choose.

Before tobacco is used, the attitude and belief system must allow its use to be possible. These attitudes and beliefs are formed in childhood and often, as research shows, in very early childhood. By the time the child first reaches for a tobacco product, the attitude that allows that reach to take place has been forming for years.

Children are subject to a complex mix of societal pressures that are different from the ones that you and I face and which are only partially understood by adults. These pressures, joined with aspirations to be seen as grown-up and the need to be part of locally defined groups, drive the child to overcome the initial obnoxious event of direct inhalation of smoke. Before the child becomes an adult, the addiction is already established. Once again, science shows us that the addiction is established, distressingly often, in the earliest teen years.

By the time adulthood is achieved, the addiction is firmly established and behaviour patterns and friendships have been cemented, some of them shaped by addictive behaviour patterns. At this point in life, to smoke or not to smoke is not a choice; it is a compulsion, and despite

the fact that the vast majority of adults want to stop smoking, I think everyone understands the difficulty of doing that. So when we think about preventing tobacco addiction, we should remember that it's not about adults; it's about kids.

Since we are dealing with a complex societal influence on behaviour, it should be no surprise that the science tells us that strategies to change this should also be comprehensive. In 1999, Minister Witmer received a report from an expert panel upon which I sat, which outlined what a comprehensive tobacco control program should look like. Five years later, this approach has been proven to be effective in the state of California, where levels of tobacco usage among young people that were previously similar to ours dropped from above 20% to 8%. Now Ontario's government has decided to act, and we are entirely supportive of this.

I think it goes without saying that this is a good move for the health of the people of Ontario. I could give you numbers and talk about the tens of thousands of lives that will be saved by the introduction of such a strategy, and those numbers would be true, and they are the ultimate goal. What I will ask you to do, instead, is to turn your attention to think this way. I've told you how we, as physicians, see the health problems. When you bring these policies in, you will affect what physicians do every day in their practice. You will change the nature of care in this province for the better. We won't be looking after the ravages of tobacco addiction, and this will free us up to look after other things that you would like us to look after. So, not only will your actions in this area benefit the health of addicts and prevent addiction, but they will also benefit all the other patients in this province.

0910

Acting on this not only makes good sense for health, but it makes good sense for the economic well-being of the province. In our paper released in 2003, titled *Investing in Tobacco Control: Good Health Policy, Good Fiscal Policy*—and I've left copies of that with you—we demonstrated that investments in tobacco control will pay back handsomely to provincial coffers in health care savings and increased revenue from income tax and sales tax, such that with even a 5% decline in the prevalence of tobacco use, the province will break even on its investment in tobacco control. This is an extremely modest decrease considering the actual experience elsewhere.

You are now familiar with what a comprehensive tobacco control program is. It requires appropriate levels of price comparable to surrounding jurisdictions. Public education is required. Marketing through packaging, labelling and information disclosure is essential. Appropriate retail controls are needed. One hundred per cent smoke-free spaces and cessation programs are cornerstones. Properly financing the Ontario Tobacco Strategy and then evaluating, through research, the outcome of that strategy are important for public accountability. Cost recovery litigation should also be considered.

I will not dwell upon each of these in turn, because I believe that in almost every instance, this bill has got it

just about right. However, I note one item in the bill that causes me some concern. It is the part on retail displays. I am a physician, and I don't profess to understand marketing and product placement. You will have other witnesses who will speak to this. I am, however, very familiar with the fact that the tobacco industry, through its front groups, has done everything it can elsewhere to maintain retail displays of this very addictive product.

Two things I know to be true: (1) If the tobacco industry thinks it's a good thing for them, then it's probably not a good thing for the public of Ontario, and (2) the tobacco industry has to get kids if they want to survive as an industry.

Kids make the decision to take up tobacco in their early years, even before they begin to smoke. By the time they figure out whether or not they want to, they are already addicted and cannot stop. In my mind's eye, I see the nine- to 11-year-old who has driven on his bike to the corner store to get either a treat or a litre of milk for his mom. When he approaches the counter and hands his chocolate bar or the 2% milk over the counter, he faces a massive advertisement for an addictive substance that is now somehow associated with treats or sustenance itself.

As you go through your hearings today, I would like you to keep your eye on that child as well. I would like you to develop the perspective that it is only a few years and a short trip down the road before that child, now after years of tobacco addiction, comes through the door of my emergency department with one of the catastrophes I listed earlier as his problem.

The medical profession is proud to do its part for those people injured by tobacco, but something must be done to prevent that child from eventually coming through the door. The part you can do is to prevent the tobacco industry from getting to our kids. Only you can establish the framework of our society such that tobacco addiction is prevented. To do that, the path is clear and the science of how to get there is established. The medical profession of Ontario respectfully requests that you take that path.

The Chair: Your timing is very good. We'll move to the official opposition for this round of questioning.

Mr. Toby Barrett (Haldimand-Norfolk-Brant): Thank you, Doctor, for your presentation on behalf of the Ontario Medical Association. You call for comprehensive tobacco control. I want to raise the issue of risk reduction or harm reduction. For example, a past US President's commission on tobacco pulled together the health community, government, tobacco farmers and producers to look at some common ground, if you will. With respect to control, there does not seem to be any government control on the ever-increasing imports of tobacco from tropical countries. There's no knowledge of what fungicides, insecticides or pesticides are used on this product. As taxes increase, consumers go for a so-called value tobacco, imported tobacco.

Secondly, with respect to the underground economy, we know the cigarettes that are being produced, for example, on Six Nations in my riding. As taxes increase, you see more cigarettes diverted and consumed through

the underground economy. Again, there does not seem to be any comprehensive policy on this, and certainly very little control.

Can you comment on those two issues?

Dr. Boadway: Yes, I do have a comment. You're right that there's a dearth of knowledge on the effects of insecticides in foreign imported tobacco. You don't know the answers to those questions, and I don't know. I sure can't tell you. But what we do know is that at the present time, tobacco is killing tens of thousands of people in this province each and every year. We look after them, and we look after them in extremis. When that happens, we know something has to be done.

Some of the techniques that have to do with foreign trade are not our concern; we're physicians. We can tell you the devastation is significant. If you can find a way to look after those other problems, we will laud you too.

Mr. Barrett: OK. Taxes are not your concern either, and this is the finance committee that you're testifying before. People do make economic decisions. For example, what's a carton? It's maybe \$60 a carton. It's not hard to find tobacco for \$25 a carton. Again, physicians don't get involved in that, but do you have any comments on that?

Dr. Boadway: Oh, yes. We think price is a very important thing. Price is the most important impediment to children picking up the tobacco addiction. So we're looking for ways that you as legislators can increase the price and maintain it and make it consistent. We're hoping you will find a way to stop the \$25 cartons coming across and make sure the price is consistent so that there is a good price barrier for children, because they are far more price-sensitive than anyone else. We hope you'll work on that.

Mr. John O'Toole (Durham): Just a comment and then a brief question. I completely understand and, I would say, endorse your observation, Doctor. I can't find anything disputable. But I suspect my cynicism amounts to this: If this is a tax issue from the point of view of this committee, and if the government were really seen to be doing the right thing, if you look at the federal discussion on this issue, we are one country and there should be some consistency between the messages. The current debate around the decriminalization of marijuana is an inconsistent message with this effort to reduce smoking dependence.

What's your view in a public way, not necessarily as a doctor, with respect to the role of the federal government? I'm not trying to shift the blame. But if what you say is clinically and categorically true, and I have no dispute with that, are they addicted to the revenue? Is that really the issue here? Or, if it's that bad, and there's clear evidence there, you'd think in a scientific kind of argument you would say that they should criminalize it. What are your views? It's pretty strong, but really it is one way of making a clear statement without any ambiguity. Cast that against the current discussion about the whole marijuana debate. If one's bad for you, then both of them have got to be bad, wouldn't you say?

Dr. Boadway: What I say, strictly from an individual's point of view, is that governments are addicted to all sorts of revenue. It's not one different from the other. But I don't think that's going to change over the near or long term, and that's OK; they do things for us with that money. So that's just the way it is.

But we've demonstrated in our paper that when you lose tax revenue from one place, you will gain tax revenue from another. That was the purpose of the paper we've left on your table, to show you that government actually won't lose tax revenue. They'll shift the source of their tax revenue and, by the way, it will be far more productive while they're gaining it from active citizens who are alive.

The Chair: Thank you for your presentation this morning.

For those who are in the room, we have prepared an overflow room. There is someone outside the door who can direct you to it—committee room 2. It would be very helpful if those people who are presenting could remain in this room so that the committee can get its work done prior to the noon hour and prior to the Legislature sitting once again.

0920

Mr. Barrett: On a point of order, Chair: First, for the people who are standing, is it possible to bring perhaps another row of chairs into this room?

Secondly, you made mention of people testifying. I think something like 250 people have applied to testify for these hearings. I know Councillor Frances Nunziata is here—

The Chair: You point of order is?

Mr. Barrett: My point of order is that I request, if there are any vacancies—I know we did this in Oshawa—that a company like Imperial Tobacco would be allowed to testify, and Councillor Frances Nunziata. We know even the Minister of Health was not allowed to testify. I point that out.

The Chair: The committee, at its will, upon vacancies, can deal with that at that time. You know that, Mr. Barrett.

Mr. Barrett: Thank you, Chair.

The Chair: On the minister's being here: The minister requested of the committee to present and the sub-committee decided that he should not. Mr. Barrett would know that as well.

ROYAL CANADIAN LEGION, BRANCH 210

The Chair: I would call on our next presentation, the Royal Canadian Legion, Branch 210.

Mr. Bruce Melanson: Good morning, Mr. Chairman. I thank you and committee members for your invite here. My name is Bruce Melanson, Normandy veteran and D-Day veteran. Councillor Nunziata is sitting beside me because she was not allowed to speak, and Councillor Nunziata did a lot of work on behalf of Canadian Legions in the past. What I'm going to tell you all about, what our story is, is a good part of the impressions of Councillor Nunziata, who is sitting beside me.

I'm also an associate director of the Juno Beach Centre. We built that \$12-million memorial in France. Some 46,000 Canadians died. I was there. Reality means that when you're there, you know what it's all about. I saw a lot of them dying with a cigarette in their mouth, many of them. We were given cigarettes in those days at \$1 a carton. They taught us. They gave them so cheaply to us. The government sent them over at one buck, so we used to sell them in the pubs so we could drink our beers there. That was it. They taught us. You told a veteran, for all those years, "Smoke away." After 50 years, you tell this veteran, "No, you can't smoke any more. You can't go into your own Legion and smoke." It's ridiculous.

Let me get into something. I think the benefits provided by the Legion far outweigh any detrimental aspects from second-hand smoke. By the way, we have a payroll of \$73 million across Canada. We've got a lot of branches. I don't think you'd be interested in the numbers, but membership is approximately 500,000 legionnaires.

We do it all for free. These revenues care for veterans, various youth and athletic programs, we buy wheelchairs, we sponsor seniors' housing projects and everything else. We're a private club—that's what we are—created by Parliament, not by us. This is the only place most of us can go now. Those who went on D-Day or went to the war are in their late 70s or early 80s. That's what I am, and I've travelled across this country to help to raise that \$12 million to build this memorial.

The government's proposed Bill 164, in my opinion—and I'm from Branch 210, Royal Canadian Legion—is disrespectful to veterans and will cause, I think, at this moment, 10 or 11 of them to close.

May I also let you know that with me today is our second vice-president, Comrade Bill Muir, and member George Brown from Branch 210, Royal Canadian Legion.

We can understand some aspects of this Bill 164, but our feeling in Branch 210 is this: We will build—and I'm sure all Legions will—a separate little room in there, and we will make sure that room is ventilated, rather than say to that veteran who has been smoking for 50 or 60 years, "You can't do that." That's like telling me I can't have a glass of beer once in a while. That's downright wrong.

So if we do that, that's what we're asking: Allow all these Legions to build their own private little places. We'll ventilate them and make sure they're good, and that's where the smoking will take place. If you don't do that, I would say, as I've said before, that we're going to lose possibly 10 or 11 Legions. With what we've done, what we've created and the money we've put into this GTA—we're all volunteers; not one of us gets paid one nickel. Surely to God you don't want to close Legions. That's what Bill 164 is going to do if you don't allow us to do something else. There's got to be an alternative to this, and that's the alternative that we are presenting to you today.

How can you go up to a veteran today and say, "You can't smoke any more in this Legion"? Possibly, he's

going to say right away, "Goodbye." Our membership of 5,000 is getting older as it is. Whether we've got 10 years, five years, or whatever it might be, sir, don't take away from us, who fought in the war and left 46,000 over there, who died for you and me so that we might have the freedom we've got today, that little bit of liberty. That's a downright shame, if you do that.

Therefore, we're asking, we're pleading, that you allow branch 210—other Legions might have the same kind of battle cry I've got; I don't know—to build them. We will guarantee and promise you, we will build our own little smoke rooms, and we'll make sure they're well looked after, ventilated, clean etc.

Like I said before, a payroll of \$73 million across Canada is nothing to sneeze at. We don't want to lose that. We don't want to lose anything. I'm proud to be a Legionnaire. I'm proud that I fought for my country. But I'm not proud that I've got to go up today and say to some poor devil—all he's got left is his cigarettes. That's his lifeline. You can't take that away.

If we're all so serious about this, why don't we take them off the shelves completely? Let's take the cigarettes off. What are we selling them for? I think that's another suggestion you can think about. If you say you don't want people to smoke, why sell them?

I think that's pretty much my story. I'm open for any questions that you want to give me, but I want to say again that I'm disappointed that Councillor Frances Nunziata was denied the right to speak. Why would your committee deny that? She worked hard with the Legion, and not just my branch.

The Chair: She could have an opportunity to speak now.

Mr. Melanson: You're going to give her an opportunity to speak?

The Chair: Yes. Anyone can speak during your 10 minutes.

Ms. Frances Nunziata: Thank you for allowing me to speak. In my opinion, this has not been an open consultation process. I put my name in to speak weeks ago, and I was denied the privilege of speaking. Thank you for allowing me to speak for a few minutes today.

As Bruce mentioned, I'm the chair of the Legions of Toronto. I got involved with the Legions many years ago in the former city of York. After amalgamation, some of our Legions were having a very difficult time paying their taxes. Prior to amalgamation, some of the municipalities provided grants to the Legions—Metro council provided grants—and some municipalities did not. So what I worked to do was to get all the Legions together and ask the city of Toronto to exempt Legions from taxes, because a number of Legions were closing. Actually, the bailiffs were out, trying to close some of these Legions down because of tax arrears. So I've been working with them for the past few years, and we were successful in doing that, but there have been a number of Legions which have closed.

0930

As Bruce mentioned, Legions are all volunteers. All the money they raise through the poppy fund and any

other fundraising they do goes back to the community, to the local hospitals, to the sports clubs in the area or to the seniors groups in the area. They have hundreds of volunteers that work for the Legions. Most of them are having a difficult time with membership because a lot of the veterans have been getting older over the years and, unfortunately, they haven't been able to get new members into the Legions.

It would be a shame if we actually closed down Legions. I tried very hard to keep them open, asking the city of Toronto to exempt them from taxes. Here, if we pass this bill and Legions are not allowed to have a designated smoking room, I can guarantee you that they will all be closing because none of the veterans will go into the Legions. That's the only place they have to socialize with other veterans. They have sacrificed; most of them have made sacrifices for all of us, for our freedom. And here they are in their 80s, after we've asked them to smoke during the war—we've given them free packs of cigarettes and then asked them to go out and shoot people in the war—we're telling them now, 60 years later, "You can't smoke." It's disgusting. I think that we owe respect and thanks to the veterans in Toronto for all the sacrifices they made. Don't take this away from them. I think it would be a sin if you did that.

I think you have to look at the Legions separately from bars and restaurants, where they're for-profit. It is a private club, as was passed by special legislation many years ago, as Bruce mentioned. Please show a little compassion and support the veterans. Don't close Legions in Toronto or in Ontario. I don't think that is what this government wants to do. I'm totally disgusted with this government, if that is what their intent is. Thank you.

The Chair: This round of questioning will go to the NDP.

Mr. Michael Prue (Beaches–East York): I have five minutes. I'm willing, Frances—is there more you wanted to say?

Ms. Nunziata: No.

Mr. Prue: OK. I'll just ask questions then. The city of Toronto—and I'm familiar; we were both there—exempted Legions because they were a private club. This government does not want to accord Legions that same status. Do you think the bill should be amended to exempt private clubs, and if so, why?

Ms. Nunziata: Absolutely. The city of Toronto did that. Actually, the province did that as well, because the government of the day did exempt Legions from taxes, acknowledging them as a private club. So they should continue doing that.

In order to get into a private club, which the Legions are, you need to be a member, you need to sign in. There is a membership fee that the members have to pay. So when you walk into a Legion hall, you are quite aware of what you're walking into, and you are a member in good standing. I think that they should be exempt from this bill.

Mr. Prue: I am a member of Branch 10. We had five branches in Beaches–East York last year. Now we have

four; one of them has closed. With the average age of Legionnaires being 83, or closing in on 84, is there any time frame that you are looking at? Obviously, I hope that those who fought in the war will live to 100, and some will. But if this government is looking for a time frame, how much longer do you think it would be necessary to exempt the Legion from the bill—five years, 10 years? Because that's another option.

Ms. Nunziata: I think they should be exempted permanently. You're right, there have been a number of legions that have closed. If this bill passes, they will all close. They are closing gradually, but we don't want to close them. It's hard to say. If I had a choice, I guess I would take 10 years. I'd rather not have that choice, but 10 years.

Mr. Prue: At 10 years, the average age would then be 94. I trust there would still be some left, but maybe not as many as we'd like.

Mr. Melanson: The doctor tells me I'm good for 100.

Mr. Prue: Good.

Ms. Nunziata: Just ask the federal government to stop selling cigarettes. That's the solution, if that's what you want to do, because as long as you sell cigarettes, you're going to have people smoking. It's going to be underground; it's going to be anywhere. If people are going to do it illegally, I'd rather it be open than underground.

Mr. Prue: Is there still more time?

The Chair: There is; a minute and a half.

Mr. Prue: The previous speaker made a point that the real key to this legislation is to stop young people from starting to smoke rather than trying to be punitive, I guess, to those who are in their eighties who still smoke. Would you agree with that, anyone?

Ms. Nunziata: I think there should be—oh, the question was—

Mr. Melanson: Go ahead.

Ms. Nunziata: There should be money put into the school system and education, to educate the kids in school not to smoke. That's where we should be putting a lot of our funding, into education and the kids.

Do you know what's happening in my ward? We've been having a lot of break-and-enters into variety stores and bingo halls. Do you know what they're taking? They're taking cigarettes.

Mr. Prue: I'd like to ask the Legion member, do you think that the government is right to stop things like power walls, to stop kids from looking at cigarettes in variety stores and stop them from starting in the first place?

Mr. Melanson: Oh yes, definitely. Do you know what? I don't even smoke. I'd prefer to go in a smoke-free room. But the kids, I agree; however they're teaching the kids today not to smoke, there's nothing wrong with that. I'm not disagreeing with that. But what I am saying is this: We are a private club, and for a veteran who has smoked for so many years and who has done so much for this community, it's pretty damned difficult and hard for anybody to go and say to that veteran, "You

cannot smoke any more.” That’s what we’re saying. Give us that little break.

As you said, 10 years, that might be a nice number of years to think about, because we don’t know what’s going to happen after that, whoever’s going to take over the Legion. Legions might exist forever. They didn’t build that \$12-million memorial in France for one day; it’s going to be there for a lifetime. It’s the same with Legions. We hope Legions will be there forever because of what they do. Just the poppy fund alone—did you know our legion last year raised \$47,000 in poppies? That’s our Legion, one Legion. Do you know where all that money goes? We’re not allowed to use a nickel in the Legion. All that money goes to hospitals, wheel-chairs, helping seniors, getting them housing, stuff like that. That’s the only place we can spend that poppy money.

My goodness gracious, that’s all we’re saying. Give us the opportunity. We will do it. We will build our own special little room. Give us that opportunity and we’ll be happy.

The Chair: Thank you for your presentation this morning.

0940

WINDSOR AND DISTRICT LABOUR COUNCIL

The Chair: I call on the Windsor and District Labour Council to come forward, please. Good morning, gentlemen. You have 10 minutes for your presentation. There may be up to five minutes of questioning following that. I’d like you to identify yourselves for the purposes of our recording, Hansard.

Mr. Rolly Marentette: Good morning. My name is Rolly Marentette. I’m the chairperson of the Windsor and District Labour Council health and safety committee. With me I have, to my far left, Dan Boone, who is the CAW national health and safety rep for General Motors. Also, to my immediate left, I have Richard Kokovai, who is the coordinator for the Windsor Essex Council on Smoking and Health. I’ve held the chair position since 1992.

I want to thank you very much for allowing me the opportunity to speak in support of Bill 164 this morning. I’ve spent the majority of my working life dealing with health and safety as a CAW Local 444 health and safety instructor, as the CAW Local 444 Windsor regional ergonomic representative at Daimler Chrysler Canada and as a board member for the Windsor Occupational Health Information Service. I’m also a director for the Injured Workers’ Action Committee in the Windsor-Essex county area. This is a group that provides outreach support for workers who have been injured on the job.

Needless to say, I spend a great deal of time talking to a great many workers from a great many different workplaces, especially now that I’m retired. I don’t have a BA, an MA or a PhD to validate what I have to say on the issue of workplace health and safety. I do, however,

have 35 and a half years of practical, on-the-job training, doing a lot of dirty jobs, and that gives me a different perspective and unique qualifications to speak on this issue.

This is a very important day for me and for many working people across Canada. Today, April 28, is the National Day of Mourning, a day set aside to commemorate the memory of workers who were injured or killed on the job. The National Day of Mourning is officially observed in the province of Ontario and Canada and in more than 100 countries around the world. It’s a day when we recommit ourselves to the restoration and promotion of dignity and health in our workplaces and our communities. In a few words, the purpose of the National Day of Mourning is to encourage everyone who values human life to fight for the living and mourn for the dead.

Every day of mourning we identify a theme whereby we can raise public awareness of the many different hazards that workers face in the workplace. Some of the issues we’ve raised in the past are asbestos exposure, ergonomics, the plight of young workers in Canadian workplaces and the need for enforcement of health and safety legislation. This year, we’re raising the issue of occupational disease. In a study entitled Occupational Diseases and the Workers’ Compensation Board prepared by Dr. Annalee Yassi for Paul Weiler’s inquiry into the Ontario compensation system, it is estimated that 6,000 Ontario workers die every year due to occupational diseases. Unfortunately, few workers make the connection between their ill health and workplace exposures they’ve had over the years.

This year, instead of wearing the customary black armbands, our day of mourning committee will be handing out a black ribbon combined with a translucent ribbon. The black obviously signifies death, while the translucent ribbon relates to the invisibility of occupational disease.

With the indulgence of the Chair, can I make a request that we all stand for a moment of silence in honour of the National Day of Mourning?

The Chair: I expect that this might take place in the House today, but if members are agreeable, we would so move. We will subtract the approximately one minute from the time you have.

The committee observed a moment’s silence.

Mr. Marentette: Thank you.

We’re here today recognizing the seriousness of second-hand smoke exposure, both to the public and to the workers of Ontario, but only after many years of debate, studies and, I must say, subterfuge. Thank you for finally removing the veil of invisibility of at least one substance known to kill and injure workers.

In 1997, the Windsor and District Labour Council asked me to represent them on a committee working to get a smoking regulation bylaw in the city of Windsor. I accepted, and in those eight years I served as a member, vice-chair and chair of the Windsor-Essex Council on Smoking and Health. I and the other dedicated members

of the council have worked tirelessly to see workers protected from environmental tobacco smoke ever since.

In eight years, I've heard all of the arguments. I want to speak to some of them, because I think that it's important to dispel some of the myths.

I'm sure you remember the uproar in 1979 when the Occupational Health and Safety Act was enacted. Ontario workers were given the right to refuse unsafe work. Some employers were outraged. They were predicting that the Ontario economy would be devastated. Sound familiar? Our experience over the past 25 years tells us that those concerns were unfounded. I call these naysayers "the false prophets." They make all kinds of predictions about business losses, but when asked to substantiate their claims, they never have reliable data.

There is another group of naysayers that I also call "the false profits," but it's spelled with an "f" instead of a "ph." These are the employers who have not recognized that their profits they claim to be at risk are really at risk from a different threat.

Heather Crowe and a number of other claimants have been successful in claiming compensation for health problems as a result of exposure to environmental tobacco smoke, and this experience has been mirrored in other jurisdictions as well. Only a fool would not recognize how these judgments will affect their rates for coverage by the Workplace Safety and Insurance Board. Every day, more workers are recognizing that the respiratory problems they are experiencing are the result of the workplace exposure, and that can only lead to many more successful claims.

Another one: "You knew there was smoking before you took the job. If you don't like the conditions, you should quit." Wonderful. In 1992, in Pictou county, Nova Scotia, at the Westray mines, 26 miners were killed in a mine explosion. During the operation of the mine, workers knew this was an accident waiting to happen. But when you've got a family to feed and work is hard to come by, some workers will take that chance. Some workers, by the way, have chosen to quit because of second-hand smoke. On several occasions I have personally spoken to workers who worked at Casino Windsor and had to quit because of respiratory problems due to tobacco smoke.

No reasonable person would expect workers to have to make those kinds of decisions. To ask workers to give an honest day's labour in return for an honest day's wage is fair, but to ask workers to work in an environment that poses a known hazard to their health and life is absolutely criminal. Expecting workers to walk away from a good-paying job because they value their health more than a paycheque fails to recognize the employer's legal obligation to provide a healthy and safe workplace.

Health and safety activists continuously try to make a difference in the quality of life in our workplaces, and there are many ways we've been able to reduce hazards. We try to negotiate better hearing protection because of the noise in the workplaces, yet we still have people who leave the workplace badly hearing impaired. We try to

find ways of substituting safer chemicals for proven type A carcinogens, yet we still have workers who become ill. We use ergonomics now to eliminate workstation designs that adversely affect workers, yet we still have workers who suffer from soft tissue injuries. Even though we may be making progress in some areas, we know that people are still getting hurt.

We know that there is one option that deals very effectively with the multitude of hazards in the workplace and does work, and that's eliminating the hazard. Eliminating environmental tobacco smoke exposure can be done very easily and very effectively: Eliminate smoking in the workplace. That's what Bill 164 should be striving to accomplish.

0950

A body shop can make the argument that paint fumes are the unavoidable side effect of paint being a necessary component of auto repairs. A construction company can justify having workers work at great heights when building skyscrapers. In both these, and in hundreds of other cases, employers can take steps to eliminate the harmful health effects of their work environments on workers.

Bingo owners, bar owners, casino operators, restaurant operators and other hospitality representatives cannot convince me that environmental tobacco smoke is a necessary part of doing business.

The Occupational Health and Safety Act gave Ontario workers the right to know, the right to refuse and the right to participate. Bill 164 will give workers in Ontario the right to live.

The Chair: The questioning in this rotation will go to the government, Mr. McNeely.

Mr. Phil McNeely (Ottawa-Orléans): Thank you very much for the presentation this morning. I've been working with Richard Hayter, who's with one of the larger unions in my area in Ottawa-Orléans. I commend the unions for taking the approach you are taking to help your communities. The mayor of Ottawa has the challenge out to make Ottawa the healthiest city in Canada. I'm sure other mayors are going to do the same. Richard Hayter and the labour movement are a very big part of that. I'm going to be organizing a meeting with Richard and Mr. Smitherman, looking at how we can bring that all together and how we, as members of the Ottawa caucus, can help out.

You've dealt with smoking in the workplace, I suppose, more than anything. There's a group coming down to make a presentation today, but again there's such demand and they're not getting on here. But they represent the kids. One of the things I'm going to try to do with Richard Hayter is tie in what he's doing with school kids. We've got over 24,000 petitions from young people in Ottawa-Orléans asking our government and the Legislature to support them in getting rid of the advertising in retail. That's very important to them. So they're coming down today with their petitions, and we're going to be taking that forward. I'm going to be talking to Richard. Actually, I have a call with him today to organize this.

First of all, what do you think of all this advertising? We had the OMA in here this morning, and they tied it in

very carefully: If the tobacco industry thinks something is good for them, then it's probably not a good thing for the public of Ontario, and that's the \$77 million they spend on those power walls. The tobacco industry has to get the kids if they want to survive, so they're recruiting addicts at very young ages. How do you see your labour movement tying in with kids in schools, with public health nurses and really going hard after the smoking?

Mr. Marentette: Not just as a member of the labour movement, but as a father, an uncle, a brother, a grandparent or whatever, I think we have a responsibility to make sure that doesn't happen.

I'm an ex-smoker. I haven't smoked in 22 years. I had my first cigarette when I was eight years old. At eight years old, I was experimenting with tobacco. Why was I doing it? Obviously because my parents were doing it, and I saw my aunts and uncles doing it, but advertisements sure played a big role in that.

If anybody's not convinced of how powerful advertising is, I guess we have to ask ourselves a question: When we look at things like the Super Bowl or even the Stanley Cup playoffs where we have corporations that jockey for position, trying to get their product in line to make that contact with people in our communities, it has a tremendous effect. If it didn't, we wouldn't be doing it.

Race cars: Why do we need to have advertising on the side of race cars to promote tobacco? There must be some connection here. Now we've got Tide that advertises on it. We've got all kinds of different products that are advertising—even pizzerias, for crying out loud. The visual part of advertising is a very important part of it. To see the effect that it has on people, yes, we should be getting involved with eliminating that. I have no doubt at all that we will.

I don't want to leave the impression that everybody in labour is going to be jumping on board with this. I'll ask a very simple question: Does anybody remember the Holmes Foundry? If it's all about jobs, why don't we reopen the Holmes Foundry, if it's as simple as that? If that's the argument we want to have, then let's reopen the Holmes Foundry and let's get on with business; or let's reopen Westray mines.

Mr. McNeely: The second question I have you've made a comment to, but my wife is a smoker. I recall what the OMA was doing. The association is there: At two years old, the boy knew the letters "Vantage." I think that was the type. He could go through the letters, and so that impacted every day. According to a California poll, if they go into these retail outlets once a week, they have a 50% higher likelihood of smoking because of that advertising in retail.

Just a question: When I'm talking to the union up in Ottawa, we can relate health in the workplace to the school kids as well and get them working together. Do you think we can do that?

Mr. Marentette: Yes, I think so. I want to make a comment. Everybody says we're doing this for the kids. I want to ask everybody a question: At what age in my life—was it 12 or 14?—can I sign away the right to

quality of working life because somebody says, "You have to do that to have a job"? Where do they get off telling me that? That's an insult to me as a worker. Nobody should be expected to be putting their life on the line to earn a dollar, not in this day and age, not in any day and age. We're supposed to be progressing here.

The Chair: Thank you for your presentation this morning.

NON-SMOKERS' RIGHTS ASSOCIATION

The Chair: I would call on the Non-Smokers' Rights Association to come forward, please.

Good morning. You have 10 minutes for your presentation. There may be up to five minutes of questioning following that. I would ask you to identify yourselves for the purposes of our recording Hansard.

Mr. Garfield Mahood: Absolutely. My name is Garfield Mahood. I'm the executive director of the Non-Smokers' Rights Association. Beside me is Francis Thompson, a policy analyst with our association and, I might add, a person who has served both with our organization and as a consultant to the World Health Organization.

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At the beginning, we're going to simply let the kids speak to the committee. If you don't mind, we're going to play a video which is entirely based on kids' perception of power walls. It's 10 minutes. That's our presentation, and then we will welcome questions. So if we could, may we have the lights and a video that I think you will find very instructive.

Video presentation.

The Chair: Your time has expired. This round of questioning goes to the official opposition.

Mr. Barrett: Thank you, gentlemen, for your presentation. I was just reading in the Toronto Sun today an accusation that the Dalton McGuinty government is poised to break a promise with respect to retail displays. I guess they weren't in government when they made that promise. Did they make a promise to you about this?

Mr. Mahood: Part of our discussion yesterday that's quoted pertains to our comments about power walls. The clerk is going to distribute our briefs; it's very important that you receive these. This is our written submission—obviously, you can't read it now. The power wall brief, which is a bigger package related to the film, will be distributed in a couple of minutes.

1010

The situation is this. It's a good question, and I want to frame the answer accurately. This government, the McGuinty government, is the first government that ever put tobacco in its election platform. They deserve a lot of praise for that. This is a major piece of legislation. It follows on the NDP government's Tobacco Control Act, which, again, was precedent-setting. We give this government a lot of compliments for bringing this legislation forward, but a key component of this legislation is the ability to ban tobacco displays. You've just seen why this

is so important. What we know is that the government has been backing away from this since the bill was announced. The part about power walls was almost invisible in the bill. Then there have been subsequent public statements saying that in fact they're not going to do a complete ban on displays. You can't do a partial ban on displays.

What we also know is that the convenience store people made an announcement that they would voluntarily take away countertop displays. What that tells people in the health community and people like me, who have been around for almost 30 years on this issue, the opposition—there's a real war on this. This is a major threat to the income of the tobacco industry. When the industry opposition all of a sudden becomes silent, it usually indicates that there's an understanding—I use the word “understanding”—that, “We won't attack your legislation, if in fact you don't go ahead and do certain components.” That's all I said.

Mr. Barrett: As far as the back wall displays, over the years anti-tobacco groups, the health community and the federal government in the past have argued that the tobacco pack itself is the second most important tool at our disposal for communicating health information to Canadians. We know the warnings are 50% of the pack so that they can be seen six feet away when you're standing in front of the counter at these something like 40,000 points of sale across Canada.

I think about \$1 million was put into that campaign to get the warning labels on the packs. People see them when they're standing behind the counter. Now the proposal is to put them underneath the counter or to put a screen or curtain across. To what extent does this eliminate the health messaging distribution channel that the federal government pushed so aggressively before?

Mr. Mahood: A very good question. It speaks right to the issue of normalization. Francis, would you like to address that?

Mr. Francis Thompson: Sure. I would just point out that people perceive health messages in different ways. There's a cognitive thing, where you process the information. There's also a message that comes from the environment. If something appears to be absolutely normal and everybody's doing it, or it looks like everybody's doing it, people perceive it as being less risky. If tobacco packs are displayed in the same way that chocolate bars are displayed, people unconsciously perceive there to be a similar level of risk, even if there is a message on the pack that says something different. The normalization effect of having product displays is going to swamp the impact of seeing 100 copies of the same health warning, as you see in some shops.

Mr. Mahood: One quick comment, because I know we're almost out of time. In your brief, in that kit we've distributed, is a major report. Because of the other aspects of the news conference, this did not come out in the news coverage. There is a major report in there prepared by one of the top experts on point of purchase in this country, perhaps on the continent. This is one of the

most complete evaluations of the power of power walls. It was written by Jeffrey Gottheil. I commend that report to the committee. That is a major report. Nothing like that has ever been done by the people who are on the inside of the private sector and on the inside of the industry. What he has done is put together all the available evidence on this issue.

The Chair: Thank you. Your time has expired.

HEMINGWAY'S RESTAURANT

The Chair: I would call on Hemingway's Restaurant to please come forward. Good morning. You have 10 minutes for your presentation. There may be up to five minutes of questioning following that. I would ask you to identify yourself for the purpose of our recording Hansard.

Mr. Martin McSkimming: Good morning, Chair and members of the standing committee. My name is Martin McSkimming and I'm the owner-operator of Hemingway's Restaurant and bar located in the Yorkville area in Toronto. We've been in business 25 years. We employ a little over 100 people in the summer, a little over 60 in the winter.

Some years ago I attended numerous meetings of the city council and listened as well as participated in many debates regarding smoking in restaurants, bars etc. The result of all these meetings was that the majority of the city council of Toronto actively supported a new city of Toronto bylaw regarding DSRs, designated smoking rooms. I'm sure that at that stage Mr. Perley and Mr. Mahood were well satisfied with this new law.

I'm in the hospitality business. Our ability to satisfy our customers' wants, needs and desires is paramount to our success or failure. With this in mind, I spent a great deal of time talking to many of my customers, and it was evident that if I was to retain certain customers' satisfaction and loyalty I would need to build a designated smoking room, and I did. Because of the configuration of the building—it was an old house originally—to build an acceptable designated smoking room, I had to spend in excess of \$300,000 on the new room.

I'm an accountant by trade. If I had thought for one minute that this investment would be for a limited time, then I would never have considered a DSR. It would not have made economic sense. We created a very comfortable designated smoking room where our customers do not feel ostracized by being in there and enjoying a cigarette.

I certainly understand the perils of smoking. I'm an ex-smoker, as many of us have been. But this is not the issue here. The issue is, what is a reasonable time that a businessman should expect to recover his capital investment, which he made in good faith, based on the current law? I personally feel that a 10-year period is reasonable, not a three-year period as the current new law stands. Should I and the other 700 or so operators be penalized for following the law?

Do you not feel there is some injustice here? As educated leaders of our society, I'm sure your conscience

cannot but agree that this is an untenable situation. Please be fair and allow a more reasonable time for all of us to help recover our investments. We are all mostly small independent operators trying to survive in a really tough market. Thank you.

The Chair: Thank you. This round of questioning will go to the NDP.

Mr. Prue: I was a councillor in the city of Toronto. I was there when all this was done. The city of Toronto bylaw permitting DSRs expires, I believe, in 2008. Is that correct?

Mr. McSkimming: I'm not sure of that.

Mr. Prue: You ask for a 10-year time frame. When did you build the smoking room?

Mr. McSkimming: It's been open for two years.

Mr. Prue: But—

Mr. McSkimming: It took me a year to create it, to have the architectural drawings, get it passed by the health department and built, but it's been operating for two years.

1020

Mr. Prue: I stand a little confused. You built that expecting it would be open for 10 years and not knowing the city of Toronto bylaw?

Mr. McSkimming: I expected it would be open a lot longer than 10 years.

Mr. Prue: But the city bylaw was asking that they be closed down, I believe, in 2008, all of them.

Mr. McSkimming: You may be correct there. I don't know that.

Mr. Prue: I have some sympathy, and I think some of the members of the Legislature have some sympathy, toward allowing the Toronto, Hamilton or Mississauga bylaws related to DSRs to run their course, but you're the first person I've heard who actually asked that it be just brushed aside and extended. I'm just trying to get my head around that an accountant and an intelligent man who runs a very successful and good restaurant—I've eaten there many times—would not have investigated this before investing \$300,000.

Mr. McSkimming: If I knew it was 2008, I've forgotten that, but it's 2005 now and I've had it two years. That would be only five years.

Mr. Barrett: On a point of order, Chair: Could we get research to get us a copy of that bylaw? I understood that Gar Mahood and other people supported the bylaw. I didn't know there was a timeline where they had to close them within a number of years.

The Chair: We can ask research to find the bylaw.

Mr. Prue: The number of people in your restaurant who use the designated smoking room: Can you give us an indication of how many use that designated smoking room, as opposed to how many choose to eat or drink in the non-designated area, the larger area? I've never been in the designated smoking room, but I've been in your restaurant many times.

Mr. McSkimming: The smoking room is 25% of our capacity inside, not including the patios. It's licensed for 44 people. On any given night I dare say we're close to

maximum capacity in there, whereas downstairs or outdoors on the patios, we might be at capacity, especially in the winter. In the summer of course we have different laws currently; we are allowed to smoke on the patio. The room is used considerably at the moment.

Mr. Prue: There's no rooftop patio there, I don't think. There's just the one out in front, on Cumberland.

Mr. McSkimming: We have quite a large rooftop patio.

Mr. Prue: Is the rooftop patio covered?

Mr. McSkimming: Some of the patio is covered.

Mr. Prue: You haven't spoken about this, but do you have any concerns that the covered patio will be considered an enclosed space outside?

Mr. McSkimming: Yes, so you cannot smoke there.

Mr. Prue: You can't smoke there.

Mr. McSkimming: Absolutely not.

Mr. Prue: Do you have any concerns about that?

Mr. McSkimming: That's the law.

Mr. Prue: No, that's not the law now. That's going to be the law.

Mr. McSkimming: No, I don't have too many concerns about that.

Mr. Prue: I think those are all my questions.

Mr. McSkimming: I was talking about a covered patio, but I certainly think that on an open patio we should be allowed to smoke.

Mr. Prue: That's still staying, yes.

The Chair: Thank you for your presentation.

SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 1.0N

The Chair: Janet Holtrust, please come forward. Good morning. You have 10 minutes for your presentation. There may be up to five minutes of questioning following that. I would ask you to identify yourselves for the purposes of our recording Hansard.

Ms. Janet Holtrust: Thank you, Mr. Chair and members of this committee, for allowing us to make a presentation to you today. My name is Janet Holtrust. I'm a personal support worker in a nursing home. With me is Charles Renaud, a business agent from our union.

The Service Employees International Union, local 1.0n is a 38,000-member, province-wide union representing health care workers in hospitals, nursing homes, home care and supportive housing and community health care settings. We are precisely the workers defined in section 9 of Bill 164. As it is currently constituted, we will have fewer rights than all other Ontario workers to protect ourselves against tobacco smoke, second-hand smoke or environmental tobacco smoke.

We are here today arguing for greater protection against tobacco smoke in any form, when Ontario bar owners and tobacco industry lobbyists are arguing for fewer controls on tobacco smoking.

It is ironic that health care workers, who are dedicated to protecting the health and well-being of all the patients and clients we serve, would be the ones who receive the

least protection as workers under this bill. We ask why the health of health care workers is less of a concern to this government than the health of an autoworker or steelworker. The current bill does not protect workers working in nursing homes, as defined in the Nursing Homes Act, in approved charitable homes for the aged under the Charitable Institutions Act, in a home as defined in the Homes for the Aged and Rest Homes Act, in a residential facility that is operated as a retirement home, or in a supportive housing residence funded by the Ministry of Health and Long-Term Care or the Ministry of Community and Social Services, against second-hand cigarette smoke. This is a long list of exclusions.

The present bill states that a resident who desires to smoke without assistance from an employee can smoke in a designated smoking room that is "fitted with proper ventilation in compliance with the regulations." At Versa-Care Uxbridge, a nursing home where I am employed as a personal support worker, a smoking room was built last year. Public health has inspected the room and it is not in compliance with all codes. Five people at a time are allowed to smoke in the room. Versa-Care administrators claim supervision can occur by observing residents through a glass door. Supervision is done on a voluntary basis, they claim. If a resident suddenly develops health problems, which employee is to go in to assist and subject herself to second-hand smoke? Is smoking now going to be part of our job qualification in order to be employed in nursing homes with DSRs?

What about the residents who do not smoke, the ones on oxygen, the family members who come in with their children to visit grandparents and the countless other workers who come into the facility for one reason or another? Is their health, too, expendable and not a matter of concern to employers like mine?

We would have no right to refuse the unsafe environment because, as health care workers, under section 43 of the Occupational Health and Safety Act, health care and nursing home workers do not have the right to refuse work when that refusal would directly endanger the life, health and safety of another person. However, health care workers can refuse unsafe work when that refusal does not endanger the life of a patient or resident.

On January 6 of this year, another worker and I exercised our rights under the Occupational Health and Safety Act because of exposure to cigarette smoke. The smoke escapes from the designated smoking room when the door is opened to let residents in or out. The smoking room is located in a central location that staff are unable to avoid. A Ministry of Labour hygiene consultant came and took a number of air velocity measurements at two overhead air supply inlets and one wall-mounted air exhaust outlet, with the room ventilation supply fan operational at high setting. The measurements indicated that the room was under positive pressure. Only a negative pressure indication would show the smoking room to be safe from escaping second-hand smoke. The hygienist conducted some smoke dispersion tests at the door to the room as well. The tests showed considerable smoke spil-

lage into the corridor and cigarette smoke was distinctly noticeable in the corridor. The hygienist concluded that the smoke escaping out of the DSR is "likely to expose workers to cigarette smoke, which currently has no regulated exposure limit, and hence likely to endanger the refusing workers." No orders were issued by the ministry and the problem continues to plague our staff, other families and residents to this day.

Versa-Care continues to maintain that residents must have their rights respected. Apparently, a nursing home resident's right to expose themselves to a class A carcinogen also gives them the right to expose me to the same carcinogen. I refuse to accept that a nursing home resident's rights trump my right to work in a safe and healthy environment. There is no facility that can make designated smoking rooms totally safe without passing second-hand smoke to some other part of the building.

Mr. Charles Renaud: For a long time we have known that second-hand smoke is a group A carcinogen. All substances in this classification are known to cause cancer in humans for which there is no safe level of exposure. The dangers of second-hand smoke are no different in residential settings such as nursing homes than in bars, factories or shopping malls.

No ventilation system can remove second-hand smoke so as to pose no danger to health. "Health Canada was asked to test ventilation proposals by the city of Toronto. Health Canada declined to do so since no ventilation system will protect everybody and might even delude non-smokers into a false sense of protection."

1030

According to American physicist James Repace, ventilation systems in restaurants and bars do not protect people from the effects of second-hand smoke. Repace said that Toronto pub ventilation systems exchanged air 10 times an hour, which the current code calls for, but to get the risk level for second-hand smoke down to an acceptable level, the ventilation system would have to make at least 34,000 air changes per hour.

The Ontario Medical Association claims, "There is no safe level of exposure to second-hand smoke. DSRs do not protect employees who have to work within these separately ventilated spaces from the effects of second-hand smoke." The OMA goes on to recommend that any break rooms for smoking be separately enclosed and separately ventilated. These break rooms for smoking must not include any portion of the workplace. In addition, changes must be made to the Occupational Health and Safety Act to require any place in which a person works to be 100% smoke-free.

Ms. Holtrust: Where I work, a recommendation was made by the joint health and safety committee to remove the smoking room. Versa-Care chose not to follow that recommendation, stating, "While Versa-Care recognizes health-related issues involving smoking and the effects of second-hand smoke, we are of the fundamental belief that we work in the home of the residents and their rights will be respected as outlined in the Resident Bill of Rights and as upheld in municipal legislation. Notwithstanding,

efforts to minimize the impact to others are being employed at this time through the use of a DSR.”

Mr. Renaud: You see, the current bill does not provide for these conditions. There is not a nursing home or retirement home in Ontario that would currently meet the OMA’s standards.

A Michigan study found that of 141 nursing homes facilities surveyed, 99% had an indoor smoke-free policy and, of this number, 85% had a policy that prohibited all smoking inside the facility. Thirty per cent indicated that the policy was voluntary for health reasons and 11% of the homes arranged smoking cessation programs for staff or residents.

We understand the arguments that banning all smoking in nursing home facilities may be a violation of residents’ rights. SEIU Local 1 just does not buy into that argument because it conflicts with our members’ right to a safe and healthy work environment.

Ms. Holtrust: My final note: Dr. Terry Pechacek, associate director for science at the Centers for Disease Control and Prevention’s office on smoking and health, summed it up by saying, “How would you react if someone entered a restaurant or public place with a spray bottle filled with a brown liquid said to contain a diluted solution of 50 known carcinogens and asked if he or she could just spray some around the room? Chemically, there is no difference between that request and someone asking to smoke indoors.” Thank you.

The Chair: Thank you. This round of questioning goes to the government.

Mrs. Carol Mitchell (Huron–Bruce): Thank you very much for taking the time to make a presentation to us today. I just wanted to say too that you are the first group to speak to these facilities. So thank you for taking the time to come and speak to the committee.

I know you have reviewed the bill, and I know that we have put forward some recommendations that would ease your concerns. With specific reference to the bill, what do you feel we could do—within the understanding that it is the residents’ home and the bill of rights—to strengthen this piece of legislation to address your concerns?

Ms. Holtrust: I think they need to look at removing the DSR from within the facility to a separate building that they can take residents to to allow them to smoke. That would protect the workers and other residents inside the facility. I know there’s a cost factor involved in doing that. Where I work presently, they actually turned a resident room into a smoking room. It’s in the middle of a corridor, with people in rooms right next door, and when they open their windows, the smoke from the ventilation system outside comes right back in and affects those residents as well as workers. So they need to look at putting it in a separate area, away from the building.

Mrs. Mitchell: One of your other concerns was that these DSRs today don’t meet the standards that would be established. Do you feel that would be moving in the right direction or would address some of your concerns?

Ms. Holtrust: Absolutely.

Mrs. Mitchell: The right of refusal: How do you see that unfolding?

Ms. Holtrust: My personal experiences with my employer have not been productive. When you challenge your employer the way I did, and the ministry comes in and says that, yes, in fact, the room was not safe—the employer has since then made every effort to be less accommodating to staff. We actually originally had asked to just be relocated to a different part of the building so we would be away from the smoke. He refused to meet those needs, even with the ministry coming in, so I don’t know.

Mrs. Mitchell: My other question is too—part of it is that the resident must have the ability to get in and get out of their own accord. Do you find that today that is the case, that they’re using the facilities available?

Ms. Holtrust: For the most part, yes. They have to have the door held open for them. Most of them are in wheelchairs, so it takes longer for them to get in and out, which is why the smoke comes down into the corridor as much as it does.

The Chair: Thank you for your presentation.

MARY-JANE ASHLEY
JEFFREY GOTTHEIL
GRAY HAMMOND

The Chair: Mary-Jane Ashley and Jeffrey Gottheil.

Good morning. You have 10 minutes for your presentation. There may be up to five minutes of questioning following that. I would ask you to identify yourselves for the purposes of our recording Hansard.

Dr. Mary-Jane Ashley: Thank you, Mr. Chairman and members of the committee. I will introduce myself and then I’ll ask my colleagues to introduce themselves.

I’m Dr. Mary-Jane Ashley. I’m a medical doctor and I’m professor emeritus in the department of public health sciences at the University of Toronto.

Mr. Jeffrey Gottheil: My name is Jeffrey Gottheil. I am president and creative director of J. Gottheil Marketing Communications, an advertising agency that specializes in point-of-purchase material and displays.

Mr. Gray Hammond: My name is Gray Hammond. I’m the research director for J. Gottheil Marketing Communications.

Dr. Ashley: First of all, I would like to congratulate the government in bringing forward Bill 164. I had the privilege and honour of chairing the expert committee that reported to the then Minister of Health, Elizabeth Witmer, in February 1999 on the renewal of the Ontario tobacco strategy. We produced a report called Actions Will Speak Louder than Words: Getting Serious about Tobacco Control in Ontario. In that report, we outlined a series of recommended steps that should be taken in Ontario to ensure that we have a comprehensive tobacco control program in this province.

Bill 164 is an action we have been waiting for and which we strongly endorse. It will, first of all, provide a smoke-free environment in public places and workplaces

for all Ontarians. This is a dramatic step forward in public health. Secondly, it will address the issue of point-of-sale advertising and power walls. We too believe this is a very important issue.

My concern, and reason we're here today, is specifically with how the legislation is worded with respect to point-of-sale advertising. You have already seen the very powerful video this morning about how this advertising affects children, and you heard Dr. Boadway speak eloquently about the effects of power walls on children.

I would like to turn the rest of my time over to my two colleagues who are experts in point-of-sale advertising and give them the time to bring to the committee's attention the reasons why this is a major concern and why we're here today.

Mr. Gottheil: I'd like to first start off by saying that I'm extremely humbled by the presence of Dr. Jane, as well as a number of other people who have spoken this morning. I'm in a very different type of industry than most people here today. Most people here today have dedicated their lives, if not their business careers, to an extremely noble cause. I'm in a very promotional type of business, a very cosmetic kind of industry. I love what I do, but let's face it: It is cosmetic.

In reference to point-of-purchase material, the three key elements of any POP advertising is getting attention, providing information and selling a product. It's actually acting as a silent salesperson inside a retail store environment.

Point-of-purchase displays are one of the most powerful and influential forms of advertising today. They are the only advertising medium that can influence customers when they have cash in hand and are ready to make a purchase decision. POP is designed to capture your attention and influence your purchase decision. POP is also designed to physically fit within a retail environment and be perceived as an endorsement by the store itself. It actually adds credibility to your product once it's within the store environment: "If I trust the store, then I trust the products they sell."

1040

If we look at tobacco power wall advertising in convenience stores, we see a product that is strategically placed in the most influential spot in the store: the back wall behind the cash counter. Think about it. Anyone who walks into a convenience store today is exposed to this tobacco power wall. These walls are anywhere from four feet to 16 feet across. You can't miss it, whether you're purchasing a product or not. Whether you're walking in or walking out of a store, whether you're accompanying some friends, you're always exposed to this back power wall of cigarettes. We take this wall of cigarettes for granted, but please don't underestimate its effect, especially on our children.

Convenience stores are playing a significant role in informing kids about tobacco products. According to a study by Brown and Williamson, an affiliate of Imperial Tobacco, "The store environment, especially displays inside stores, is the biggest source of advertising awareness

for all cigarette trademarks." Impulse purchase is a factor in the tobacco category, particularly among young and occasional smokers.

Is this having an influence on our children? Research indicates that 85% of kids from non-smoking households spontaneously name convenience stores as a place that sells cigarettes. Over 40% of kids from non-smoking households can spontaneously name cigarettes by brand.

In Ontario, there are 8,400 convenience stores located across the province. They are located in residential areas, near schools, and mostly within walking distance—thus the name "convenience store." The corner store is very much a part of our life and our culture. Seventy-seven percent of kids go to convenience stores at least once a week, and some go between two and five times a week, during lunch hour, after school for a snack, on the weekend or even to pick up some milk for their parents. For a child, it's a first rite of passage to spend their allowance and buy something for themselves like a chocolate bar.

Do they have to be exposed to this wall of cigarettes every time they walk into a convenience store? Tobacco companies spend \$88 million a year just for the right to position their products on the back wall, and an additional \$240 million a year on point-of-purchase material, displays and listing allowances in Canada. We must realize how scary is the idea of the effect that much exposure over that much time can have on a child.

Tobacco companies claim that their point-of-purchase advertising is intended to influence only smokers who might switch brands. They also maintain that their point-of-purchase advertising has no impact on non-smokers, particularly the youth market. We analyzed the tobacco companies' definition of a "brand switcher" and found their interpretation to be that "people that don't smoke a brand to those that now smoke a brand" are considered "brand switchers." Basically, what they're telling us is that someone who doesn't smoke a brand, but now starts to smoke would be considered a brand switcher.

Did you know also that according to an ACNielsen report, convenience stores nearest schools have significantly more tobacco ad presence? Children today know where to purchase cigarettes. They know how the cigarettes are merchandised. They know them by brand name. They know the colours of the packages. They know the graphics. They feel that the tobacco walls haunt them. They feel that tobacco walls provoke them and encourage them to smoke. Our children know too much. Two-thirds of children believe that tobacco power wall advertising will encourage other kids to try smoking. All this from what tobacco companies claim has no effect on non-smokers, let alone our children.

We have opened up a Pandora's box. We have limited tobacco companies to in-store advertising, and given them the key to the most powerful advertising medium there is today, with no restrictions.

The Chair: You have about a minute left for your presentation.

Mr. Gottheil: We do have a sign, however, that says, "Sorry, you must be 19 years and older to smoke." This

means to a child, “When you grow up and become an adult, it’s OK to smoke like the rest of us.” If the product is restricted, so should be the message. We must protect our children from the influence this tobacco wall advertising has on them. We must restrict the message by putting the product out of sight and out of mind, below the counter, hidden and non-visible. You can sell cigarettes, but not to our children.

The Chair: This round of questioning will go to the official opposition.

Mr. Barrett: Dr. Ashley, with respect to the back wall retail display, much of the testimony has been about children and cigarettes. We’ve also had testimony over the last several days from tobacconists and cigar store owners who do not sell to children. Children essentially don’t go in; there’s no gum or cola or products there to purchase. As I understand it, people who go into a cigar store are usually smokers anyway, rather than being non-smokers.

My understanding is that this legislation is targeting cigarettes, to eliminate displays. The proposed legislation would eliminate countertop displays. We know it doesn’t eliminate the back wall in retail. That would come later, under regulation. From the University of Toronto, is there objective, neutral research that takes a comprehensive look at these kinds of control policies, at the impact this would have on the rest of the system, whether it’s social or economic impact?

Specifically, the legislation as it is now would also eliminate displays in a cigar store, as I understand it. They display on the counters. There are ancillary effects of any piece of legislation. These people are asking for an amendment because they don’t serve children, they don’t serve non-smokers. Has the U of T looked at that?

Dr. Ashley: No, I haven’t looked at that specifically.

Mr. Gottheil: I’d like to address this. Is this related to other tobacco-related products on the counter itself within convenience stores? Is that your question, sir?

Mr. Barrett: No, it’s related to, say, cigars in a cigar store, on the counter. This would eliminate that. One hundred percent of their sales are tobacco. They don’t sell candy. Their customers are not children. But this legislation is not comprehensive enough to accommodate that, as I understand it. I just wondered: Is university research comprehensive enough to take a look at the other aspects and impact of government intervention in these businesses?

Mr. Hammond: Our research focused only on convenience stores and only on the possible impact on children. We did not look at the tobacco specialty stores.

Mr. Barrett: The legislation doesn’t focus solely on convenience stores. It would draw in tobacconists who sell other products. I don’t know whether you cover chewing tobacco.

Mr. Hammond: No. In Ontario, 96% of tobacco sales are cigarettes, so that was obviously the primary focus of the research we did.

Mr. Gottheil: But as we know, other related tobacco products are equally dangerous. Being merchandised on a

countertop within a convenience store is equally impactful. What we call normalization, having the product within the same confines as candy and chocolate bars, as pointed out by the video, is very confusing to other children too.

It is our understanding that this government, as part of Bill 164—the complete elimination of all types of tobacco-related product advertising and to put it completely out of sight and out of mind. I don’t see any harm if someone who does smoke—as we know, smokers are extremely loyal. I don’t see any problem to have someone walk into a convenience store and specifically asking for a cigarette and someone just giving them a package. It doesn’t have to really be flagrantly displayed in front of children.

1050

Mr. Barrett: I guess 100% of a cigar store’s product is tobacco and everything in the store would be hidden. They would probably go out of business.

As far as the convenience stores, we hear—

The Chair: You have about a minute left.

Mr. Barrett: We hear from convenience store owners as well. They attribute the recent tax increases to a 50% increase in crime. They tell us and the police tell them that eye contact is so important with the customer. For them to bend down under the counter, we are told, they’re more susceptible to even more additional armed robberies. Does your research cover the future, what the impact would be, whether it’s under the counter or to have a screen or a curtain?

Mr. Gottheil: Actually, we have some research from Saskatchewan. As we know, in Manitoba there is a law banning display advertising in convenience stores, and there has absolutely been no increase in theft.

Mr. Barrett: How long have they had those products covered up?

Mr. Gottheil: I think that’s a very fair question. But here’s something—

Mr. Barrett: Has it been a few weeks or a month?

Mr. Gottheil: No, no, no.

Mr. Barrett: When was the court case that allowed that to happen?

Mr. Gottheil: I’m not sure of the exact date. But here’s an important thing to mention: In fact, 30% or 40% of retailers continued to keep their display bans in place during the 18 months the law was struck down by the industry’s legal challenge. The retailers reported that they did this for a number of reasons, one being they believed having tobacco products visible increases theft. So they did this for 18 months prior to it—

Mr. Barrett: In the windows, for example?

Mr. Gottheil:—and they did this for the reason that it would decrease theft.

The Chair: Thank you for your presentation.

ONTARIO CONVENIENCE STORES ASSOCIATION

The Chair: I would call the Ontario Convenience Stores Association to please come forward.

Good morning. You have 10 minutes for your presentation. There may be up to five minutes of questioning following that. I would ask you to identify yourselves for the purposes of our recording Hansard.

Mr. Howard McIntyre: I'll introduce myself and I'll allow the gentlemen on my left and right to introduce themselves.

My name's Howard McIntyre. I'm the president of the Ontario Convenience Stores Association.

Mr. Abdul Jiwani: My name is Abdul Jiwani. I'm an independent retailer.

Mr. Dave Bryans: My name's Dave Bryans. I'm the executive director of the Ontario Convenience Stores Association.

Mr. McIntyre: I'd like to thank the members of this committee for the opportunity to address you all with regard to Bill 164. As I said, my name's Howard McIntyre. I'm joined today by two key stakeholders, principally one of our 7,000 members, Abdul Jiwani.

The Ontario Convenience Stores Association represents over 7,000 stores across Ontario, including many chains, and over 4,000 independently owned and operated convenience stores. This industry employs over 50,000 Ontarians at store level, with many of these being new Canadians and younger people in first-time jobs. Some 1.2 million Ontarians visit our stores every day, and the industry generates over \$6 billion in economic activity.

One of the key objectives of Bill 164 is to curb youth smoking, and I'm here today to tell you that the OCSA supports and applauds the government for its initiative in this respect. The industry has always supported and worked with initiatives to reduce smoking among young people and will continue to do so with a vengeance.

In fact, a recent Health Canada study issued in January indicated that 54% of teens have smoked marijuana in the past year while only 22% have smoked tobacco. Even more interesting, the study also determined that teens have easier access to marijuana than to cigarettes today—not because marijuana is all that easy to get, but because cigarettes aren't. Why? Because you have to purchase your tobacco principally at a convenience store. With the government's goal in mind, it seems that the convenience store industry isn't doing a bad job.

One area of the bill that the OCSA is concerned with and would like to address with you today is the section that has to do with the banning of tobacco displays by May 31, 2006.

From the outset I'd like to say to the government members of the committee that as an industry we appreciate the opportunities you've given us to be included in this consultation process prior to this bill being finalized and for recognizing legitimate concerns raised by our many members on the effects of a complete retail display ban on them.

As you know, the legislation currently bans all countertop displays of tobacco products and proposes to restrict the size of the back-wall sales area but not ban it entirely. We are here today to present a request to you

that you follow through on your commitment and not sway from it. Do not amend the bill to allow a complete ban. It will be a major threat to our convenience store industry in Ontario. It will threaten our ability to service our customers of majority, the safety and security of our employees and the very livelihood of many family-run businesses in this province. Minister Smitherman recognized this fact when he introduced the legislation, as he talked about the importance of ensuring that while no young customer has an opportunity to handle or purchase tobacco products, shopkeepers should have tobacco products accessible to them in a safe manner.

In addition, we would also request that, as the bill moves forward through the process, the convenience store industry continue to be involved as the government determines what the correct size of the back-wall sales area should be in order to allow our shopkeepers to safely retrieve products for our consumers who are of majority.

Running a convenience store today is a very tough business. Our store owners work long hours and live off very small margins. Hydro and insurance costs have escalated significantly and, worst of all, crime in convenience stores is on the rise dramatically—not just any type of crime but both break-and-enters and, more disturbingly, violent crime.

Earlier in the year, the OCSA commissioned an independent study by the former head of the RCMP, Norm Inkster. This study investigated whether there were any linkages between tax increases and the increase in crime at convenience stores. The results of this study were compelling. Incidents of robberies, which are violent crimes by definition, and break-and-enters at chain convenience stores and gas bars in Ontario increased by almost 28% between 2001 and 2002. One in three convenience gas bars has experienced a break-and-enter or robbery between 2003 and 2004 in this province. One in four chain convenience stores has experienced a crime event in the same period. Fifty-three per cent of the crimes reported involved tobacco.

Have taxes increased during this time? Absolutely. Since 2001, federal and provincial cigarette taxes have increased significantly. For example, on June 30, 2001, the average tax on a package of 25 cigarettes increased from \$3.51 to \$5.84, a rise of more than 60%. In Ontario, over the same period provincial tobacco taxes grew by more than 325%.

During interviews with police officers conducted as part of this tax crime study, police confirmed that crime has increased in convenience stores, and they believe cigarettes are among the top reasons why criminals target some of these types of establishments. Furthermore, police officers said that the price of cigarettes is the most attractive reason for criminals with regard to the ease of disposal.

The point of sharing these observations from this independent Inkster report is not to convince you to stop raising tobacco taxes, although we'd welcome such a move for the protection of our employees. It seems to us that governments have and will continue to raise taxes,

either as a tool to discourage consumption or to increase revenue.

What's clear through this analysis is that as tobacco taxes increase, cigarettes become more attractive to criminals, crime in convenience stores increases and crime involving cigarettes increases. This is a growing problem for our OCSA members and should be a tremendous concern for you as well to establish a safe environment for our staff. It affects the livelihood of our owners.

Another major issue related to the increase in cost of cigarettes is the growth of contraband tobacco in the marketplace. As taxes rise, more and more consumers are finding alternative, illegal sources to purchase their cigarettes. This should also be of major concern to government as it robs the treasury of tax revenue and puts consumers at risk when they buy from these criminal sources, who likely don't have the same diligence for age verification that we attempt to employ.

If you were to consider a complete display ban, on top of the security and safety risks that exist today because of high taxes, the added risks resulting from a complete display ban is of tremendous concern to our membership base. Banning back wall displays will expose our employees to even greater incidences of potential thefts and robberies.

Why is this the case? A complete back wall ban will force our employees to leave the counter, turn his or her back or bend down to retrieve a tobacco product for a customer from a non-displayed container. This creates increased opportunity and, quite frankly, an incentive for someone to steal or commit a robbery while the employee is turned away.

A behind-the-counter tobacco sales area exists for a reason. They're located there to allow shopkeepers to serve customers one of over 280 different brands of tobacco products that these consumers want.

Society has done a much better job of encouraging people not to smoke. As such, the vast majority of staff employed at convenience stores do not smoke, including those under the age of majority. Therefore, smokers count on non-smokers to identify one of the many hundreds of tobacco products that they purchase. This naturally takes a little longer, as the person is not as familiar with the product and the consumer is not able to point out what product they want. Again, if you were to ban this area from cigarette displays, it clearly jeopardizes our employees' safety.

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To be perfectly clear here, it's neither our goal nor our method to persuade any consumer, young or old, to purchase a tobacco product. We agree with the Minister of Health. We want to continue to use the space to adequately display tobacco products that are in demand by our consumers, not to promote them.

Just since January of this year, there were over 850 SKUs of tobacco—that's over 850 types of tobacco products available in the Ontario marketplace. Our shopkeepers have to have an area to serve many of these products which is safe and accessible for our staff. In

fact, the OCSA agreed to work with its membership to voluntarily remove all countertop displays one full year before the official ban comes into effect on May 31, 2006.

Another issue resulting from a complete display ban would be the cost of retrofitting current displays to comply with any ban. Noting the Saskatchewan example cited earlier, it's punitive to retrofit your site a second time. That may be one reason why many of the members in Saskatchewan decided to keep their bans up. This type of retrofit would be particularly costly to independent members such as Abdul on my left.

Another point that we want to make clear is that we're not here to advocate on behalf of the tobacco industry. Our members do not sell tobacco products because we want to; we sell tobacco products because our customers want them.

Because of well-focused anti-smoking education campaigns and a change in societal attitudes toward smoking, we thankfully see a reduction in smoking across all age groups. The programs are working. Tobacco is a sunset category in the convenience store business; however, it still represents between 40% and 60% of total sales volume. It is by far the largest category for our members. Many chains have begun to look for substitutes for tobacco, but independents have a tough time dealing with that.

We publicly support the government's objectives with the tobacco bill; we don't want to see tobacco products in the hands of the underage consumer. Another significant issue that we're glad you've addressed is the issue of age restriction and age verification, requiring retailers to demand ID from anybody under the age of 25. Age verification is an issue not only for us but for many other industries as well. We've begun to lead an industry-wide consultation to establish a broader age-verification program covering all age-restricted products. Currently, there is no one program in Canada or in Ontario that allows one to target consumers and parents alike, with the guarantee that we would restrict the sale. We've asked the government to work with us on this new program as it could relate to video, entrance into bars, gaming, etc. It's important that you recognize these issues of policing the sales of age-restricted products. All retail channels have the same challenges as we do.

As we said earlier, running a convenience store today is a tough business. Our costs have gone up, our margins are low and our employees are feeling more and more vulnerable to crime. Please do not amend Bill 164 to completely ban our back-wall sales area. Please ensure that the safety and livelihood of our employees and members is maintained. Don't let those who don't know or understand our business, or care whether family-owned convenience stores succeed or fail, determine the outcome of this issue.

The Chair: Thank you. This round of questioning goes to the NDP.

Mr. Prue: We've had a number of deputations contrary to yours this morning. One of them said that \$83

million, I think the figure was, is given by the tobacco industry to storeowners to put up these power walls. Is that correct?

Mr. McIntyre: First of all, we don't refer to them as power walls. That's something that's referred to outside of our organization. We have a wall of tobacco. There are monies provided for the spatial placement of one product versus another, certainly not in terms of growing the size of the walls, etc. So money, listing fees, etc. are paid in the industry for product to be placed on that wall for information purposes for those who choose to smoke.

Mr. Prue: It seems that the math is pretty easy. They get about \$10,000 a store.

Mr. McIntyre: It's nowhere near that.

Mr. Prue: How much do they get? Perhaps Mr. Abdul Jiwani can answer that.

Mr. Jiwani: I have been in this business for the last 30 years and I don't even get a penny. I'm an independent. They don't pay me a penny to put the cigarettes on the back wall; not a penny, and that is a fact.

Mr. Prue: Who do they give this money to, then?

Mr. McIntyre: There are some retailers out there who do get money for displaying one manufacturer's brand over another, no different than in a grocery store where Coca-Cola is presented in one section a little bigger than Pepsi.

Mr. Prue: We had other witnesses today giving examples from Manitoba and Saskatchewan. Where the displays have been covered up, thefts have actually gone down. You seem to indicate the opposite will happen. Why do you think Ontario is different from Manitoba or Saskatchewan?

Mr. McIntyre: I can't speak specifically. I represent the Ontario Convenience Stores Association. What I'm familiar with is that there was legislation introduced, reversed and then reinstated. I don't know if there's been any comprehensive study done during those time periods on what happened.

Clearly and intuitively, if you take a look at video surveillance, any time there have been robberies in stores, in many instances it's when that person's back is away from the perpetrator on the other side. It's quite often during that time that a crime is committed. I'm hopeful that it won't happen, but it would lead me to expect—people bending down, backs turned etc.—that it would be a less safe environment than it is today.

Mr. Prue: A true robbery is something usually done by threat, either with a gun or a knife or with threatened harm. It's usually done face to face, and the robber usually, in all the videos I've ever seen, goes behind and rifles the cigarettes. The other one you're describing is, where if the store owner's back is turned, someone can shoplift. I'm trying to distinguish the two. The robbery, where they come in and take the money and the cigarettes, is usually done under threat. Is that not true? They go behind the counter, no matter where it is.

Mr. Jiwani: I think I can answer that question, because I have been in this business for the last 30 years.

Number one, if you have to turn your back—usually when you get a thief or a robber, he makes sure that he gets an opportunity to hide his intentions. What he will try to do is to distract you. If you have to turn around and look for something, he jumps right over on your back with a knife. It has happened to me a number of times.

My kids—I've got four—have worked in convenience stores for the last 10 years. They don't smoke. My employees don't smoke. I don't smoke. It doesn't mean, if you've got cigarettes on the back wall that you're going to smoke. It is security, it is convenience and it is the cost factor.

Convenience store owners and operators, small independents, survive on these businesses. If you want us to be out of business, very well; go ahead. Idi Amin kicked us out of Uganda. I came as a refugee to this country. He took everything. Now here I am in Ontario looking at my businesses. I'm going to lose my businesses. They're 60% tobacco. What are we going to do?

Mr. Prue: How much do you estimate it would cost to put up an opaque glass door that either slides or opens for you to get the cigarettes out, so that at other times they would not be clearly visible to small children?

Mr. McIntyre: The legislation in Saskatchewan, if that's the benchmark, indicates that it can't be visible to minors. Opening that door and having somebody standing at the counter looking at it is not in compliance with the law. We estimate it's about \$4,200 to \$5,500, depending on the size of the store, to comply.

The Chair: Thank you for your presentation.

SCHOOLS WITHOUT BORDERS COMMITTEE

The Chair: Schools Without Borders Committee, would you please come forward.

Good morning. You have 10 minutes to make your presentation, and there may be five minutes of questioning following that. I would ask you to identify yourself for the purposes of our recording Hansard.

Ms. Stephanie Kwolek: Thank you for this opportunity to speak to you today. I am Stephanie Kwolek, a grade 9 representative on the Schools Without Borders Committee in Sault Ste. Marie.

The Schools Without Borders Committee is a group composed of youth aged 13 to 18 that has worked to review the issues of tobacco use among young people and to promote smoke-free initiatives. We have facilitated events in the schools and in the community promoting smoke-free living. We have tried to ensure that our message is heard: Smoking is not popular, and its effects have lifelong consequences.

A smoke-free Ontario will be a healthier place to live, learn and work. Innocent children and adults will no longer have to breathe in cigarette toxins in public places. I would like to thank the Ontario Liberal government for tackling this issue and for taking essential steps in the denormalization of smoking. If smoking is eliminated in public places, it will not appear to be socially acceptable

and the anti-smoking messages taught in schools will finally be reinforced.

1110

Bill 164 also bans the display of tobacco products or materials promoting tobacco products in stores, except in accordance with regulations. When a young child walks into a convenience store with their parents to purchase candy, the first item they see as they look past the counter is a huge wall of cigarettes, commonly referred to as a power wall. It is composed of hundreds of boxes of cigarettes. The subliminal message the child receives is that smoking is just as acceptable as candy or newspapers. This, however, is not the case, and the only reason these displays are so predominant is that tobacco companies pay retailers to emphasize their products in this manner. According to the Ontario Tobacco-Free Network, tobacco manufacturers paid retailers \$77 million for retail display space in 2002.

The effects of banning power wall displays in Ontario would greatly impact the youth of our province. Young people would no longer be tempted by a wall of cigarettes enticing them to start smoking, or be tempted to try it. Approximately 60% of tobacco purchases are impulse purchases, and by removing power wall displays, we will prevent many people from starting this unhealthy and life-threatening habit. Without power walls, ex-smokers and those trying to quit will face less temptation to begin smoking again, and they may avoid relapse.

If the proposed legislation remains as it is currently written, these power walls would be banned. However, if regulations are put in place to keep the power walls, children would have to continue staring at these massive advertisements that are at eye level.

This year, the Schools Without Borders Committee conducted a Lung Power Challenge for grade 7 and 8 students. We promoted smoke-free living and targeted youth 13 to 14 years of age. Our survey found that the majority of these students had seen the government's recent anti-smoking ads. We realize that the government is sending a strong message to youth by proposing to outlaw smoking in public places. However, that strong message must include a ban on power walls in order to be effective.

Ideally, we would like to see these power walls out of sight and out of mind. Packages of cigarettes can be placed under the counter or below eye level. There is no need to stock hundreds of cigarette boxes at a time, and if fewer boxes are displayed, there is a reduced chance of theft. The area behind the counter of a store is prime advertising space, and many other companies would embrace the idea of stocking their products there. Power walls are the tobacco companies' way to weave through current regulations and recruit new smokers. Targeting youth to become smokers is the only way to guarantee they will have future customers to replace the ones who have died from their product.

The government needs to send a clear, unequivocal message that it is committed to protecting the youth of our province and preventing them from beginning to

smoke. Power walls are directed at young children. They are not necessary to sell cigarettes to an existing smoker. You should not be satisfied with half measures and partial solutions to reducing teenage smoking.

I am proud to come from a northern community that has taken the initiative to ban smoking in public places. I have visited Doug's Hilltop Market in Sault Ste. Marie, a store that sells cigarettes but displays them in an inconspicuous manner, below eye level. The owner indicated that displaying cigarettes in this way did not negatively impact his business and did not encourage youth to smoke. Due to the fact that many of his customers are young children, Doug placed candy instead of a power wall behind the counter at eye level.

There is no reason for young people to grow up in an environment polluted with tobacco advertising. The ban on power wall displays and banning smoking in public places are important steps proposed by the Ontario government to create a healthier and happier population now and in the future.

Tobacco companies have used power walls to circumvent existing laws restricting cigarette advertising, and it is time new regulations are put into action. I'd like to congratulate the Ontario government for taking the anti-tobacco initiative to a new level. Your new legislation will impact the lives of a new generation of non-smokers. On behalf of youth, myself and students from the Schools Without Borders Committee, thank you for this opportunity to speak to you today.

The Chair: Thank you.

Applause.

The Chair: Order, please.

This round of questioning will go to the government.

Mr. Ted McMeekin (Ancaster-Dundas-Flamborough-Aldershot): Hi, Stephanie. Thanks very much for your presentation. My middle daughter is a volunteer with Schools Without Borders in Montreal—she goes to McGill—and I always wondered what sort of work she was doing, so now I know a bit more about that. I was proud of my daughter before this morning, but I'm even prouder of her now, and of you for coming all the way down from Sault Ste. Marie to be with us, and thank you very much.

I want to ask, because you're obviously down on power walls: Do you and your group feel there's a direct relationship between the power walls and the investments some tobacco companies make to gadgetorally seduce young people into smoking? Is that your key point?

Ms. Kwolek: Yes, that it affects youth and their smoking habits.

Mr. McMeekin: So you and your colleagues, who have obviously spent a lot of time doing the research, feel a significant thing the government can do is to move to get rid of those power walls?

Ms. Kwolek: Yes.

Mr. McMeekin: You mentioned the ads in your presentation. I'm assuming you're talking about the stupid.ca ads?

Ms. Kwolek: Yes.

Mr. McMeekin: You like those?

Ms. Kwolek: Yes.

Mr. McMeekin: Are they effective?

Ms. Kwolek: Many of the students have seen them, and they've enjoyed them also, so it's getting the message across.

Mr. McMeekin: I like the one where you're rolling around in the dog crap, right? That would put me off.

I quit smoking when I was eight. I just want to tell you that. My mother was very clever. She knew I was swiping her cigarettes, and so we went to see the doctor, and the doctor listened to my chest and he said, "Little Teddy, you've been smoking, haven't you?" I said, "Yeah," and he said, "Well, let's see, today's Tuesday. If you don't quit, you'll be dead by Friday." I've never smoked again.

What else, Stephanie, needs to be done? What other advice could you bring to your government? You've come all the way down here. Your message on power walls is very clear. What other single thing would you like to see the government doing to assist in the prevention of young people picking up the smoking habit?

Ms. Kwolek: There is an age limit to buying cigarettes, but at high school I see students all the time smoking outdoors, and they're younger than the age restriction to buy cigarettes. It doesn't make much sense that they can smoke but they can't buy the cigarettes, so they're obviously getting them in a way that's not legal. It would be better if there was a legal age to smoke, in my opinion. There wouldn't be mixed messages coming across.

Mr. McMeekin: Mr. Chairman, that completes my questions. Perhaps one of my colleagues has. Listening to Stephanie, I feel our future is in good hands.

The Chair: We have a short two minutes.

Mr. Jim Brownell (Stormont-Dundas-Charlottenburgh): I would like to commend you and your group, Schools Without Borders, for your presentation here this morning. I spent 32 1/2 years in a classroom, and—

Interjections.

The Chair: Order, please.

Mr. Brownell: Health education, the important component of my work in the classroom—you talked about the anti-smoking messages taught in schools. With regard to the power walls, the messages about power walls, and the discussion there, with Schools Without Borders you're working on that, but is this coming through in the messages in the classroom in health education and what not? Is this part of the discussions you might be having in the classroom?

Ms. Kwolek: Not at the present time. In the classrooms I've been in, in health classes there hasn't been mention of power walls. It's basically smoking, second-hand smoke, how it's harmful to your health. It would be more helpful for education for students to see that these power walls are not as acceptable as candy or newspapers. If you point it out to them, then it won't seem normal.

Mr. Brownell: It sounds as if it should be on the agenda for health education in the classroom. I have to commend you. It takes courage and determination, and you have a message. To come here from Sault Ste. Marie, I have to say kudos and all the best in your work with your group, Schools Without Borders. For my colleague, it's great he now knows what his daughter is involved in.

Ms. Kwolek: Thank you.

The Chair: Thank you for your presentation.

1120

LUCY'S SEAFOOD RESTAURANT CONCEPTS INC.

The Chair: I would call on Lucy's Seafood Restaurant Concepts Inc. to come forward, please.

Good morning. You have 10 minutes for your presentation. There may be up to five minutes of questioning following that. I would ask you to identify yourself for the purposes of Hansard.

Mr. Leonard Little: My name is Len Little. I'm the president of Lucy's Seafood Kitchen. Good morning, Mr. Chair and members of the committee. We're a casual seafood dining concept with five locations in Ontario: three in Mississauga, one in Barrie and one in Waterloo. By way of background information, I've been in the industry for 25 years. I am a past president of the Toronto Restaurant Association and also past chair of the Ontario Restaurant Hotel and Motel Association.

My message to you today is a very simple one, and that is to level the playing field within our industry. It is true, as you have heard from other industry associations, that the industry has faced a number of difficult setbacks in the last few years, including 9/11, SARS, the high Canadian dollar and, most recently, increasing utility and insurance costs, beverage input costs and labour costs. We operate in an industry that is very competitive and we need to do so on a level playing field.

I have presented over 60 deputations in the last decade to various city councils regarding smoking legislation. I can tell you that I understand the fear of many operators today, because I lived that fear at one time. I lived the fear of going 100% non-smoking and wondering what the economic impact of that would be. I had urged pub operators back in 2000 to support a 100% ban in Peel region, envisioning that the day would come when there would not be a level playing field, from the fact that they could not physically and, in a lot of cases, financially, have the ability to install a DSR.

I'm here to speak on behalf of what I feel is the silent majority. You'll hear from industry associations that of course must act on behalf of their members who are concerned over this issue. I tell those associations that they should also listen to the majority of their members. I can share with you that in 2000, when I was chair, we conducted a member survey. That member survey indicated that over 75% of our members would support a ban as long as it was a 100% ban that created a level playing field.

I think the grandfathering of DSRs until 2010 that has been suggested is a ludicrous idea; 2006 is sufficient. The industry has had enough notice.

I deeply understand all of the issues related to this. I have been involved at a very high level for a very long time in this discussion. I'm an entrepreneur. In general, I'm not particularly in favour of government getting involved in our businesses. But I'm also a father of four. I smoked as a young adult, and I feel strongly that any action that reduces society's dependence upon tobacco is a positive one, so that my children don't pay for those costs in the future.

My message is a very simple one: level the playing field for our industry so we can all fight for customers on the same basis. Thank you.

The Vice-Chair (Mr. Phil McNeely): Thank you very much. The questions will be going to the official opposition.

Mr. Barrett: Thank you, Mr. Little, for your presentation. You would be opposed to grandfathering, so you would see DSRs illegal a year from now, then, when the legislation comes into effect?

Mr. Little: That's correct, yes.

Mr. Barrett: As you indicated, we are hearing from many sides of the various issues. Last week PUBCO and another group presented a research study they had done by a PhD, not a medical doctor—Dr. Evans. He identified a \$1-billion cost to the bar and pub industry. They would lose \$1 billion in revenue and 50,000 jobs would be lost in your industry. Is that accurate?

Mr. Little: I can't speak on behalf of the study; I'm not familiar with it. I can only speak about our own experience. We're in a number of jurisdictions, Peel region being the best example of the DSR issue. Clearly, when we went 100% non-smoking—we do have a bar component to our business as well—there was an adjustment period; there's no question about it. But that business does come back.

When you have the option of a DSR establishment next to one that doesn't have a DSR, you are not therefore really correcting the overall situation and correcting the choice of an individual to either stay at home or, if you're going to go out to a licensed establishment, it would be non-smoking. They still have a choice. They still have a choice to go to a smoking or a non-smoking establishment. So I would suggest that all you're doing is pushing revenue from one establishment to another.

I do strongly believe, and it has been our experience, that when you do go 100% non-smoking, after a period of time, that clientele does return. Frankly, if all you're in business to do is sell a cigarette and a beer, then you haven't got much to offer. I've always advocated that we're not in the business of selling tobacco; we're in the business of selling entertainment and food and beverage.

Mr. Barrett: I hear what you're saying with respect to restaurants. I know that this study didn't cover restaurants or doughnut shops; it was more bars and pubs where their clientele—I have to admit, I haven't been in your restaurant.

Mr. Little: You're always welcome.

Mr. Barrett: I'm old enough.

Again, people do have a choice and they do make decisions. It's heartening to hear that smokers would come back to your restaurant. Some of them have indicated to me, "Well, if that hotel down there kicks the smokers out, then the non-smokers like me would start going there." The jury's out on that one.

I guess the other issue that comes up, when we see this study of loss of business or people staying home smoking with their kids, which isn't necessarily good either—we sure saw evidence of that with the drinking and driving movement a number of years ago. I was involved in anti-drinking and driving. A lot of hotels closed down because of that, and a lot of adults ended up drinking at home. It raises the whole other issue of children of alcoholics. Again, that's not something that you're concerned about, but I guess the uncertainty must be frustrating for your business, or any business, with these changes. On the one hand, we have people like Michael Perley and Gar Mahood, who signed an agreement to bring in designated smoking rooms through Toronto public health. I don't know whether that covered Peel or not; I guess that was maybe just Toronto.

The Vice-Chair: Thirty seconds for an answer here.

Mr. Barrett: I didn't ask a question. There will be more legislation in the future; there are other approaches that are being proposed by anti-tobacco people. Does this kind of uncertainty affect your business?

Mr. Little: Certainly the patchwork that has existed on a municipality-to-municipality basis has been a difficulty. I applaud the government on taking the initiative to go forward and have a piece of legislation that covers the whole province. The only way to have a level playing field is 100%.

The Vice-Chair: Thank you very much.

The next presentation will be Council for a Tobacco-Free Community, London-Middlesex, Jacqueline McGann.

Mr. Barrett: While we're awaiting the deputant, Chair, just on a point of order: I know this came up earlier about—I think it was indicated that designated smoking rooms in Toronto sunset in 2008 or on some certain date. I have information from Toronto public health—it's their Web site that indicates that designated smoking rooms are allowed past June 2004. From this, there doesn't seem to be any date or year that the Toronto ones shut down anyway. It indicates here that if they're going to be shut down, it's the government of Ontario that would shut them down, not this Toronto bylaw. I could pass this over to the clerk.

The Vice-Chair: Thank you. That will be done.

Mr. McMeekin: On another point of order, Mr. Chairman: Since that point of order was raised, I wonder if we could get just a summary from research from the Association of Municipalities of Ontario and their request to the province. My understanding is that they made a number of requests around the issue of governance in this area, and it would be helpful to see what the association

that's speaking for municipalities—I don't know if they still speak for Toronto or not, but it would be helpful, if we're going to get some information from Toronto, to hear what the association representing all the other municipalities is saying about this as well. A simple phone call from our research people could do that—their view on this issue.

The Vice-Chair: I think that'll be done. We can go on with the next presentation.

Mr. Prue: If you're looking at when Toronto's bylaw sunsets—and I'm sure it is 2008—could you also do Hamilton and Mississauga, which are 2009 and 2010, to the best of my knowledge?

The Vice-Chair: Thank you for that.
You may start your presentation.

1130

COUNCIL FOR A
TOBACCO-FREE COMMUNITY,
LONDON-MIDDLESEX

Ms. Jacqueline McGann: My name is Jacqueline McGann. I am the chair for the Council for a Tobacco Free Community, London-Middlesex. As our name suggests, our objective is to eliminate our community's exposure to the harms related to tobacco.

The CTFC is a coalition whose members include the Centre for Addiction and Mental Health, the Canadian Cancer Society, the Middlesex-London Health Unit, and other like-minded community groups, health professionals, pharmacists and volunteers. I am one such volunteer. I do not work for any of these fine organizations, and I do not have any formal training in this field. I am a concerned citizen who has been moved to become involved. My full-time job is being a mother to three school-age boys. It is their present as well as their future health and well-being that has moved me to become involved with the CTFC.

I'm not going to spend a lot of time going over the known health and economic risks of tobacco; there are plenty of experts here who can give you that information. What I am going to tell you is how our community group has helped to make London a healthier city and what we learned from our bylaw work.

Not only will smoke-free legislation such as that proposed in Bill 164 protect every citizen working and living in Ontario, but dealing with access and promotion of tobacco products will also decrease the chance of our youth starting to smoke and those who have quit smoking from starting again.

I would also like to share with you my personal involvement with this deadly product.

The CTFC has been an active coalition in our community for more than 13 years. We were instrumental in bringing about one of the province's first non-smoking bylaws that had 100% smoke-free areas in bars and restaurants. There were many bylaws around the province, but we were second to Guelph to have a bylaw that included the phasing in of smoke-free bars and restau-

rants. During this process, we learned that phasing in such laws is an enforcement nightmare, as it creates an uneven playing field for our business community. It also presents a patchwork of protection for our workforce. A comprehensive approach that includes all areas of risk, with no exemptions, is the only way to protect us all.

I urge you to stick to your plan to see the end of DSRs in 2006. By not allowing for DSRs, London's smoke-free bylaw has come down on the side of clearly proven science. How can we say to one employee, "You are worth protecting," yet to another, "You are not"?

Just in case there's any doubt in your mind as to the dangers of second-hand smoke and the impossibility of removing it with ventilation, I have included a fact sheet from the Repace Associates Web site. James Repace is a leading expert on second-hand smoke and the ventilation myth.

Approximately 20% of our population smokes; that leaves almost 80% who do not. When legislation is geared toward 20% rather than the clear majority, it helps create the illusion that more people smoke than actually do. For smokers trying to quit and for our young people, this illusion is a powerful tool that the tobacco companies rely on.

One thing I'm sure you've heard and will hear again is that power walls are a large trigger for someone who has recently stopped smoking. The reason I bring this up is that I know this first-hand.

I quit smoking six years ago, on May 9, 1999. As you can well imagine, it was not an easy journey. To date, it has been the hardest thing I've ever done but is one of my proudest accomplishments.

I started smoking when I was in grade 7. I was just 12 years old. I grew up seeing my father smoke at least a package of unfiltered cigarettes a day. I went upwards of three or four times a week, note in hand, to purchase them for my father. One thing I can tell you is that the size of those displays has not gotten smaller. They are much larger now. I started smoking for the same reason many kids do: to fit in. I had to start a new school. I was now in junior high. I wasn't a little kid any more. I was scared that I wouldn't make friends, so when two girls talked to me and asked me if I smoked, I didn't even think about saying no; I stood there and gaged right along with them. I soon found out that I didn't need a note any more; I could purchase cigarettes all on my own. So began my 21-year battle.

Over the years, I tried to quit a dozen or more times. But when my twins were four years old and one of them put a crayon in his mouth like he was smoking, I knew that that was it; I had done that. I was devastated and ashamed. He was imitating what he saw. I tried very hard not to smoke in front of them. I deluded myself into believing that I was successful in shielding them from my addiction. I, of course, was very wrong. I knew that if I did not stop smoking, that crayon would be a cigarette someday. I had to quit. But in order to ensure my success, I knew I would have to drastically change some of my behaviours.

Once I got serious, did my homework, set myself up for success and carefully worked my way toward my goal, I was able to overcome my physical as well as my psychological dependence on tobacco. One of the strategies I used was to remove as many of my triggers as I could from my life. I stopped drinking tea and coffee for quite a while, I stopped sitting outside with friends who smoked, and I stopped going into convenience stores. I was withdrawing from a very powerful drug and knew that all the willpower in the world would not protect me every time I needed a bag of milk. Long before I knew what a power wall was, I knew the power it held over me.

We strictly control the advertising of life-saving medication in this country. We must hold this deadly product to higher standards. Tobacco companies paid more than \$88 million to Canadian retailers in 2003, with an average of \$876.66 per tobacco company to each retailer. That is up from \$563.42 in 2001. The tobacco companies contend that this form of advertising is targeted toward adult smokers to entice them to change brands. That's a lot of money to direct to a demographic that we know is brand-loyal by the time they're 18 years old. Funny: They're brand-loyal customers of a product they're not even legally allowed to purchase yet. How did they become so loyal if the advertising and lifestyle marketing was not directed at them? And if it didn't work, you could bet that the tobacco companies would decrease the amount they spend on this form of advertising. But they haven't; what they have done, however, is increase the amount by 50% since 2001.

At a recent conference that I attended, one speaker pointed out that each cigarette package was like a mini-billboard that is pulled out upwards of 25 times a day, and it comes with an adult's endorsement. Let's take that statement one step further and walk into a convenience store, and pow: There are hundreds of these mini-billboards staring you in the face as you try and buy that bag of milk. And oh my gosh, there is your brand, and then little Johnnie pipes up and says, "Mom, that's the kind you smoke." Two things have just happened here: The recently smoke-free woman is now subject to some pretty savvy and expensive marketing techniques. As well, a child has just identified with another product logo, not unlike the logo found on the candy and chips in the same store. To little Johnnie, cigarettes are just another thing you buy when you're big. We need to take cigarette advertising out of our normal landscape and treat cigarettes as the controlled substance they are. You have to be 19 years old to purchase this product. There is no reason for our youth to see hundreds of packages of cigarettes every time they go into a convenience store.

We teach our children that if you say nothing, you agree. If you stand by and witness a crime or an injustice, you are passively participating. The onlooker who does nothing is the enabler. The tobacco companies are the bullies; the citizens of Ontario are the victims. Is the province going to be the bystander? Or are you, our elected officials, going to step up to the plate and protect us by saying in a very clear voice, "Not in our province"?

We are responsible for our actions as individuals and as a community. We are the example our children see. It is for that reason that my children have not gone into a convenience store for almost six years. If we continue to condone and passively support this deadly addiction, then we will continue to help recruit the next generation of smokers. Thank you very much for your time.

The Chair: Thank you. The questioning will go to the NDP.

Mr. Prue: I think you've made a very compelling and very emotive case here. Your circumstance was not like that of so many teenagers; you're absolutely right. When I grew up, I think everybody who was going to smoke was smoking by the time they were 11 or 12 years old.

When I asked the legionnaires today—80-something years old—they would want to stop children from smoking, even though they've smoked for 60 years and talk about enjoying a cigarette. Obviously, many of the people have said that we should be looking to stop the children from smoking rather than trying to dissuade the adults. Would you agree with that?

1140

Ms. McGann: Certainly. I think what we have to look at is that children, especially at that adolescent age, are trying very hard to be their own person, and part of that is going against our parents' or society's wishes. They want to make a break, do their own thing. When you've got tobacco companies enticing them, saying, "Oh, no; this is just an adult activity," that's what they want more than anything in the world: to be that adult. We certainly have to attack this issue.

Mr. Prue: Power walls: We've heard from the store owners. Were you here when they were—

Ms. McGann: Yes.

Mr. Prue: They were claiming they didn't make any money. You've given a figure here, which is—where was it?

Ms. McGann: It was \$876.66.

Mr. Prue: OK. Where did you get that from? When I went outside, I was informed that it was, on average—I was using Canadian figures with Ontario ones—around \$1,500 per power wall at this point.

Ms. McGann: That figure is per tobacco company per retailer.

Mr. Prue: OK. Per tobacco company per retailer. OK. So every tobacco company is wanting to spend the money—and this is, I guess, a form of money going to the retailers. It's as much making a profit doing that as actually selling things.

Ms. McGann: The tobacco company is purchasing space from that retailer, not unlike the mustard aisle in your grocery store. The larger the section in the store, the larger the amount the company has paid to display that product. That's a known practice.

Mr. Prue: In some countries, like in Iceland, they keep the tobacco under the counter but in a shelf. You pull out the shelf, you pull out what you need, so you can constantly look at the person you're serving. I also heard the arguments that this is going to increase theft. Have

you any idea how pulling out a shelf in front of you, taking out what you need so that the children can't see it, would increase theft? I'm perplexed. You seem very intelligent on this. How could that possibly happen?

Ms. McGann: I can't see that that is going to be the case. I would think that you would be a little bit more diligent about having ready access to the amount of product you are going to need in the run of a day. For retailers, this is their business. They're going to know, on average, what they sell, and the rest of it, I would think, they're going to have it under lock and key somewhere to restock their little pull-out shelf.

Mr. Prue: As a mother with three young sons, do you think that the education system is doing enough? Is there anything the education system needs to do over and beyond what this bill seems to be accomplishing?

Ms. McGann: We need to bring to the attention of our educators all aspects of the harms of tobacco. Some of that has to do with advertising and getting our children to be just a little bit more savvy about what's going on out there and what's directed at them and what the intention of those companies are. So that's certainly part of it. We need to start addressing the risks of tobacco a little bit younger—not just at, say, grades 6, 7 and 8 and upwards.

Mr. Prue: One of the things I noticed growing up and even noticed when I was doing some supply teaching for the Toronto board as far back as the early 1970s was that many of the teachers smoked. They couldn't smoke in the classroom but they would smoke in the teachers' lobby or, later on, outside the school yard with the students. This must have had a profound effect on students. As a mother, do you ever run into this happening? Does it still happen? I don't know.

Ms. McGann: It does still happen, to a certain degree. I know that there's a high school—now, I'm certainly no expert in this—that's located not far from where I live, and when you drive by, you will see the teachers out on the curb smoking off school property. I have an issue with that.

Mr. Prue: Well, yes. I have a huge issue with that. They're the ultimate role model for the kids.

Ms. McGann: They've got them for six to eight hours a day. They're a captive audience. Of course.

The Chair: Thank you for your presentation.

ZAPHOD BEEBLEBROX

The Chair: Zaphod Beeblebrox, please come forward.

Mr. Eugene Haslam: Good morning, Chair. I'd ask if you could give me a five-minute time warning and then a two-minute warning, because I'm winging this.

The Chair: Sure; I wish more would ask. You do have 10 minutes, and there may be up to five minutes of questioning following that. I would ask you to identify yourself for the purposes of Hansard, and I'll try to give you some warning.

Mr. Haslam: Especially because of my business name. My name is Eugene Haslam. I own a nightclub at

the edge of the universe, in Ottawa, called Zaphod Beeblebrox. Some of you might know that because of the movie coming out: Hitchhiker's Guide to the Galaxy.

My qualifications for coming here are that I'm a smoker and a drinker. I'm also a bar owner. When Ottawa went non-smoking, it was tough for me, because everyone told me my business would go down; my customers told me they wouldn't come because they wouldn't be able to smoke there. I'm a smoker too, and I thought, "I can't smoke in my own bar." But the interesting thing for me was to look at it, and intellectually, morally and ethically, it was all right that we don't have smoking in the bar. I've heard some people make presentations here that it would kill the industry. In Newfoundland, when the cod industry was going down, we knew it was right to protect the industry, so they stopped people from fishing for cod. We know it's right to not have smoking in a bar, and as owners, this issue is just an economic issue.

It hurt me in the early days; business did go down. But I'm here to tell other owners—I heard another speaker say, "The business we're in is not about smoking." I sell entertainment. I sell a good time. In a lot of cases, it's not even about the beer. I've been around the world to many different places; I've had tea with lemon in the middle of the desert, and it's like a bar. People go to bars because they're social places. If it's all about drinking and smoking, well, you could go to the liquor store or beer store and get a bottle of beer, go to the convenience store and get your cigarettes and then sit at home. The reason people go to bars is to hang out with each other. It's just a social thing.

The important thing here is that as owners, we were scared. I was scared. I did lose business, but one of the things that made it work for me was that I went outside. In other bars that were not outside, they made their customers more upset. The talk was always about, "That damn government; the smoking," yadda, yadda, yadda. You know what I did? I went out there with them, and I still do; I smoke outside.

Some very interesting things have happened. Number one, Julie Doiron, a Juno-award winning artist who was seven months pregnant, could play in the bar. I've had many different bands, from Jewel to Alanis Morissette to Nickelback. With many bands that come in, their girlfriends or their wives are pregnant; they can now come and see these bands. What an amazing thing: People can come into a bar again.

In my business, my capacity is 250; there are 20 people smoking outside at any given time. These 20 people were trying to tell me that I should continue to allow smoking in there. Any sensible businessman is going to say, "You know what? There's 230 people in there, and they're having a good time." I've also found that the younger people who come to the bar don't smoke. They look at the rest of us who are smokers and they go, "You're old." Seriously.

I'm not here to tell other business people that their case is not valid. It is a valid case economically. I understand the economics of it; it hurt me. But when some-

thing is right, I have to get onside, and I did. I show customers that we could have a good time in the bar, we could drink. We went back to what bars are all about. We went back to providing entertainment. You know what I say to some of these other places? If you're going to lose some money on your cigarette smokers, make up T-shirts or sell some other thing in your bar; find other sources of revenue. There are ways to get this done.

1150

When I go to Loblaws and look at a package of pretzels and there's hydrogenated oil in there, do you know what I do? I put it back on the shelf. I'm not going to buy something when I know it's wrong for us. They told us cigarette smoking was OK for us. I'm trying to quit; I can't. As an owner, I wouldn't let a crack addict into my bar. Why would I let a smoke addict into my bar? I'm that smoke addict. I want to quit, and I'm helping other people quit. I used to smoke a pack a day. I'm down to a pack a week. Hopefully, it'll be none.

The Chair: You've used about six minutes.

Mr. Haslam: Oh, plenty of time.

One of the things that's really important is this level playing field. In Ottawa, what happened was that the city council decided this was going to apply to everyone. We don't have DSRs, which is a very good thing, because I find that there are so many different bars—the market is a very popular part of Ottawa, sort of like Queen Street would be here—and you've got many different configurations of bar. If some huge bar could build a DSR, the guy next door, who doesn't have the space to build that DSR, would lose to the other guy. The level playing field is really important in this. I would actually like to see that even the patios not be places where people can smoke. The reason is that this is our business territory. If this other business beside us has a little room or alley or patio where people can smoke, it hurts the other guy. It really does. If it hurts me, then I have to find some way of circumventing and do what the other guy does. If you have a level playing field, it works better for all of us.

The law in Ottawa came in maybe three or four years ago. I don't even remember. What's really interesting is that I was out in Toronto last night. I came in yesterday to be here a little early, and I went to a bar last night. When we were out there smoking, everyone talked about this. "How odd," I thought. When I'm in Ottawa and we're out there smoking, we don't talk about it. It's a non-issue. It's done. It's gone.

I was running scared when the law first came out, but I got onside and I found that after a while, if you go back to what you're doing, people come for those very reasons that you built your bar or restaurant. I've always said that the bar that I built is a great meeting place, an awesome place. If you're ever in Ottawa, come—or go to the Web site. That's what I'm trying to build there. I say to other owners, "If smoking is all you're offering your clientele, get a new business plan."

The Chair: You have two minutes left.

Mr. Haslam: Every time someone hurts during business changes, someone else gains from it. What happened for us is that business went down for a bit and then

it started coming back, because the non-smokers could come to the bar, the non-smokers who wanted to see bands. I bring in bands from around the corner and around the world, and the non-smokers started to realize—it takes them some time—that they could actually now go to the bar. Now we actually have to have a fog machine if we want to create some smoke in the bar. Before, we didn't have to.

One thing I would ask the government to do, though: Any time you have businesses that are hurting—just like with mad cow disease, or farmers who have difficulty with drought—governments step in to try to help their businesses, even if it's only in the short term, even if it's only tax breaks.

I empathize with the other bar owners, even the convenience store owner, Abdul. I empathize with him. He's coming from a foreign country and he's done really well for himself. I've come here from a foreign country and I've just made an ass of myself, mostly, but people like what I do.

The Chair: If you could make one final point, then we'll go to questioning.

Mr. Haslam: It's very important that we help the owners. When the new law came in, the mayor and all the other city councillors said, "We're going to send a signal to people. Now that bars are smoke-free, they'll come to the bars." They went out to the bars and the restaurants—once. It's really important that the government help these people. Start a campaign in the media to encourage people. Now that we've done this for them, come and support us.

The Chair: Thank you. This round of questioning will go to the government.

Mr. McNeely: Thank you, Mr. Haslam, for coming down. I'm from Ottawa, and I was on council there during that period. It think it was 2002 when the bylaw was brought in. I wish you'd been around for me to talk to, because I was getting a lot of calls from PUBCO people.

Mr. Haslam: I had to go under the radar, actually, because I was very afraid of the other people.

Mr. McNeely: This was a really difficult process. My son happens to work in a bar down in the market. That's his night job. It was easy for me to take the stand I did in 2002 because he had just gone to the doctor with a chronic cough. The doctor thought it was from smoking a couple of packs a day. He said, "No. I don't smoke." "What do you do?" "I'm in a bar." The doctor said, "Quit." He quit, and the chronic cough went away very quickly. He's working very happily at his night job in the bars again because it's smoke-free. Young people really appreciated—friends of my three boys have come up to me and said, "That's one of the best things the city of Ottawa," your council, "did."

It's nice to hear that after the fact, because it was difficult for some owners. I heard the Royal Oak people the other night, and they said they're expanding. I don't know how many outlets they have. We said, "What about the smoking bylaw?" They said, "Oh, we turned the page

on that long ago.” They were one of the ones that were most concerned. So I’m very pleased that you came here today to give us your experience, because it’s so important. I enjoyed your presentation very much.

As we move forward, my own concern is that we’re allowing the kids to get all this advertising in the convenience stores. You’re saying it’s up to us as a government to get out there and make sure there’s support for the convenience stores: advertising and that. Do you see a similarity between the convenience stores and the pubs, or are they much different?

Mr. Haslam: I think it’s a totally different ball game. I would not be able to comment on what it’s like to be a convenience store owner. I know what it’s like to be a bar owner. I also know what it’s like to take a stand that I feel is intellectually, ethically and morally correct. Instead of beating my fellow business owners over the head and saying, “You have to do this,” I really wanted to come here today to encourage them, because my situation has shown that it can be done. If you put your mind to it, every business owner, when faced with some hardship, has to dig deeper and find out what it’s going to take to make that business run. I’m asking them to do that.

I dug deeper. I tried to find out what it was that made people come to bars. It was about our level of service. I stand at the front door of my club almost every night. I wish people a good entry and I wish them good night and safely home. I say, “Tell your cab driver ‘marhaba,’ because I know your cab driver’s going to be Arabic.” It’s all about that connection with your customer and building your customer base. “Go back to square one,” I’m telling all the other owners. “Rebuild your business from the ground up.”

There was a time when there was no smoking anywhere. This has only happened in the last few hundred years. Bars were around way before that. People congregated around the old oak tree long before that. People drink tea. When I went to Yemen, I couldn’t drink alcohol, but we were sort of like in a bar situation because we hung out together. That’s what bars are about. I want them to go back to that, and I want to encourage them. It will be scary at first and they will lose a bit of money, but that’s why I’m asking you guys to put some money into advertising to the people who haven’t gone out to bars now who have been waiting for us to go non-smoking. Get them out into the bars and restaurants. Help them support these owners, because these owners are working very hard.

Mr. McNeely: I think we’ll remember, morally and ethically—that’s where you’re coming from. Thank you very much.

The Chair: Thank you for your presentation.

The committee stands recessed until orders of the day this afternoon.

The committee recessed from 1200 to 1547.

CITY OF TORONTO

The Vice-Chair: The standing committee on finance and economic affairs, with respect to Bill 164, the

Smoke-Free Ontario Act, will now come to order. The first presentation is the city of Toronto.

Would you come up to the front and take your seat, please.

Mr. McMeekin: Mr. Chair, while we’re waiting for that to happen, I just want to take a second to compliment research staff. You may recall a couple of requests that were made, one being for a presentation of the AMO position on this matter, just as we were breaking up at lunch. Lo and behold, here it is. So congratulations to Anne on that, and thank you for that. It was very quick. It’s interesting too, Mr. Chair, that the first paragraph sums up their entire position.

The Vice-Chair: We’ll start now, Mr. Jenkins. You have 10 minutes to make your presentation. The questions will start with the official opposition, and there will be five minutes for them to question you. You may start. For the purposes of Hansard, please state your name.

Mr. Cliff Jenkins: My name is Cliff Jenkins. I am a city councillor for ward 25. That’s Don Valley West, in the city of Toronto. I thank the Chair and members of the committee, the staff of the committee and MPP Kathleen Wynne for enabling me to present my views in support of Bill 164 to the committee. I will present evidence, as captured on a videotape, to support provisions of the bill with respect to designated smoking rooms. I will also briefly address the issue of power walls of tobacco products. While many other deputants will provide evidence with respect to the negative impacts on public health of power walls, I will provide you with additional motivation to improve provisions of the bill with respect to power walls.

First of all, my mandate: In November 2003, I was elected to Toronto city council. As part of my election platform, I addressed many issues, including the importance of tobacco control to the health of the citizens of Toronto.

My election materials included the following words: “Protect public health by extending the smoke-free bylaw to cover all public places in Toronto and to protect all employees from second-hand tobacco smoke—that is, end designated smoking rooms. By exhibiting leadership, we can make it easier for the provincial government to take it province-wide.” Let me say parenthetically, the province is clearly leading the city of Toronto right now.

Comments from many electors lead me to conclude that, in electing me, the voters also endorsed my publicly expressed position on tobacco control.

Actions taken as a councillor: Within a few months of the election, I determined to do research into compliance with the city of Toronto’s bylaw regulating designated smoking rooms. With a cameraman in tow, I visited some Toronto restaurants with DSRs. What I discovered—and what you will see in the following videotape—is that DSRs commonly have deficiencies that permit tobacco smoke to endanger the health of patrons and employees.

I’d ask the staff to run the videotape, which is about five minutes. I will say that the professionalism of the journalism here will not risk any professional journalist’s job.

Video presentation.

The Vice-Chair: You have two more minutes.

Mr. Jenkins: Thank you very much. I'm not going to threaten any journalist's job. But I trust you will make the following conclusions after viewing that videotape:

(1) Designated smoking rooms in restaurants commonly are not properly separated from adjacent dining facilities, which are supposed to provide a smoke-free environment. Consequently, smoke readily travels into the smoke-free area, endangering the health of people in those rooms.

(2) Employees, primarily bartenders, are stationed within DSRs. If they work a full shift in that environment, they will be exposed to extended levels of tobacco smoke, carcinogens and other harmful chemicals.

Consequently, I recommend: (1) That you prohibit the implementation of new designated smoking rooms immediately and (2) that you require that any existing DSRs become entirely smoke-free at the earliest possible time.

Any operator who made a recent DSR investment, in view of the election platform of the government, has acted entirely imprudently. Operators of older DSRs—pre-October 2003—will have had adequate time to recoup their investment.

Briefly on power walls, Bill 164 contemplates permitting power walls of tobacco products to continue. The public health implications would be quite negative. Power walls send a message to children that in some respects society accepts tobacco products on a footing equal to other consumer products. If children then conclude that tobacco is thus as safe as other consumer products, they may be more susceptible to trying tobacco and possibly becoming addicted.

You need to know something else if power walls continue to be allowed: The health community will relentlessly and tenaciously continue to hound you until you make the correct public health decision on power walls; that is, to end them. I have observed the health community in its pursuit of public health through tobacco control for over 30 years. Their pit-bull-like tenacity in pursuit of the public good has resulted in success after success in tobacco control. When they have had the occasional setback on an item—for example, smoke-free restaurants in Toronto in 1996—they never give up. They have always prevailed on every tobacco measure they've pursued and they will certainly prevail on power walls sooner or later.

If Bill 164 passes in its current form, the health community will certainly congratulate the government. Their press releases and newsletters may say, "Provincial government's Bill 164 passed. Substantial benefits for public health in tobacco control, but government leaves power wall promise unfulfilled." Thousands upon thousands of people in the health community will then get a mixed message: Excellent progress, but one item very surprisingly still left outstanding. The implication will be clear: There is still work to be done in persuading the government to ban power walls. They will come back to you relentlessly.

Consequently—

The Vice-Chair: Thank you. Your time is up. We'll go to questions now.

Mr. O'Toole: Thank you for your presentation, Cliff. This is your scientific argument for your opposition to the designated smoking rooms. Your evidence is submitted in these hearings, right?

Mr. Jenkins: You're very generous in saying scientific, I will say, but that is the evidence I wish to submit demonstrating that designated smoking rooms essentially do not work.

1600

Mr. O'Toole: Did you use that during your election, part of the gimmickry of it all?

Mr. Jenkins: That videotape was made after my election.

Mr. O'Toole: It was. That's good. The reason I—

Ms Kathleen O. Wynne (Don Valley West): He was already our good councillor in Don Valley West.

Mr. O'Toole: Chair, could you add that to my time, because she's interrupting me. I thought it was—

The Vice-Chair: The five minutes are for the opposition.

Mr. Peter Fonseca (Mississauga East): Mr. Chairman, on a point of order: During the questioning, was the last questioner before we recessed the third party?

The Vice-Chair: That's quite possible. We'll make the adjustment later on. I asked the clerk where we would start and we were to start with the opposition.

Mr. Fonseca: In rotation, I thought it would be the government.

The Vice-Chair: We'll do a check on that and see if there's been some unfairness.

Mr. O'Toole: You'll add my time back on?

The Vice-Chair: I'll add your time.

Mr. O'Toole: Thank you very much for that interruption.

I actually found the video itself and its content important and necessary to understand the debate that we're dealing with here. I felt at the end of your remarks that there was some room for consideration of when persons are put in these smoking room areas.

Just a couple of things: You are familiar with negative ventilation, that if the door was open, it would actually be moving toward the negative pressure? Did you think of that? Perhaps you didn't.

The other thing I wanted you to know is that most of the style was intrusive and aggressive. It puts people in a defensive role, much like you'd feel if I were to be more assertive with you. That's not a proper, balanced way to treat people, to make your point, because when there's a disagreement of points, there still has to be respect. It was their property. That to me shows a sort of attitude that's problematic in solving the issue of designated smoking rooms in places of business. You'd probably agree with that, I think.

The other point I wanted to make before I give it to Mr. Barrett is, if I had seen objectivity in the presentation, I would have—how many bars did you go to? You

only videoed the bad case of the one, so that was a waste of our time. Councillor Nunziata was here this morning and wanted to make a presentation. Because you're a friend of a Liberal member, Kathleen Wynne, that's why you're here making a presentation. So the time of this committee has been wasted.

Mr. Barrett: That's true. Councillor Nunziata is very upset.

Mr. O'Toole: She is very upset, and we have an e-mail on that. This is one more example of the arrogance of this government not wanting to hear the voices of persons who have a different opinion.

The Vice-Chair: You have another minute to ask your question.

Mr. O'Toole: No, I'm finished. Thanks very much.

Mr. Barrett: Also to get to the issue, just to reiterate, the reason the door is open between the non-smoking area and the smoking area is that the fan exits air from the smoking area and creates negative air pressure to draw the air from the non-smoking area, through that open door, into the smoking room and then outside. It eliminates the second-hand smoke. I'm not sure whether you're advocating that second-hand smoke is a health problem, but apart from that, it eliminates the second-hand smoke.

Mr. Jenkins: Well, let me say that in all of the restaurants I visited—and let me answer Mr. O'Toole's question, which I wasn't allowed to answer there a second ago. We showed three restaurants, but in fact we visited four restaurants. So we visited a total of four restaurants and we found that three quarters of them were in violation of the bylaw.

Mr. Barrett: Did you fix that problem?

The Vice-Chair: The time is up for the questions and answers. Thank you for your presentation.

ROBERT BOSHAW

The Vice-Chair: The next presentation is Robert Boshaw. Thank you for being here today. You have 10 minutes to make your presentation. There will be five minutes for questions from the NDP, Ms. Shelley Martel. State your name for the purposes of Hansard.

Mr. Robert Boshaw: Thank you very much, ladies and gentlemen. My name is Robert Boshaw and I live in Orillia. I am 36-year-old father of five children. I have never smoked and, prior to working at Casino Rama, I have never had any major health problems.

Casino Rama hired me as a table games dealer in June 1999, and I finally had to resign my position in February of this year because I developed asthma and could no longer work in an environment full of second-hand smoke. Prolonged exposure to second-hand smoke in my workplace made me sick. To the best of my knowledge, I am the first person in Ontario, and only the second in Canada, to be awarded employment insurance benefits due to workplace exposure to second-hand smoke.

Officially today I am presenting on behalf of myself. I have asked several of my former co-workers to present as

well, but everyone has told me they fear for their jobs and they are afraid to speak publicly about this issue, fearing possible repercussions and termination of their employment. Therefore, unofficially, I am here on behalf of the employees of Casino Rama, and also on behalf of all Ontario's casino workers.

I was in good health when I began my employment at Casino Rama. I have always been physically active, farming or doing construction work, and I have never had any difficulty in breathing.

When Casino Rama hired me, I had to sign an acknowledgement that I would be working in a smoking environment. I needed the job, and frankly I would have signed anything to get it. At the time I did not mind signing this particular document because I felt it was just one of several things I had to sign in order to get the job. I also felt that smoke was merely something that was part of the casino environment, that it had been acceptable for years, and I had no reason to protest.

For nearly six years I worked the swing shift, 8 p.m. to 4 a.m. at Casino Rama, dealing blackjack and roulette in an environment where the air was constantly blue with tobacco smoke. The smoke came from patrons' cigarettes and cigars.

At any given time I would routinely have up to 10 people playing at the table I was dealing at, all of them smoking. I could never take a step back from the second-hand smoke the patrons generated. I was regularly in charge of a bankroll worth up to a half-million dollars. I had to maintain the integrity of the game I was dealing, and I also had to protect the money I was responsible for.

I was exposed to second-hand smoke for eight hours a night, five nights a week. The smoke lingered heavily in my clothes and hair and on my skin, and the first thing I did when I came home from work each morning was to have a shower and wash the smoke off.

Within six months of my start date, I caught a cold that was unlike any cold I had ever had. It was actually pneumonia and I required antibiotics for a month to get over it. I had never had pneumonia before, and I knew it was serious. At the time, I thought my illness was merely stress-related and not due to the second-hand smoke at work. I have a large family to support and I was at a new job that required extra time to train so I could be eligible for promotion. I was working toward my goal of full-time employment at Casino Rama so that my family could have health benefits.

I recovered from my bout of pneumonia, but my breathing has never been the same. My chest is tight and it is difficult to breathe deeply. I have since suffered from several lung and sinus infections. I was diagnosed with asthma in 2001 and I was prescribed an inhaler to relieve the tightness in my chest to help me breathe. My doctor told me I had developed asthma by working in the smoky casino. Second-hand smoke is a trigger for my asthma.

During one chest infection that was particularly bad in 2003, I was prescribed another medicated inhaler, this one containing steroids. My doctor told me I was to use this inhaler whenever I caught a cold in order to prevent further infection of my lungs.

It was at this time I started to wonder whether working at Casino Rama was worth it. As a dealer, I was making between \$20 and \$21 per hour, and I had health benefits. My family needed me to have a good, regular paycheque. I have a daughter with diabetes. She requires insulin every day. I knew my options were limited, and I decided to tough it out so I could look after my responsibilities.

For the last couple of years, I found it was increasingly difficult to go to work. It got to the point where I was regularly calling in sick and spending my days off in bed, just trying to rest enough so I could make it through the next week. Since leaving the casino, I now only need to use my puffer occasionally. I can breathe without any trouble when I wake up in the morning now, and my smoker's cough is just about gone.

1610

I personally know several people who, after working on the floor at Casino Rama, now have asthma and require puffers to help them breathe. Many of them are non-smokers. Some have quit working there because they have developed asthma since beginning work there. My case is not an isolated one. The second-hand smoke hazard affects all table games staff, bartenders and servers, the employees in the slots department and environmental services, and patrons.

Since my employment insurance case became publicized, I have been contacted by many casino workers from all over the province asking me to help them by telling my story at today's hearing.

I have requested to deal at tables specifically designated non-smoking, but the casino's management have always replied by saying that because I signed an acknowledgement when I was hired that I would be working in a smoking environment, they were not required to fill my request. A friend of mine who is also a dealer went so far as to obtain a note from his doctor stating he could only deal at a non-smoking table. He was told his request was not going to be accommodated.

Only in pit 9, the VIP pit, was a player's request for a non-smoking table ever granted. However, the non-smoking table would often be adjacent to smoking tables on either side, with second-hand smoke from the other tables drifting over to the non-smoking one.

Although there are non-smoking areas for slot machines and specifically designated non-smoking tables in each pit, there is, in effect, nowhere on the casino floor that is free from second-hand smoke. The entire casino, all 100,000 square feet of it, is in essence a designated smoking room where even non-smokers will light a cigar or cigarette and let it smoulder in the ashtray in front of them.

Ontario has three casinos located on First Nations land: Casino Rama near Orillia, Great Blue Heron near Port Perry, and the Golden Eagle charity casino near Kenora. All of these gaming facilities have been granted operating licences by the Alcohol and Gaming Commission of Ontario. As an employee of Casino Rama, I was also licensed by the AGCO to operate table games. Liquor at these facilities is served pursuant to Ontario

law. Gaming is also permitted under Ontario law. These facilities have plainclothes officers from the OPP on-site. These facilities also have AGCO officers on-site. Minors are not permitted to attend these facilities under Ontario law. All labour disputes involving these facilities are settled at the Ontario Labour Board. What I am describing is that these casinos are located on federal land but they accept provincial law as the status quo for their day-to-day operations.

The Vice-Chair: Excuse me, but your time is just about up. Could you wrap up in about 30 seconds?

Mr. Boshaw: Sure. The Ontario government can enforce this new law quite easily. Simply stated, section 88 of the federal Indian Act reads that general provincial laws are applicable to Indians. Licensing for motor vehicles and drivers' licences are an example of how Ontario applies section 88. I feel that by accepting licences through the AGCO and by following provincial labour laws, these casinos have demonstrated that the government of Ontario indeed has the jurisdiction to enforce this new law. If these gaming facilities do not comply with the new law, they should have their operating licences revoked.

Thank you very much.

The Vice-Chair: Thank you. Questions?

Ms. Shelley Martel (Nickel Belt): Thank you, Mr. Boshaw, for coming here today and for speaking not only on your own behalf but on behalf of the other employees at Casino Rama. I don't intend to speak for the government, but I think if it was as easy as you say to enforce this law on-reserve, then the three casinos you have mentioned—Blue Heron, Golden Eagle and Casino Rama—would also be included in the law. I think the reality that is facing the government is that it's not that easy, and it's probably not going to happen without some work with the chiefs and councils of the respective reserves.

I was at the press conference where the minister announced this piece of legislation a number of months ago and noted and had a chance to speak to Charles Fox, who was there, and he said that in his capacity, he was going to try to work with a number of First Nations, particularly the ones you've referenced, to really talk to them very clearly about the dangers of second-hand smoke and why it would be in the interest of First Nations to ensure that employees could work in a smoke-free environment. I trust he will do everything in his power to do that.

But I think the reality facing the committee and facing you at this moment is that there isn't a way, under provincial law, to make that happen; otherwise, I think the government would have included it. We're going to have to rely on the good offices of Charles Fox and other First Nations leaders to try and ensure that in these particular gaming establishments, the chief and band council can see the wisdom of why it would be a very good thing for all employees to work in a smoke-free environment. I think, at the end of the day, that's probably where we are.

Mr. Boshaw: Do you have a question?

Ms. Martel: No. I just wanted to tell you what I think the position of the committee is going to be. I think we all appreciate what you've had to say, and I think I can speak for the government to say that if there was a way for it to be done, it would have been done by the government. I can't imagine the government would have shut down smoking in Niagara, for example, but allowed it to continue on a First Nations property. I suspect that if he could have done it, that if there was a way his legal staff could have told him, he would have done it. I can't imagine he wants that discrepancy. If he does, the parliamentary assistant is going to tell me, but I can't imagine that's the case.

Mr. Boshaw: I see. I feel there is a way to force this upon all facilities that allow smoking, that you have a tool, and we ask you to use it.

Ms. Martel: Let me say this, then: You've made the suggestion, you've referenced the particular sections, and the committee at some point will start our deliberations next week. I would ask legal counsel to take a look at it and to come back to the committee at that time with their position as to whether or not what you've suggested to us can be applied. I'll give you that undertaking.

The Vice-Chair: If I could ask you, would you like a response from the parliamentary assistant?

Ms. Martel: Do you want to do it now?

Mr. O'Toole: Pardon me, Chair, if I may. I'd like a response from our legal research people, not some parliamentarian type. No disrespect—I mean that. This is fundamentally not just a question on the smoking issue. One of them is in my riding. The labour laws apply, and all these interpretations are decided by the court.

The Vice-Chair: Order. To get that from research will take some time. We've exhausted the time now, so I think we'll move on.

Mr. O'Toole: I want legal counsel's response.

Mr. Fonseca: Mr. Chair, we do have somebody from the ministry who can bring up some of the research that has been done around the unique aboriginal situation.

The Vice-Chair: I will get advice on that and get back to you.

Thank you, Mr. Boshaw.

CANADIAN CANCER SOCIETY,
ONTARIO DIVISION

The Vice-Chair: The next presenter is the Canadian Cancer Society, Ontario division.

Thank you for being here today. You have 10 minutes to make your presentation, and there'll be five minutes for questions from the Liberal side.

Mr. Peter Goodhand: Thank you. My name is Peter Goodhand. I'm the CEO of the Canadian Cancer Society, Ontario division. I'm speaking on behalf of 70,000 volunteers. Two of those volunteers and one of our staff members are with me today.

First, let me begin by congratulating the government on the legacy that will be creating by the introduction of

Bill 164. The society recently released stats for 2005 indicating the cancer crisis we're facing over the next 20 years. As you're probably aware, tobacco is the cause of 30% of all cancers. Lung cancer is the leading cause of cancer mortality; 85% of that mortality is preventable. Mortality from lung cancer is still rising in women, wiping out all the gains we've made in mortality on other cancers for women.

We fully support protecting all workers in Ontario from the harmful effects of second-hand smoke. This includes getting rid of all DSRs. We know you are considering banning smoking in long-term facilities and patios. We encourage you to do so and protect all workers.

1620

We estimate that 300 Canadians die each year from second-hand smoke. To the strength of this evidence, it is worth noting that agencies ranging from the International Agency for Research on Cancer through to the US Surgeon General, Health Canada, the OMA and many others have all concluded that second-hand smoke is a serious cause of disease. To suggest otherwise is a position that at this point is only supported by the tobacco industry.

Evidence and cancer experts can only tell you part of the story. With me today is Irwin Title. Irwin had a laryngectomy due to exposure to second-hand smoke and now speaks through a voice box. Irwin's first wife smoked two packs a day for 47 years and passed away from lung cancer. Irwin never smoked, but he's a very real person, impacted very directly by second-hand smoke. Irwin is sitting to my right.

The society is strongly in favour of a 100% ban on all tobacco retail displays. In 2003, tobacco companies paid \$88 million to put these advertising displays in place—an \$11-million increase from the year before. Saskatchewan has a full ban in place. Nunavut and Manitoba are introducing legislation or have the legislation in place. We have great difficulty convincing our youth and our children that tobacco and smoking are dangerous when they see cigarettes displayed in the same way as hockey cards or bubble gum.

With our experience in operating Smokers' Helpline, we know that smoking is a very difficult addiction. Retail displays make recovery from that addiction even more difficult. They act as triggers for casual smokers and for people trying to quit smoking.

On behalf of the Canadian Cancer Society, I am today tabling a compilation of research on the impact of tobacco advertising and promotion. This is the evidence that we're tabling. Evidence that advertising and promotion, including point-of-purchase advertising, increases consumption is overwhelmingly persuasive. This evidence is seven volumes in total, including four volumes in 1988 and a three-volume recent update. Even a cursory review of the evidence from around the world emphasizes the importance of banning all product displays and other promotion at point of purchase.

I've been involved in the war on cancer in one way or another for 18 years. Nothing I have done or am likely to do in the next 18 years will be as important as the legislation you are reviewing. I urge you to strengthen the legislation. Make it something that you as legislators can be proud of and something that will protect future generations of Ontarians. I can tell you that the Ontario Cancer Society will not go away on this issue. We will be relentless. We will keep going until this issue is fully resolved.

On the day of the first reading of the legislation, Bill 164, the society marked with deep sadness the passing of one of our most tireless volunteers, Don Dusenbury. If Don were here today, he would tell you first-hand the importance of this legislation in protecting our children and workers. Don, unfortunately, cannot be with us today, but his legacy as a fighter in the war on cancer has passed to a new generation of Ontarians.

It gives me great pleasure to introduce one of that next generation of cancer fighters to you today. I'm going to ask Kristen Edwards to speak to you from her perspective as a teenager.

Ms. Kristen Edwards: Good afternoon. Smoking continues to be a central issue in society, especially among teens. Although the dangers of smoking are persistently emphasized, displaying cigarettes in full view in stores seems to send a contradictory message. The stores that sell cigarettes are the same stores that sell healthy household items like bread and milk, consequently making smoking seem like no big deal and an acceptable part of everyday life. Having a potentially lethal and highly addictive substance being displayed and sold among the beneficial items that our bodies require doesn't make sense.

Cigarette companies thrive on advertisements to communicate their product. By eliminating the exposure of cigarettes in stores, we remove the crucial and final step of the advertising process. People first learn about cigarettes through some medium such as movies or friends, and seeing the product on store shelves stimulates them to make the purchase. What is out of sight, however, is out of mind.

Removing cigarettes from displays is especially beneficial to those who are trying to quit smoking. Not having cigarettes visually present while they are cashing out in an area where impulse buying is at its highest will make it easier for them to quit.

All of what I've said applies to anyone, but it especially applies to those my age. I've already seen the effects that smoking can have on teenagers because, unfortunately, a lot of my friends smoke. One of my friends began using smoking as a way to deal with his stress and anger. Fortunately, he's quit smoking, but he now has anger problems because he doesn't know how to deal with his issues in a normal and healthy way. Another friend of mine used to be a competitive swimmer, but when he started getting chest pains due to smoking, he could no longer compete.

I think the most discouraging part of teens smoking, however, is that some are already so addicted that they

don't care about the cancers they can get and they don't care about what chemicals are in these cigarettes. Many of them will even joke about the chemicals that are in the cigarettes.

We always talk about finding a cure for cancer, and I don't think that a single person in this room hasn't been affected by cancer in some sort of way, but 30% of all cancers are tobacco-related. By removing cigarette displays from stores, we move toward eliminating the use of tobacco products and, thus, tobacco-related cancers. We have a cure for 30% of all cancers; we just need to put it in effect.

Mr. Goodhand: Irwin, did you want to say anything to the committee?

Mr. Irwin Title: Yes. One of the most frustrating things I've ever experienced in my life has been when I couldn't speak. If you want to see what that's like, when you go home today, don't speak to anybody for 24 hours. It still blows my mind how these people can put their passion for profit ahead of their own health, the health of their families and the health of people around them.

The Vice-Chair: You have two minutes more. Is there any more presentation?

Mr. Goodhand: As I was reviewing Irwin's story and realizing the direct impact on him as an individual, I was also struck by the fact that as Irwin lost his wife to cancer, I also lost my wife to cancer after a 12-year battle. If there is anything I could draw from that experience, one saving thought, it's that her cancer was not preventable and it wasn't really treatable by known technology, so we faced that battle alone.

As I've taken on this role at the Canadian Cancer Society, it came as news to me that 50% of all cancers are preventable. I can only imagine what I would have gone through if I now realized that her own cancer had been preventable. It wasn't, but you have an opportunity in front of you today to strengthen this legislation. Make it as strong or stronger than the legislation we see in Nunavut, Manitoba and Saskatchewan. Make it the strongest legislation you can, and help do more to fight cancer than we can by raising dollars for research. You have that opportunity in front of you, and I would just ask you to take advantage of it.

The Vice-Chair: Thank you for the presentation. We'll go to Mr. McMeekin of the Liberals for the questions.

Mr. McMeekin: I just want to say, I give thanks for you every single day. I'm a former president of one of the lung associations, but more important than that, sadly, we got to know about the Canadian Cancer Society twice: once when my dad died of lung cancer and this past summer when my sister died of lung cancer.

My dad was 16, served overseas, lied about his age to go fight and got all those cigarettes sent over to him. I've often thought that the veterans have a good class action suit against the government. Notwithstanding that, I just want to tell you a quick story, because you twigged something. I wasn't going to speak, but I want to.

I almost didn't run when the opportunity came up, because my dad was very sick. I went to visit him and

spoke to him about that, and he lectured me. He said, "You know, Ted, your mom and I didn't raise you up from a young pup just to wimp out because I'm sick. We'll get through this somehow. You go and get elected and make a difference." Somehow, he miraculously got out of his bed on election night. Three weeks later, he was dead. I remember that when I come into this place.

I swear to you, we're going to do everything we can in this government to make sure that we make a difference, so that the young people out there, who you spoke so eloquently about, aren't having the kinds of terrible experiences that far too many of us have been through.

Thank you for the work you do. God bless you. Believe it or not, I've got a lot of people in my riding who still send me e-mails saying smoking is good for you. This is the kind of book you can't pick up once you put it down, but I may find that there's some use for this other than being a doorstop.

1630

The Vice-Chair: There are four more minutes.

Mr. Fonseca: I'd like to thank the Canadian Cancer Society of Ontario. Thank you so much for all this evidence, because I know that the official opposition has often asked for the evidence and has refuted that people die due to second-hand smoke or smoking. To see all this evidence here is unbelievable, so I know Mr. Barrett will have some good reading in front of him for the next while. Also, to see all of you here, especially Kristen and Irwin, from the two ends of the spectrum, from our youth to our seniors.

This piece of legislation is to be comprehensive and integrated, to make sure it protects all Ontarians. It really has a number of core thrusts to it around prevention, protection and enforcement. We have embarked on a very strong and aggressive youth strategy. The Minister of Health and Long-Term Care, George Smitherman, wanted to make sure that it was one that came from the youth. It was a campaign that was created by youth, for youth. I know I didn't get it at the beginning when I saw those stupid.ca commercials, the Web site and others, but the youth said that was what would impact them and would make a difference. So it was great to see.

Irwin, for your heartfelt words—we've heard from so many others in other cities that we've been to. Heather Crowe was here and presented, and we just heard from Robert Boshaw. It's not easy to come in here and spill your personal experiences in front of this room and everybody, but it is so important and will mean so much in helping this legislation move forward and making sure that it is the strongest piece of legislation that we can put forward toward protecting all Ontarians.

So I have to thank all of you. If there are any final comments that you would like to make, please say so.

Mr. Goodhand: Just to say that your thanks and appreciation are very much appreciated by us. It would be even more appreciated if you go that final step and introduce a complete ban on power walls. Just do it.

The Vice-Chair: The time is up. Thank you for your presentation.

KAREN ANDERSON

The Vice-Chair: The next presentation is from Karen Anderson.

You have 10 minutes for your presentation, and there will be five minutes of questions after that by the official opposition. When you start, please give your name for the purposes of Hansard.

Ms. Karen Anderson: My name is Karen Anderson, and I'm here today in support of Bill 164. I'm grateful to have this opportunity to speak about something that literally touched my heart and my lungs, and I'll explain that shortly. I've travelled here today from Bowmanville on behalf of myself but with thoughts about thousands of people like me—co-workers and others who are forced to work in a smoking environment.

I'm a nursing student, and I'll graduate next year. I'm so excited. I had a five-year plan, and I'm almost finished. However, I'm also a single mother of two wonderful, beautiful children and, in order to put myself through school and support those children at the same time, I found it necessary to work in the bar industry. I was continuously exposed to second-hand smoke in order to do and to keep my job. As a consequence of this exposure, I developed irreversible respiratory and cardiac problems. I've been treated by my doctor with inhalers and nitroglycerine. I've had numerous diagnostic tests and I still continue with those today. I have pain that continues even now.

I've said that I was speaking here on behalf of not only myself but also my co-workers. You see, I understand and I've heard the fear that's present in people about losing their job should they dare to complain, so we go on working in second-hand smoke. But the truth is, when you have to pay the bills, when you're a single mother or you have a family or you want to pursue a career, you keep your mouth shut. You're afraid to lose your job. You are forced to breathe in the poisons. You sign for it.

The only way to avoid this insidious situation is to ban smoking in the workplace, period. Giving workers the legal right to refuse or to enter smoking rooms to care for the people or to serve the people to get their paycheque is a novel idea, but it doesn't work. I've worked in the industry for many, many years, so I speak from experience. There is only one solution. Again, I say: totally ban smoking in the workplace, with no exceptions—none.

On behalf of the workers like myself, I ask that you take this step so that no other worker will suffer the health consequences that I've had to endure, and still do to this day. Thank you for allowing me to speak.

The Vice-Chair: Thank you for your presentation. Mr. Barrett?

Mr. Barrett: Thank you, Ms. Anderson, for presenting this afternoon. We're into our third day now of hearing testimony. I think it was on the first day that Mr. Perley, who was here today, indicated that in British Columbia they do allow designated smoking rooms under their Workers' Compensation Board rules. In that case,

workers cannot spend more than 20% of their shift in these designated smoking rooms. I understand that that came about as the result of a lawsuit from the hospitality industry after British Columbia passed legislation that I'm assuming would be fairly similar to this legislation. Do you foresee anything like that coming down the road? In talking with your fellow workers, are there any views at all on properly ventilated designated smoking rooms that eliminate second-hand smoke?

Ms. Anderson: I'm sensitive to the idea of properly ventilated smoking rooms. I understand that people like to smoke at bingo; I'm not against that. As a matter of fact, in my opinion, I wouldn't mind it if people smoked at all, as long as they didn't exhale. But then, I've got to deal with the stuff that's coming off the lit cigarette or the cigar; I forgot about that.

There's one more thing about the smoking rooms that I need to say. Was it Mr. O'Toole who mentioned negative pressure?

1640

Mr. Barrett: I mentioned negative pressure.

Ms. Anderson: The fans?

Mr. Barrett: Yes.

Ms. Anderson: Often, the fans aren't on. I'm sorry, but that's the truth.

Mr. Barrett: Your work environment—were you in a designated smoking room, or was there any room at all?

Ms. Anderson: I have been in many, unfortunately.

Mr. Barrett: The fans weren't turned on, eh?

Ms. Anderson: I said that often the fans are not on.

Mr. Barrett: What municipality would that be in?

Ms. Anderson: What municipality?

Mr. Barrett: I don't need to know the name of the business or anything. I just wondered, was it here in Toronto? Some municipalities have bylaws, certain restrictions and—

Ms. Anderson: Yes, I agree that they do.

Mr. McMeekin: Was it Tillsonburg?

Ms. Anderson: No, it wasn't Tillsonburg.

Mr. Barrett: Why would you say Tillsonburg?

Mr. McMeekin: Because you're concerned about your people in Tillsonburg.

Mr. Barrett: Tillsonburg is not in my riding.

Ms. Anderson: The next time I could let you know.

Mr. Barrett: I don't need to know the name of the restaurant or the bar.

Interjection.

Mr. Barrett: I'm sorry, I just want to get it in quickly.

Being in the workplace, would municipal inspectors come in and make sure the fans are working? I'm sure you'd have liquor inspectors.

Ms. Anderson: I'm sure that they would, but there's a time factor. If a citizen makes a call today at 4 o'clock, at 4:05 is someone from the bylaw going to be rushing in? It's the time.

Mr. Barrett: They don't do regular inspections, eh?

Ms. Anderson: I don't know. I'm a citizen, not a politician.

Mr. Barrett: I'm assuming it's not in Tillsonburg. Again, a bylaw is not worth anything if it's not enforced, and provincial legislation isn't worth the paper it's written on if it's not enforced, either. That's what I'm trying to get at.

Ms. Anderson: Yes, it's unfortunate. But then there are the doors and there are the openings. It's unfortunate.

Mr. Barrett: There's no inspection, eh?

Ms. Anderson: That's my experience.

The Vice-Chair: That's the time for questions. Thank you very much for your presentation.

Applause.

The Vice-Chair: I'd just like to remind the audience that there's no clapping or cheering or anything like that. We don't allow that in this room, just for the future.

MELODIE TILSON

The Vice-Chair: Melodie Tilson.

You have 10 minutes for your presentation. State your name when you start.

Ms. Melodie Tilson: Thank you, Mr. McNeely and members of the committee. I'm just waiting for the laptop to get hooked up here. While I'm waiting, I'll give you a bit of my background.

I've been working in the field of tobacco control for the past 15 years. For the last 10, I've been a health policy consultant, and my specialty has been tobacco control issues. In this capacity, I have researched and written for clients three different papers on banning tobacco product displays, which is what I'm going to focus on today. I'm going to give you the highlights of that research.

The clerk is handing out a copy of my slides as well as a copy of a very detailed paper on this issue that I wrote for the Canadian Cancer Society, Nova Scotia division, and Smoke-Free Nova Scotia.

Before I begin looking at the evidence, I think it's important that we put this issue in context. Tobacco is the only legal product that kills when used exactly as intended by the manufacturer. In fact, tobacco products kill 47,000 Canadians every year. However, we can't ban tobacco sales because of the simple fact that some five million Canadians are addicted. But what governments can do, and have an ethical and moral imperative to do, is everything in their power to control the promotion of this product to prevent new people, primarily young people, from being recruited by the tobacco industry.

There are two things that are very obvious from this photograph of a typical power wall. One is that this scene is clearly not congruent with a product that's responsible for the deaths of some 47,000 people every year. Secondly, power walls display cigarettes in quantities far greater than what is necessary to supply consumers' needs. This is an important point, because what these power walls do is contribute to the belief that's widespread among youth that most people smoke. This is significant, because research clearly shows that young

people are much more likely to begin smoking themselves if they believe that that behaviour is the norm.

Marketers typically focus on what are called the four Ps of marketing: product, price, place and promotion. Point of purchase is uniquely important because it brings together in one place the product, the place itself—the place of distribution and sale—and promotion. Point of purchase, in fact, is where the shopper can be transformed into the buyer, given the right inducements. Merchandising is all about providing those kinds of inducements.

What is merchandising? I think it's always important, wherever possible, to look at the tobacco industry's own words when trying to assess just what impact the tobacco industry has on the behaviour of smokers and potential smokers. Most of what I'm going to present to you today comes from internal tobacco company documents that have been made public, primarily through various litigation in the US. This is from a British American Tobacco document that is undated:

“What is merchandising?”

“All activities that feature your product(s) at the point of purchase. It is the final step in ensuring that the consumer sees your product and is tempted to buy it.

“Good merchandising is about the impact your product has on the consumer. It is about using the product itself to stimulate the consumer to buy, it is about reminding the consumer of your mass media campaigns at the actual point of purchase, when he/she is faced with the buying decision.”

The document goes on:

“How important is merchandising?”

“Very, very, very important.

“Merchandising is the key to growing and developing sales volume within every distribution outlet.

“The more facings you can devote to a brand, the more effectively it will be portrayed to the consumer. It will be more visible on the shelf and have more chance of grabbing the attention of the consumer and of being purchased.”

In other words, prominent displays lead to increased sales. More information from the documents that provide evidence of just how important retail displays are to the tobacco company. They've gone to great lengths to research the behaviour of the consumer at the point of sale:

“It is hoped that the results from these experiments ... will be put together to form a handbook providing guidelines on maximizing the potential of the point-of-sale display.”

These experiments are designed to analyze all of the variables that may affect visual scanning behaviour”—what the consumer does with his or her eyes in the outlet. Examples: size of point-of-sale display, number of shelves on the unit, number and type of pricing information and so on.

One experiment, for example, makes use of an eye-gaze monitor to make the measurements and infrared technology and computerized digitation to analyze the results. Tobacco companies don't leave anything up to

chance. They research everything about the behaviour of a potential customer in order to turn that person into an actual consumer of tobacco products.

It may be counterintuitive, but it is a fact that 60% of tobacco purchases are impulse buys, despite the fact that we're dealing with an addictive product. One of the main reasons for this is that about a quarter of the tobacco market in Canada right now is made up of non-daily smokers: occasional smokers, people who aren't yet fully addicted, such as youth, who are just experimenting. Research that was published in the peer review journal *Tobacco Control* found that point-of-purchase advertising and displays increase average tobacco sales by 12% to 28%.

How point of sale works is as an extension of tobacco companies' other promotional and advertising tools: “Point of sale is of vital importance because it is a true extension of brand advertising and provides a continuous communication of brand advertising at the point of sale. The role of advertising and packaging is to get the consumer leaning toward our product; the role of promotion is to pull her over—to clinch the sale.”

We know from all kinds of documents that as other avenues of promotion, such as traditional advertising, have become restricted, tobacco companies have relied more heavily on the point of sale. “Under conditions of total ban, pack designs ... have enormous importance.... An objective should be to enable packs, by themselves, to convey the total product message.”

1650

If you will notice the date on these two documents, they go back over 20 years. Some 20 years ago and then some, the tobacco companies predicted they would be faced with an environment of advertising bans and restrictions on other forms of promotion. They knew and researched from then on how they could make the point of sale, do what was needed to encourage people to buy their product, and ultimately to get to the point where the pack itself would promote the product for them.

In the United States, when billboards were banned, total tobacco company marketing expenditures increased to the point that 82% of the marketing budget went to point-of-sale promotions. We have a similar situation in Canada where companies are now spending upwards of \$88 million a year on retail promotion. At its height, they spent about \$60 million on sponsorships.

We also know from general marketing research that retail marketing is highly effective at reaching kids. Some 75% of teens shop at convenience stores at least once a week. Teens are more likely than adults to be influenced by convenience store promotions, and more than half of adolescents say they're influenced by in-store displays.

To sum up then, high-visibility store displays reinforce previously seen promotions. They promote tobacco products when other forms of advertising are no longer available. They normalize tobacco products by association. They undermine health warning messages and other educational endeavours. They exaggerate the popularity of their product and stimulate consumers to buy.

What we can expect from a total ban is that an advertising ban will actually do what we know from the research that it can do, and that is to reduce tobacco consumption, but advertising bans only reduce consumption when there's a total ban, and right now we have a huge loophole in this province with the power walls, basically in every convenience store, gas station and many supermarkets.

The Vice-Chair: You have 30 more seconds.

Ms. Tilson: Then I'm going to sum up.

Two photos here: This is a typical retail outlet in Saskatchewan, where you can see tobacco products—well, you can't see tobacco products; they're behind the cupboard doors. This is Iceland, where they've had a ban in effect since 2001.

I'd like to urge the committee to strengthen the legislation and remove the loophole that presently provides that regulations could allow for tobacco product displays. Only then will the legislation fulfill its potential and the Liberal government's promise of protecting Ontario youth from inducements to smoke, and protecting Ontario adults who want to quit from visual stimulus that keeps them in the tobacco market.

The Vice-Chair: Thank you for the presentation. Ms. Martel, you have the questioning.

Ms. Martel: Thank you, Ms. Tilson, for being here today and for your research. Based on the research you've done, what is the attraction around power walls that seems to be so much more influential for you, that makes it urgent to ban power walls?

Ms. Tilson: The main reason is that in this country we've been really successful at restricting or banning most other forms of promotion. If you look at the tobacco company research, they start with traditional tobacco advertising, the kind we saw in magazines here some 20 years ago. When that form was banned, they moved to sponsorship advertisements: the Player's racing, the du Maurier jazz, Matinée fashion. As of October 2003, that ban came into effect. There's no association between that lifestyle and the product through sponsorships.

So how can tobacco companies get the message out, get the brand in front of consumers, and also convey to consumers that this is something that's normal behaviour that everybody does? How they do it is via the power walls.

Ms. Martel: How come it seems to have such a greater influence on youth? A couple of us had this conversation before we started our hearings last week. We said to each other, "Have you noticed a power wall?" Honestly, I was sitting there thinking, do I ever really notice it? I asked a similar question to one of the youth presenters who came forward who said, "Well, youth want to try different things." There's a gap there.

I know I'm older, and I'm not trying to undermine you or anything. I'm just trying to get—it's clearly important, and youth are telling us that. What I'm wondering is, why is it so much more attractive to youth? Why do they notice a power wall when I would go into a convenience store and wouldn't think twice?

Ms. Tilson: There's a really simple answer, and that is the fact that at least 85% of starting smokers are 18 and younger. So the tobacco companies know that if they're going to convince someone to start smoking, they have to focus on the youth. It's the adolescents who are thinking about starting to smoke, who are vulnerable to that kind of promotion. Once an adult has reached his or her 20s, they're not vulnerable any more, so we don't notice it.

Ms. Martel: Because I'm not thinking about it as an option.

Ms. Tilson: We've already decided not to smoke. It's virtually invisible to us.

Ms. Martel: I'm not thinking of that as an option, so it's not—

Ms. Tilson: Exactly.

Ms. Martel: You had the slide on Saskatchewan. When that ban went into effect, what happened in convenience stores where there had been power walls? Do you have any information about that? What was it replaced by? What happened with respect to small business owners, for example? I'm thinking more the Korean businessmen's association than I am of some other convenience stores or chains. That is an issue that we have also been talking about.

Ms. Tilson: I'm very familiar with the situation in Saskatchewan. I've done a lot of work with the coalition there, including around this legislation. The law has been nicknamed in the media "the shower curtain law." That is a nickname that the industry came up with. There is in fact no evidence that shower curtains have been used, although some retailers did use curtains. Most of them have installed cupboards—oh, it's not showing anymore—

Ms. Martel: It's OK. I have it here.

Ms. Tilson: —as you can see in the picture. In talking to health inspectors, Health Canada inspectors who are commissioned by, or who work on behalf of, Sask Health, no evidence whatsoever, and no media reports whatsoever that there's been a negative economic impact on convenience store owners.

Ms. Martel: So was the power wall replaced by other products, essentially? Is that what happened?

Ms. Tilson: Right now, no. In fact, they've mostly just covered them up. But if you noticed in the Iceland example, they've primarily gone to under-the-counter drawers, which leaves that huge and valuable retail space behind the cashier open for other products. In the big document that you've been given, there is research from the United States that there are lots of other product manufacturers that would absolutely love to have that space and would be willing to pay for it the way tobacco companies do now.

The Vice-Chair: Thank you very much, Ms. Tilson. Your time is up.

TORONTO PUBLIC HEALTH

The Vice-Chair: We'll now have Toronto Public Health. There's a room down the hall for overflow if anyone wants a seat. You have 10 minutes to make your

presentation, and there will be five minutes for questions that will be to the Liberal Party.

Dr. David McKeown: Thank you very much, and good afternoon. My name is David McKeown. I'm the medical officer of health for the city of Toronto. I'm joined by Councillor John Filion, who is the chair of the board of health for the city of Toronto.

Thank you for the opportunity to be here today to speak about Bill 164. Toronto Public Health supports the creation of the smoke-free Ontario act, and I'd like to congratulate the Minister of Health, the Premier and this government for taking a very important step to improve the health of Ontarians. However, I do want to talk to you about power walls. I'm very concerned about point-of-sale tobacco advertising, commonly referred to as power walls, and I'm going to urge the government to eliminate all point-of-sale promotional tobacco products. More specifically, I recommend that you remove the phrase "except in accordance with the regulations" from section 3.1 of the current bill.

As you probably have heard many times in these hearings, tobacco products lead to the death of nearly half of their long-term users, and almost all those long-term users begin to smoke in their teens. In fact, the rate of smoking in Ontario increases seven-fold between grade 7 and grade 12, as young people learn about tobacco products, experiment with them, and many of them ultimately get hooked. Power wall displays send a message to young children that tobacco products are attractive, desirable and much more popular than they actually are. From the size of the displays, you would think that many more people smoke than actually do. The displays are usually situated immediately beside other products that kids are interested in: candy, gum, hockey cards and the like. So this is clearly a form of advertising that does reach potential new customers for tobacco companies: teens and pre-teens. It serves to undermine, through a mixed message, the efforts of parents and health professionals to warn young people about the hazards of smoking.

Point-of-sale promotions of tobacco products also stimulate impulse purchases, particularly among ex-smokers, occasional smokers and teenage experimenters. The promotions challenge the resolve of ex-smokers to remain smoke-free and make it more difficult for those smokers who are trying to quit in the interests of their health.

1700

The tobacco industry will, of course, oppose any ban on point-of-sale displays. It's one of the few avenues for promotion that remain for tobacco products. They will likely claim that bans will cause retailers to suffer significant economic loss. While I am sympathetic to small business owners who at present derive part of their income from tobacco advertising, I would remind you that the economic costs of smoking to families, to taxpayers and to our health care system are much larger.

In closing, I'd like to urge you to amend Bill 164 to not allow point-of-sale tobacco displays to be used to hook young Ontarians into a lifetime of smoking.

I'd like to now introduce Councillor John Filion.

Mr. John Filion: Thank you. I'd also like to thank the government for bringing forward this legislation. It has been a long time coming, and it's great to see it.

From my own personal perspective, it has been about 10 years now that we've been trying to bring in legislation. I was chair of the board of health in North York, pre-amalgamation, and it was extremely difficult to do it then. In fact, we were the first municipality in the Toronto area to try to bring in no-smoking legislation, and we stumbled, as the city of Toronto did that year, because we didn't have the other municipalities on board. It is very difficult to do this when it isn't province-wide. Even with our current legislation, which we brought in in 1999, we were somewhat ahead of the rest of the province and had to make some compromises, which we're still trying to correct. A hodgepodge of legislation across the province really does not protect the residents of this province, so I really welcome the province-wide legislation and think that's really critical to protecting the health of the public.

Just a couple of comments based on our experience.

DSRs: I know Councillor Jenkins was here. You saw his presentation, which illustrates better than I could with words the problems with the DSRs. It simply has not worked out. We put it in the legislation in Toronto because we did that legislation in 1999, and at that time it was really necessary to make some compromises in order to get any legislation at all. In the last six years, of course, public policy has advanced considerably. We now, in the city of Toronto, are lagging behind other municipalities in the province with regard to our smoking legislation. We were on the verge of fixing that ourselves but think it is more appropriate to have that done province-wide, as is being recommended. The elimination of DSRs is really critical, for the reasons that Councillor Jenkins illustrated, with the difficulty in enforcing, the costs of enforcement, and the lack of protection to the employees.

It has also been our experience in Toronto that if there is anything that anyone could even perceive as a loophole, there are members of the restaurant and bar industry that are clever enough to exploit it, so we would really urge you to be very careful about tightening up anything that could be considered a loophole. In Toronto, we have found many business operators trying to get around the bylaw by operating as private clubs or hosting private parties, so we are quite pleased to see that Bill 164 includes all workplaces and public places in the smoke-free provisions, exempting only those workplaces that are private dwellings. However, we do encourage you to ensure that volunteers and self-employed persons are also included in the definition of "employee" and that the wording in the act and regulation cannot be subject to misinterpretation.

We also suggest that the definition for "enclosed public place" in subsection 3(1) be worded in such a way to include areas that may not have a roof but are so constructed as to restrict air circulation and not allow

second-hand smoke to easily escape. In Toronto we've seen many businesses be very creative in enclosing outdoor patios and trying to look at the wording of the bylaw: "OK, let's try it this way. Let's try it that way." It really took a lot of our resources to go around and shut them down. In the meantime, a lot of time and money were wasted and people's health put at risk. Just saying that it can't have a roof doesn't do it. People can draw all kinds of strange shapes. You'll be able to draw some that have a very narrow opening at the top; technically it has no roof, but still the structure is preventing the smoke from dispersing. Those kinds of situations do cause a hazard to the health of the people who are in them, so we hope you'll close up any loopholes or perceived loopholes there.

In addition, we suggest that in paragraph 6 of subsection 9(2), the word "reserved" be removed so that all seating areas within a sports arena or entertainment venue are smoke-free, even when seating is by general admission. I doubt that the legislation intended to make that distinction between the SkyDome being used for a Blue Jays game or some event that's general admission, but someone might try to interpret it that way because of the use of the word "reserved."

The Vice-Chair: You have 30 seconds left.

Mr. Filion: OK, thank you.

The last point would be the scientific and research facilities for testing. A few years ago, a large cigarette manufacturer was running a "testing facility," and their testing facility consisted of having their employees smoking cigarettes at their desks. So please be very clear in the legislation that if that exemption is allowed, that it only be in a separately enclosed area and that it only be for scientific research, not for general social product testing.

The Vice-Chair: Thank you for your presentation. We'll go to questions.

Mr. Fonseca: I'd like to thank Toronto public health and Dr. McKeown and Councillor Filion for your fine presentation.

One of the main things that the minister, on embarking on this piece of legislation, has said is that this piece of legislation was not to be characterized by exemption. Through your experiences, we know the problems that can cause, in terms of the domino effect and how all others are affected.

There are about 700 designated smoking rooms in the province. There are about 51,000 hospitality establishments in the province. The establishments that have DSRs actually make up less than 1% of all establishments out there, and many concessions have been made for them. Half of those reside in the city of Toronto. How do you feel about this piece of legislation and getting rid of those DSRs, as this piece of legislation would, on May 31, 2006?

Mr. Filion: We totally support that. In fact, if this legislation didn't do that, we would be attempting to amend the city of Toronto bylaw to eliminate DSRs in Toronto.

Mr. Fonseca: I know the city of Toronto is out of AMO at the present moment. I just wanted to read out the AMO position and see if the city would follow suit and feel that this would be your position on Bill 164.

"AMO calls on the province to implement a uniform and consistent provincial smoking policy with minimum standards for public and workplaces. This would provide for a level playing field for businesses in all municipalities and would also improve protection from second-hand smoke, reduce the high costs related to health care and protect workers within their workplaces."

Is that the same position—

Mr. Filion: I'm speaking for the board of health rather than for the city, because we haven't gone to city council on this, but I expect that city council would endorse such a position.

Mr. Fonseca: You mentioned the number of resources that you've invested in terms of enforcement for this. I know that for many that have DSRs, enforcement is not always easy, because many people tend to smoke in the later hours, maybe at 12 midnight or 1 in the morning. How did the city work its enforcement strategy around what are not the traditional, 9-to-5 types of establishment that have DSRs?

Dr. McKeown: We have put in place enforcement outside of normal office hours, because it's essential for the reasons you describe. The burden of enforcement is much greater for legislation that has a DSR in it, not just in terms of times of enforcement and whether people are smoking where they should be, but the work involved in deciding whether a DSR is in compliance with the legislation. It is simpler for the customer of an entertainment facility, for the operator and for the regulator if it's a straightforward ban.

1710

Mr. Fonseca: Chair, I'm going to be sharing my time. My colleague from Huron-Bruce has one question.

The Vice-Chair: Mrs. Mitchell, you can go ahead. You have about two minutes.

Mrs. Mitchell: My questions will be very short. Earlier in the day we had a presentation from a restaurant from the Yorkville area, and there seemed to be a bit of confusion about when the sunset was for the DSR, so I look for clarification.

Mr. Filion: At the moment, there is no sunset.

Mrs. Mitchell: That might have been the confusion, then.

Mr. Filion: Yes. The board of health has indicated that, if this legislation did not go through for any reason, we would be going into council to eliminate DSRs in the city of Toronto, but we have not done so. Our current legislation still allows DSRs, unfortunately.

Mrs. Mitchell: I have another quick question. We also had another council member from Toronto: Frances—my apologies; I don't remember her last name.

Mr. Filion: Frances Nunziata, perhaps.

Mrs. Mitchell: Yes. The position of the group she was with was that Legions be dealt with as private clubs and, therefore, an exclusion from the regulations. As the

board of health is here, and the chair, was that supported and endorsed by the board of health?

Mr. Filion: I don't believe we would support that. I think that Legion members deserve to have their health protected the same as everyone else.

The Vice-Chair: That's all the time we have left. Thank you for the presentation.

ROYAL CANADIAN LEGION,
ONTARIO COMMAND

The Vice-Chair: We'll now hear from the Royal Canadian Legion, Ontario command, if you'd come to the front.

You have 10 minutes to make your presentation. Please state your name for the purpose of recording Hansard. The questions will be by the official opposition.

Mr. David Adamson: My name is David Adamson. I'm the zone D-5 commander of Toronto.

Thank you for allowing me to address this committee today on behalf of the 168,352 members of the Royal Canadian Legion, Ontario command, concerning the no-smoking bylaw that is being considered province-wide.

As some of you may know, we have a tradition in the Legions as to how we officially open up our meetings. We start off by singing our national anthem and then have a few words of encouragement and wisdom from our chaplain. This is followed by the act of a remembrance which pays homage to those who paid the supreme sacrifice in ensuring the freedoms we enjoy today and for those who passed on since we last gathered. I would like to recite for you the words of remembrance:

They shall grow not old, as we that are left grow old.

Age shall not weary them, nor the years condemn.

At the going down of the sun and in the morning

We will remember them.

The Legion is a unique organization in that the men and women who served Canada call the 428 branches their meeting place and a location to continue their comradeship with their friends and fellow comrades. This tradition has continued for many years and we'd like to see it continue for the remaining years of our veterans. Given the average age of 80 years, how much longer can that be?

I should note for you that our federal government of the day provided cigarettes to our veterans as a gift and now it is being used against them and frowned upon. My, how things have changed.

Our Legion branches are for members and guests, and yes, they do rent to organizations for meetings; most times they are not charged a rental fee.

What are we asking for? We are asking that smoking be allowed in a portion of the members' lounge of the branches.

For your interest and information, I would like to provide some background details on the history of the Legion. The Royal Canadian Legion was officially formed in 1925 from a combination of other veteran

groups, including the Great War Veterans Association, which had been formed after World War I to help the many returned servicemen with the problems they encountered on returning home, including pensions, housing, jobs and so on.

The Royal Canadian Legion was also established to provide a place where like-minded persons could gather and enjoy each other's company. This has not changed to this day. The individual may be a veteran of World War I, World War II, Korea, the Gulf, Bosnia, Afghanistan or any other place where our servicemen and -women have been deployed. They are still protecting our way of life and should be respected and honoured as such.

Our commitment to honour those who have fought for our freedom to give us the life we enjoy today, a life which permits choice of religion and speech and so many other freedoms that are denied to many, is not taken lightly.

The Legion, as it came to be known, was federally incorporated, and has continued to this day as an organization with three main goals, in order of priority: (1) to ensure the care and comfort of our veterans, with adequate pensions, housing and medical care; (2) to promote the theme of remembrance so that their sacrifices will never be forgotten; and (3) to support our communities through our charitable foundation and bursary programs, our senior programs and our youth education programs, which include public speaking, track and field and many other youth-oriented programs.

A listing of our past years' accomplishments is enclosed with the submission for your perusal.

As previously mentioned, the Legion in Ontario consists of 428 branches and a membership of some 168,000 individuals. I mention this to elaborate on and emphasize the fact that we are a member-only, private organization that meets all the necessary criteria to be considered as such, through (1) the act to incorporate the Royal Canadian Legion; (2) the requirement for our members to pay annual membership dues; (3) the maintenance of membership records; (4) the bylaws of our organization, which provide for elected officers at all levels; (5) our status as a non-profit organization under the Income Tax Act; and (6) restricting access to our clubrooms that are not open to the general public.

We ask this committee to consider our request that a separately confined and ventilated smoking area be allowed in our Legions. We are aware that many of our branches will find it difficult to comply with this because of the cost involved, but we request that they be given the choice. As already stated, we consider ourselves a private, members-only organization, and this freedom of choice is requested to protect the rights of all, smokers and non-smokers alike. This area will not infringe on employees' right to a smoke-free environment, and would be maintained by volunteers. Public access would not be permitted.

With your indulgence, I would like to relate some concerns from a more personal point of view. I currently hold the position of zone commander, which entails the

responsibility of overseeing a number of Legion branches within my designated geographical area in Toronto. In addition, I am a member of the board of directors of the Tony Stacey Centre for Veterans Care, a facility located in the eastern part of Toronto. Adjacent to this facility is the Royal Canadian Legion, Highland Creek branch 258. Some of you may be familiar with branch 258, as they recently hosted the annual dinner for over 425 World War I and World War II veterans on April 17, 2005. First World War veteran Clark Laking, 106 years young, was in attendance, one of seven remaining World War I veterans in Canada. It is but a short walk for the residents of the Tony Stacey Centre for Veterans Care to get to branch 258. They enjoy coming down to branch 258 to have a smoke and a pint or two, listen to the entertainment and have a relaxing conversation with their friends. If this smoking legislation is passed and includes the Legion branches, not only will it have a negative financial impact on them, but the veterans will have to stand outside in the cold of the winter or the heat of the summer each and every time they want to have a smoke. In my opinion, our veterans have already made their sacrifices and should not be called upon to make any more through this smoking bylaw.

I thank you for allowing me to make this presentation on behalf of the Royal Canadian Legion as we celebrate, in this year 2005, the year of the veteran, and trust that every consideration will be given in exempting the Royal Canadian Legion from the smoking bylaw legislation.

I'd be pleased to answer any questions you may have. If I don't have the answer, I will get a written response back to you as quickly as possible.

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The Vice-Chair: Thank you, Mr. Adamson. The questioner will be Mr. O'Toole.

Mr. O'Toole: Thank you very much for the presentation, Zone Commander. I'm sure all members here want to commend the work that the Legions do, certainly as it represents the space, if you will, of the veterans in many cases.

I'm very familiar with branch 178 in my riding. I've met with them, I've talked to them about this issue—and I've often complimented the one in Port Perry and the one in Oshawa as well, along the same lines—to see how they've resolved this issue.

With respect to the armed forces, my oldest boy was a captain in the armed forces until recently. He has a Canadian decoration. He served as a helicopter captain and has been in war zones. He doesn't smoke. He's a practising lawyer now, but he's still a member as such, being that it's tradition. He feels the same way. When he goes back to town, especially Shearwater or places where he was located, he tells me, as I've heard you say, that they've dealt with it internally. In my riding of Durham, I've talked to the Legions there, and they've dealt with it democratically.

In Toronto, arguably, this is a lifestyle thing. It's pretty hard to make a definitive argument. It has been established by the OMA and others that smoking's bad

for you and you shouldn't do it and shouldn't be forced to be exposed to it. I concur with that. What we're looking for here is a transitional mechanism. It's the big stick or it's the way of finding harmony, especially with First World War veterans and that.

In all of the Legions in Toronto—there are some 40 in Toronto—has there been a process for them to vote democratically on whether or not they'd want to be smoking or non-smoking or have designated or negative ventilation? Has there been a process, as opposed to the current McGuinty government coming in with the big fist and just saying, "This is the answer. We're going to tell the veterans and the persons who fought for our freedom that, by the way, your freedom ends here"? How have you dealt with it?

Mr. Adamson: That's a very good question, and I appreciate you asking. I came here representing over 10,000 Legion members in the city of Toronto. We did get all the branch presidents or their executive members of the Legion branches in the city of Toronto—

Mr. O'Toole: Can I interrupt: Are you a smoker?

Mr. Adamson: No, I'm not a smoker.

Mr. O'Toole: So you're not biased here.

Mr. Adamson: I asked them, quite democratically, "How do you feel?" We went to them. If they had turned around and come back and said, "We support this. We don't want to have smoking in our Legion branches," they would have dealt with it accordingly. But unanimously all the branches said, "We want to have the right and the decision to determine on our own if we want to have smoking in our branches."

Mr. O'Toole: Now, some of them might decide to not have smoking.

Mr. Adamson: Exactly. By all means.

Mr. O'Toole: That's the democratic way. Normally, there are always two sides to every issue. In this case here, the evidence is clear.

What I put to you is, would you support some kind of exit strategy for the transitional mechanism for these designated smoking areas? I think that's the key that I'm looking for. We would like to put forward an amendment. Mr. Barrett's the lead on this, but I'm a member of this committee permanently as well. We would like to see a mechanism for them to find a much more inclusive way of getting to where we all want to be, which is no smoking. Wouldn't you say that this ventilation issue could be resolved by saying that by 2010, they will be gone, and no one has to serve there, making sure that all the regulations with respect to negative ventilation and ease of access—they may have to go outside to get back into the main building that's smoke-free. In my area, there have been separate ventilated areas that have been built in the last few years because of the lack of clarity.

Mr. Adamson: My thinking on this, and from speaking with other people, is that I don't think there's any doubt. No one can turn around and say that smoking's good for you. We recognize that smoking is not the healthy thing to do. But someone who has been smoking for 30 or 40 years, to now turn around and tell them that

they've got to go and sit outside in the winter to have a cigarette does not make sense to me. But I think, when you talk about 2010, we're going to get newer members. Unfortunately, people pass on, and we've got a lot of older Legion members now who are going to pass on, the ones who are smoking. Probably by then, as we get newer members in, it might well resolve it. We'll get new members in there, and it's the members who generate it. They can turn around and come out to their general meeting and say, "We don't want smoking in our branch, and that's it."

The Vice-Chair: That's the end of the time. Thank you for the presentation.

Applause.

The Vice-Chair: I'd like to remind the people here that there is no clapping.

HEART AND STROKE FOUNDATION OF ONTARIO

The Vice-Chair: The next presentation is Anthony Graham.

You have 10 minutes to make your presentation. The questions will be to Ms. Martel after the presentation, for five minutes. Just state your name when you begin.

Dr. Anthony Graham: My name is Anthony Graham, and I'd like to defer to my associate, Rocco Rossi, to start our presentation.

Mr. Rocco Rossi: My name is Rocco Rossi. I'm CEO of the Heart and Stroke Foundation of Ontario. On behalf of the Heart and Stroke Foundation, thank you for this opportunity to address Bill 164.

We strongly support the legislation and applaud the Ontario government for introducing it. A smoke-free Ontario is not only good health policy; it is an admirable goal that, if implemented fully, will save the lives of countless adults and children.

I am joined today by Dr. Anthony Graham, a former volunteer president of the board of directors of both the national and provincial foundations as well as a highly regarded cardiologist at St. Michael's Hospital here in Toronto. He's a recognized authority in Canada on the medical impact of smoking on cardiovascular health.

I would like to ask Dr. Graham to speak about the proven impact of smoking and the potential impact of this legislation. I will sum up after Dr. Graham has concluded.

Dr. Graham: What I am about to share with you is fact. It cannot be obscured by any theoretical argument about individual rights or potential economic impacts.

Fact number one is that tobacco is a highly addictive substance with deadly side-effects. There is no way around it: People who smoke almost always get hooked, and nearly 50% will ultimately die of tobacco-related diseases.

Each year in Canada, there are 45,000 deaths attributable to smoking, and 17,000 people die from cardiovascular disease because of tobacco use. The many poisonous chemicals found in tobacco smoke, including

the high doses of nicotine, narrow the arteries and drive up the blood pressure of the smoker. This is a deadly combination, putting extra strain on their hearts and blood vessels. It is why smokers are two to three times more likely to have heart attacks and why their heart disease rates are 70% higher than non-smokers. We can blame tobacco smoke for nearly one third of the people who die of coronary-related problems every year.

It is the same for strokes. If you are a smoker, you are three times as likely to have a major blood vessel block or burst, reducing or cutting off blood flow to the brain. The lucky ones merely have a brush with death; the unlucky ones are killed outright or suffer various types of brain damage, including paralysis, loss of speech, loss of memory and loss of cognitive function.

Those are the kinds of things that happen to people who smoke. Let me add three other sad, true points. First, each of these tragedies affects a broader circle of people, involving a family and friends through the loss of a loved one or the after-effects of a heart attack or stroke. Second, each and every one of these deaths and diseases is entirely avoidable. There is no reason for those 17,000 unnecessary funerals each year. Third, these smokers are not only killing and crippling and hospitalizing themselves; they are doing the same with many thousands of innocent bystanders.

Second-hand smoke kills an estimated 3,000 people in Ontario each year. If you are a non-smoker who is exposed to tobacco fumes at home, your risk of death from heart disease goes up by 30%. It may be even higher in the workplace, where people can be exposed to more smoke, more often. In fact, as one of the foci of Bill 164 is the creation of smoke-free workplaces, the committee should know that research on restaurant workers in Montreal found that working in a smoke-filled restaurant increases one's risk of heart disease by approximately 10%. You can also look at a 10-year study done by Harvard University which found that women regularly exposed to second-hand smoke almost double their risk of heart disease.

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In as little as eight minutes, your body is affected by that exposure. Your heart rate increases, the supply of oxygen to your heart decreases, your blood pressure goes up and your blood becomes thicker and stickier, increasing the chances of heart attack or stroke, all in just eight minutes.

In fact, there's no such thing as a safe level of exposure to second-hand smoke. Whether you smoke it yourself or inhale it at second hand, tobacco smoke is quite likely to kill you.

As a physician who deals every day in my clinical practice with real patients suffering from the effects of heart disease caused by smoking, I heartily support any legislation that helps protect people from tobacco smoke. It is my opinion, based on over 30 years of clinical experience, that this legislation will save thousands of lives. I congratulate the minister and the Premier for introducing this bill.

However, even the best legislation is not perfect, and I know that Mr. Rossi has some thoughts on how Bill 164 can be made better.

Mr. Rossi: Very briefly, we see improvements necessary in two areas of the bill: designated smoking rooms and retail displays.

DSRs simply do not work and have no place in a province serious about reducing smoking-related death and disease. A study of more than 100 DSRs in York region found that 78% failed their operational tests. Inspectors find DSRs with their doors propped open, ventilators turned off and systems not properly maintained. In some cases, children are allowed in the rooms or employees are required to work in them. It's simply not just, to make the risk of cancer, heart disease or stroke a condition of someone's minimum wage job.

My final point and perhaps the most important is an amendment we propose to protect youth from tobacco advertising by prohibiting tobacco promotion at the point of purchase. This should be a complete ban: no signs, no displays and certainly none of the so-called power walls that offer hundreds of packages of cigarettes at once—more than can be sold in that store on any given day or set of days.

Retail displays are the last vestige of tobacco promotion and advertising. Our governments have wisely stopped the tobacco industry from advertising their deadly wares everywhere else in our society. It is time to block this last avenue of promotion.

The tobacco industry will tell you that they are only trying to target adult smokers and to get consumers to switch brands. The truth is that retail displays encourage tobacco purchases. They encourage children to start smoking and tempt former smokers to pick up the habit again.

Retail displays are such an effective form of advertising that the tobacco industry pays \$300 million a year to design and build retail displays and otherwise promote their product. And there's the \$88 million a year that big tobacco pays to retailers for the right to put their products front and centre.

Why do they do this? Because it works. Research on primary school students in California found that kids who go to the corner store once a week and see all those cigarettes on display are 50% more likely to take up smoking. A survey of Ontario young people by the Non-Smokers' Rights Association found that our children and teenagers are extremely vulnerable. More than three quarters of them visit a convenience store at least once a week. Over 40% of them from non-smoking households are able to identify brands and their colours. Nearly all of them feel that they are getting a mixed message about cigarettes. On the one hand, they see a few ads telling them how bad cigarettes are; on the other hand, they get the collective weight of hundreds of million of dollars' worth of sleek displays and slick marketing heft in their faces every time they go to the corner store.

Remember that almost all smokers begin in their teens. At least half begin by the time they are 15. Retail

displays tell these young people that smoking is OK. "Here are the brands. Choose a colour you like, just like candy."

Remember, the tobacco industry knows that corner stores are where to reach kids and smokers. It is where they can reach the only age group where smoking is on the rise—teenagers between 15 and 19—and where they can reach the estimated 75% of smokers who are trying to quit.

The Vice-Chair: You've reached your time limit. Could you just sum up in 30 seconds?

Mr. Rossi: Although Bill 164 appears to ban retail displays, a careful reading of subsection 3(1) of the bill shows the potential for a very serious loophole that must be closed. That section says that restrictions on displays will be determined by regulations to be determined behind closed doors after the bill is passed, not in public hearings and not part of the legislation. We believe this must be changed.

Ms. Martel: Thank you for your presentation this afternoon.

Dr. Graham, I wondered if I could ask you this question. It wasn't referenced in your remarks, so I'm not trying to trick you; I'm trying to call on your medical expertise. The bill right now says that no person shall smoke or hold lighted tobacco in a number of places or areas. It talks about a school, it talks about grounds around private schools, it talks about common areas in a condominium etc. It also references "a place where private home daycare is provided" within the meaning of the Day Nurseries Act. That means a private home daycare that's regulated by the provincial government "during the time of day that daycare is provided": during the time of day that kids are there.

I have two young kids of my own, who used high-quality regulated child care where there was no smoking. My concern is this: it's great that the smoking can't occur when the kids are there, but it's OK if the owner is smoking half the night and smoking up till five minutes before the kids show up. I have some real concerns about how effective that is in terms of protecting some of our youngest Ontarians. I don't want to take you off guard, because you didn't reference it here, but can you talk to the committee about how realistic that is in terms of really protecting children?

Dr. Graham: Thank you for the question. We know that young people are particularly vulnerable to exposure to second-hand smoke, particularly children. We know this is the case in utero. We know it is the case in youngsters at home. Exposure in a daycare environment, I think, is just like a home; it's for an extended period of time. Certainly, my own view as a health care professional would be that this should not be allowed.

Ms. Martel: One of the amendments that I'll move—I referenced this when I spoke on the bill, so this is not a surprise to the government—is that if someone wants to be regulated by the provincial government to provide child care, then there should be no smoking in that environment, period, if you want to be a part of that.

Dr. Graham: I would strongly support that.

Ms. Martel: So there is a risk there that is not going to be taken away by just smoking when the kids aren't there.

Dr. Graham: A most significant risk.

Ms. Martel: I don't have any other questions, actually. I've been looking for someone to ask that question of, and thank you. You filled the bill.

The Vice-Chair: Thank you for the presentation.

We now have the Ontario Tobacco Research Unit.

Ms. Judy Marsales (Hamilton West): On a point of order, Mr. Chairman: We've been given a notice that the mayor of the host community tomorrow has requested an opportunity to present. I just want confirmation, given that it is the host community and given that we'd like to demonstrate our interest in the farmers, that they will be provided some opportunity tomorrow.

The Vice-Chair: This is the host community tomorrow?

Ms. Marsales: Yes.

The Vice-Chair: I look for direction from the committee on that. We're full up as it is. I'd just like direction on this.

Mr. Barrett: I've had a number of phone calls from Steve Molnar, mayor of Tillsonburg, and e-mails—I think maybe the same e-mail. I know we wanted to have hearings in Tillsonburg. I notified the mayor of the hearings. I do know he registered to be a deputant. Ernie Hardeman will be there tomorrow. Ernie has suggested—and I think it goes with the regulation—to, at minimum, ask the mayor to bring greetings either at the commencement or at the very end, but not to bump anyone out who is a properly registered deputant. Those are just my thoughts on it.

The Vice-Chair: Is there a motion to that effect?

Mr. Fonseca: All three parties had a chance to choose their presenters. In all fairness to everybody who was not able to present in person, I don't feel that this would be right. In all fairness to everybody who was not chosen to present, this would not be acceptable. Mr. Barrett had the opportunity to put the mayor on the roster to present.

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Mr. Barrett: I did put the mayor on the roster.

Mr. Fonseca: He was not chosen as one of your—

Mr. Barrett: He was not chosen, no, as we know. I don't know whether the third party has any comment.

Mr. Fonseca: Why was he not chosen?

Ms. Marsales: Would it be possible, as a solution—

The Vice-Chair: He was an alternate, is the information I have.

Ms. Marsales: —as a solution, to bring greetings over lunch, perhaps, tomorrow?

Mr. Barrett: There were 173 people not chosen: associations and delegates. We have a serious problem here.

Mr. Fonseca: I understand. That's why I bring up the point of fairness.

The Vice-Chair: Do we have a motion?

Ms. Marsales: Could I seek unanimous consent, then, to have the mayor bring greetings over lunch to us tomorrow?

The Vice-Chair: Do we have unanimous consent to have the mayor of Tillsonburg present tomorrow?

Ms. Martel: I have a point of clarification. I've heard two different things. I've heard the member ask for the mayor to bring greetings, which, in my opinion, is a different thing from the mayor making a presentation on this bill. So which is it?

Ms. Marsales: The mayor has asked to bring greetings minimally. So I would be comfortable with that. I'll defer to anyone else who has more information.

Mr. Barrett: We may want to make a decision tomorrow morning in Tillsonburg. The mayor will be there in the morning.

The Vice-Chair: It'll be deferred, then, till tomorrow morning. Is that acceptable?

Mr. Fonseca: I say we take care of this right now, rather than go into Tillsonburg. There may be a conflict there.

The Vice-Chair: Do we have unanimous consent that we have introductory remarks by the mayor of Tillsonburg tomorrow morning?

Mr. Fonseca: Agreed. Mr. Chair, how long would we—greetings we agree upon, yes.

The Vice-Chair: We'll leave it to the committee for the time. Is there a motion?

Ms. Marsales: I'll move that we allow the mayor of Tillsonburg to bring greetings. That's a sign of hospitality.

The Vice-Chair: Do we have agreement on that?

Mr. McMeekin: We would be pleased to have the mayor bring greetings.

The Vice-Chair: That's agreed. So we can get on now with the presentation.

ONTARIO TOBACCO RESEARCH UNIT

The Vice-Chair: You have 10 minutes to make your presentation. Please state your name when you start for the purposes of recording Hansard.

Dr. Roberta Ferrence: I'm Roberta Ferrence, with the Ontario Tobacco Research Unit, and I'd like to thank the committee for the opportunity to speak here today.

I'm speaking on second-hand smoke, economics and health. I'm with the Ontario Tobacco Research Unit, which is a research component of the Ontario Tobacco Strategy. We provide independent evaluation of the strategy and carry out a lot of research on tobacco.

I'd like to let you know about the new source of information on the health effects of second-hand smoke just out from the California Air Resources Board. I have handouts here, so if anybody wants to go to the Web site. I'll speak briefly about some of the effects that have been determined at this point.

Developmental effects in children—and I know children are a priority for this government: sudden infant death syndrome, which is a terrible tragedy for any

family; low birth weight; and it may be a cause of a number of other physical problems. It's a confirmed cause of respiratory effects, in particular bronchitis and pneumonia in children, and other respiratory systems, ear infections, and asthma. It may make cystic fibrosis worse, decrease lung function, and so forth.

Everybody knows that second-hand smoke is a cause of cancer—not just lung cancer but sinus cancer and, most recently confirmed, breast cancer, which is a very serious issue. It may also be a cause of cervical cancer, brain cancer, bladder cancer, and lymphomas in children.

As you've just heard, it's a confirmed cause of cardiovascular effects, including heart disease and stroke, and other vascular diseases. There's an estimate of up to 2,600 deaths a year in Ontario, and these estimates are based on the knowledge we have today, which is, as time goes on, the problem is that when you do these kinds of studies, they've only been asking about second-hand exposure for maybe 10 or 15 years in studies. So it'll take us another 20 or 30 years to measure the full impact.

I'd like to mention a study that was done by Barnes and Bero and published in *JAMA*, a prestigious journal, in 1998, where they looked at the literature on second-hand smoke and found that one third of the literature showed no harmful effects, but that three quarters of these authors were affiliated with the tobacco industry. They found no other factors associated with outcome. This is a warning in terms of looking at what is produced. There are serious biases in the literature that comes from the tobacco industry.

Who is exposed? What we found is that young people aged 15 to 24 had the greatest exposure both at home and at work. I'll show you some data that we have collected. This is from a Canadian tobacco use monitoring survey. You can see that a quarter of young people 15 to 24 are exposed at home, and 50%—this is in 2003—are exposed in the workplace.

You probably know that young people in particular are employed by the hospitality sector. These are people who are not unionized. They're mobile. They don't really have much influence on their workplaces. Most of them who are there have to work. The flight attendants got smoke-free airplanes years and years ago because they were very well organized, but young people haven't been able to do that. Given that youth are a priority for this government, I think it's critical that we protect young people, primarily because it's a workplace but also because most of the people in bars are young people as well.

I'd like to say a few words about the literature on the economic impact of smoke-free legislation on the hospitality sector. Rita Luk, my colleague, and I recently prepared a report for Health Canada on this topic, and it will be on their Web site when it's translated into French. We reviewed 115 studies in 35 different states and provinces and several different countries. Thirty out of 30 of the studies that used the best methods for establishing causality concluded that there was no negative impact on the hospitality sector. Of those who used objective data,

which is also important, a majority concluded that there was no negative impact. Another design would be patron and owner surveys, which are self-reported data—they're not objective—and a little over half of them concluded "no negative impact."

When we looked at the 38 out of 115 studies that reported a negative impact, we found that most of these had used patron or owner surveys, and most were funded by the tobacco industry or by organizations with links to the industry. So there's also a problem there.

What did well-conducted Canadian studies show? There are two: The BC Workers' Compensation Board in 2001 concluded that smoke-free legislation had no negative impact on liquor purchases over the long term, and a study conducted by our research unit concluded that the Ottawa smoke-free bylaw had no negative impact on sales in restaurants and bars.

Bars and gaming facilities: There are two high-quality studies on bars in Texas and California that reported no negative impact. Perhaps of interest here is that two high-quality studies on gaming facilities—one on video lottery machines in racetracks and the other on bingo and charitable gaming in Massachusetts—also found no negative impact.

I'd like to say a few words about the Evans report released by the Fair Air Association and the Pub and Bar Coalition of Canada recently. I could spend half an hour on this, but I don't have it. The key problem with this study is that they used only 100 bars and pubs in Ottawa, and there were no sample sizes given for the other communities. They didn't have a total sample. They picked, as far as we can tell, places that had the highest sales of beer, and they are not necessarily representative of all bars or licensed outlets.

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They also excluded new bars from those they took, but they didn't exclude those from their denominator as a proportion of all retail sales. Also, for some of the other communities, there was no pre-ban data for Kitchener and very short post-ban periods for London and Kingston. The Fair Air Association has said publicly that they do receive industry funding.

What about public support for bans on smoking in workplaces, restaurants and bars? These will be my last data. The Centre for Addiction and Mental Health has been monitoring public opinion in Ontario since the early 1990s. I'm showing some data here; I'm sorry that those in the audience can't see it. What we're seeing is an increase in support in all three venues. The largest increases are for restaurants and bars, with restaurants going from 24% up to 57% in only six years and bars going from 10% up to 34%. The interesting thing is that we also looked at it separately for smokers, and we're seeing even stronger increases, quite substantial: from 24% up to 44% for workplaces, from 6% up to 36% for restaurants, and from 1% up to 13% for bars.

What we do know is that when a community changes its legislation and introduces smoke-free bylaws, it really ups public support for that. We're seeing just a straight

line going up for a number of these, so we can expect that this will continue to climb.

The Vice-Chair: Your time is up. You have about 20 seconds to wrap up.

Dr. Ferrence: I'm on my last slide.

What can we conclude from this? Second-hand smoke is a major cause of death and disability. Support for bans on smoking in public places is increasing dramatically among the general public and among smokers. There's no evidence from studies published in scientific journals for a negative impact of smoke-free legislation on the hospitality sector. Finally, the findings of research funded by the tobacco industry and related groups do not support those of the academic community.

The Vice-Chair: Thank you for your presentation, Dr. Ferrence. The questions go to the Liberals.

Mr. Fonseca: I'd like to thank Roberta and the Ontario Tobacco Research Unit, especially for bringing forward many of the facts that the official opposition always ask for. They'll always bring up, "What did the coroner's report say? Did it say 'due to smoking,' in terms of the cause of death?" You've brought up many of the cancers and other illnesses that lead to death due to someone's smoking or to the harmful effects of second-hand smoke.

I'm also glad that you brought up Ottawa and some of the other jurisdictions like Kitchener, Sudbury and other municipalities that have taken that giant step forward toward a smoke-free Ontario and have helped us out in this process.

This came out last week in the Metro paper in Ottawa: "Ban Hurting Bars? No Way" The reason I bring that up is that often we hear from those who may have DSRs or some within the hospitality industry who would like to see open smoking in the workplace, and the harm to Ontarians, continue. The Fair Air Association and Karen Bodirsky will be coming up soon. I hear their ads on the radio, and they put out all this false information. They'll say things like that we are not allowing people who want to smoke in public places, but someone who is in prison—and it'll be in federal prison, which we don't have jurisdiction over. The listener won't really understand that. They'll say that someone in federal prison is allowed to smoke. We wish they weren't allowed to smoke in federal prison, but that's something that has to be taken up with the federal government.

What we're doing here in Ontario is making sure that we can bring the strongest piece of legislation forward. It's unfair that the Fair Air Association would bring forward such untrue "facts," as they claim them to be.

As tobacco use is the number one preventable cause of death, we wanted to make sure that people know that half of all those who use tobacco are dying because of that usage.

We know that big tobacco preys upon our youth. Within this piece of legislation, we made sure that the onus was put on retailers: "No person shall sell or supply tobacco to a person who appears to be less than 25 years old unless he or she has required the person to provide

identification and is satisfied that the person is at least 19 years old." That did not happen in the past; we know that many youth did go in and purchase tobacco. Can you tell me a little bit about that? Have you looked at studies where youth come into retail places that distribute the product, and how they've been able to purchase it? What do you think about looking at now to see that they are at least age 25?

The Vice-Chair: We only have a minute for the answer.

Dr. Ferrence: OK. It's a very difficult situation, because you've got corner stores on every corner in the city selling tobacco. It's really impossible to enforce properly. It's a big gap in our tobacco control system. We're having all these restrictions, we're raising prices, we're doing all these other things, and yet, there it is, everywhere you go to buy some candy.

It's probably very difficult politically at this point to treat tobacco like alcohol and get it into special stores, but the next best thing would certainly be to not have it visible. Visibility is one of the critical things in tobacco control, whether it's kids seeing displays in stores, as was pointed out earlier, or whether it's people who've just quit smoking who walk into a bar and see other people smoking, so they relapse. This is one of the critical things.

The Vice-Chair: Thank you very much.

FAIR AIR ASSOCIATION OF CANADA

LEONARD PARENTE

C'EST WHAT?

The Vice-Chair: The next presentation will be from the Fair Air Association of Canada. I'd just remind the presenters that you will have to remove the buttons before you sit up here.

Mr. Barrett: Do ribbons need to be removed?

The Vice-Chair: I think the button will have to be removed.

Interjection.

The Vice-Chair: I don't see any ribbons. I'm just wondering, why the question?

Ms. Marsales: Excuse me, Chair: We have unanimous consent in the Legislature to wear these today.

Mr. Barrett: The standing committee is the Legislative Assembly.

The Vice-Chair: That's true. We had permission in the Legislature today, so they are permitted.

Mr. Barrett: I don't mind the buttons.

The Vice-Chair: You must remove the button.

Ms. Karen Bodirsky: Done.

The Vice-Chair: You have 10 minutes to make your presentation. State your name for the purposes of Hansard.

Ms. Bodirsky: I want to thank the committee for allowing me to make a presentation today. I am Karen Bodirsky, CEO of the Fair Air Association of Canada. I'm so glad our ads have had an impact, Mr. Fonseca.

We represent the hospitality industry on a range of issues related to smoking bans. We believe that a fair, reasonable answer to the questions you face is to allow ventilated smoking rooms to be offered by the hospitality industry. We are supported by our members across Canada, which include hundreds of bars and pubs, nearly 1,000 hotels, large ventilation companies and individual ventilation engineers, tobacco manufacturers, the beverage industry, many hundreds of bingos and a lovely family-run bowling alley in Niagara Falls.

Last week at Queen's Park, I presented an economic impact study, based on numbers from the Ministry of Finance and using methodology espoused by the last speaker you heard from, that clearly demonstrates the great harm done to the hospitality industry by smoking bans.

I thought it was important that you hear the message first-hand. As a result, today I'm joined by Leonard Parente, who will speak on behalf of charitable bingos, and Tim Broughton, who is co-owner of the C'est What? restaurant in Toronto. I'll ask Leonard to speak first, if I may.

1800

Mr. Leonard Parente: Thank you. My name's Leonard Parente. I represent the bingo industry. There are 4,000 Ontario charities involved in bingo in Ontario in about 100 bingo halls throughout the province. Many of our charities are names well known to you, such as the CNIB, the March of Dimes, the Heart and Stroke Foundation, Variety Village, the Diabetes and Lung Associations, Rotary, Kinsmen, the Knights of Columbus: all recognizable names.

Our charities use about 100,000 volunteers and bingo workers across this province to come to bingos and raise funds for programs and services that government cannot provide. We've referred to the bingo industry as being the glue that holds Ontario together. It creates the supply of programs and services that government cannot provide for people.

I want to show you a little map of Ontario. The areas outlined in green are the municipalities, representing about 6 million people, where bingos are permitted to have DSRs. Our DSRs are physical barriers; smoke does not cross from the DSR into the other part of the room. They are inspected regularly. We own a hall in Toronto, and Toronto municipal health is down there every two weeks to do a test. The DSR is negatively pressured; the air is exhausted out. The test that the municipal bylaw enforcement officer uses is that he holds a Kleenex up to the door, and if it sways into the room, he's not going to cite you for a violation. So we're inspected regularly and there are no violations. If there are, we have to either stop the smoking in our DSR or fix it within a couple of days. We've had no infractions.

The map shows 38 red and blue dots. Each dot represents a bingo hall in Ontario. If Bill 164 goes through as planned, the red dots—there are 28 of them—were bingo halls that we believe will close. The blue dots are the 10 that will remain in that area.

There are 2,400 charities just in this area being served by those 38 bingo halls, and we estimate that 1,600 of them will be displaced. Those charities will have to curtail their programs and services to the about 3 million people who benefit from the work these charities do. We are humbly asking you to allow us to retain our DSRs so we don't have to go out of business. Our industry has spent tens of millions of dollars putting in these DSRs, and we'd like to see them remain.

On the map, you can also see the places that have gone through the legislation that you were talking about, such as Guelph. Guelph had three bingo halls serving about 100 charities; today it has no bingo halls. All of its 100 charities are out of business. It's the same thing with Waterloo and Collingwood, and other municipalities have had the same bad experience. We don't have to go to Massachusetts for a study; we've got it right here in Ontario. We know what happens to bingo proceeds when municipalities go 100% no-smoking without DSRs.

The last point I'll tell you is that 70% of our customers are smokers. We're not here to promote smoking and we don't disagree with anybody who says smoking kills. But we have controlled, adult-only facilities. Nobody who doesn't want to work in our DSR goes into our DSR. No one under the age of 19 is permitted in our DSR. We need our customers. If we lose our DSRs, we'll lose our customers to Internet bingo. The unfortunate side effect is that those people will play bingo on the Internet and smoke at home, where 80% of the people are non-smokers. We've got smoke in an area where only smokers are now, in DSRs in bingo halls. If we enact this legislation, we will force those people back into their homes to play Internet bingo, hurt our charities and create more second-hand smoke in those people's homes. We ask that you allow us to retain our DSRs and that you not destroy the charity bingo that's so important to the province of Ontario.

Ms. Bodirsky: If we may, Tim Broughton has a few words for you as well. Anyone who's been in Toronto much and has been to C'est What? will know that they have one of the best DSRs in the city. He has a number of insights to share with you as well.

Mr. Tim Broughton: Thanks for the high praise. I can't speak for any industry; I can only speak for my own restaurant. In terms of where we are, Bill 164, unfortunately, is going to create very unfair competition. After DSRs are banned, any restaurant with a patio—and there are quite a few within a block of my restaurant—will be able to serve smokers, and I will not. We're in a heritage building. There are absolutely no sidewalks we can use. We'll be at a severe economic disadvantage. It strikes me that a province-wide ban was designed specifically to avoid an unfair playing field. It's trying to make things even for everyone, so you don't have municipalities with different bylaws.

The smoking room right now is responsible for generating somewhere between 20% and 30% of my total sales. If the DSR ban goes ahead, I stand to lose, if not all of that, certainly a significant portion of it. We invested

about a quarter of a million dollars in our smoking room. We built it to the same standards as the smoking room that is allowed under Bill 164: No children are allowed in, it's separately ventilated, and no employees are required to enter. I understand that this is different from other smoking rooms that people have built. These standards—no children, separately ventilated, no employees—are exactly the same standards that are required for a DSR in a nursing home. If those are acceptable, I don't see that there's a public health reason to close mine. It operates the same way.

I think I've identified a problem with this legislation, certainly for my restaurant, and there are probably others in the same situation. Let me suggest two solutions. First of all, amend the bill to allow DSRs that do meet that nursing home standard. I don't think that's unreasonable, because we've dealt with the public health issue. However, we're Canadian, so let's compromise. There's a slight variation on that. You could allow licensees—restaurants—to choose to have either a patio or a DSR. What does that mean? The economics of a patio are clear: They're cheaper to operate, they're cheaper to build, and they're much more lucrative than a smoking room. Given a choice, patios are always preferable, so there will not be a proliferation in the number of smoking rooms. That will give restaurants like mine a chance to compete, and it does not involve any compromise on public health. The DSRs should be built to that nursing home standard.

No matter which solution you choose, and I'm sure there are others that might do it, I just ask you very strongly, do not set up a situation where I can't compete with my neighbours. Thank you.

The Vice-Chair: Thank you for the presentation. You have another minute, if you wish.

Ms. Bodirsky: If I may, I would like to address some of the claims that were made in some earlier presentations. I take issue with the suggestion that DSRs don't work; in fact, they're a very effective solution that is in use now in British Columbia, where ventilation is the standard. It's administered by the Workers' Compensation Board. In that province, workers are allowed to spend no more than 20% of their shift in DSRs, and they certainly have the right to refuse to work there altogether, without fear of penalty.

When you look at ventilation as an option, a number of very substantial studies show that it works effectively. As an organization, we fully support penalties being imposed on businesses that don't properly maintain DSRs. But to suggest that they should take the investment that they've already put into these units to serve their customers is to suggest that a substantial portion of the bar and pub owners in this province, and by extension the bingos and other organizations—they're facing very real economic hardship as a result of the legislation as it currently stands.

The Vice-Chair: We'll go to questions from Mr. Barrett, of the official opposition.

Mr. Barrett: I thank the three of you. In fact, I'll point out that it looks like you've tag-teamed. I'm glad

that some other organizations were able to get on. There are 137 that won't get on, and that's regrettable. I know that in one of the presentations, Dr. Evans's research was questioned in that they only looked at 100 bars and pubs in Ottawa. I'm afraid this committee is only looking at about 78 delegates. Whether that skews it at all, I don't know. I have heard a tremendous amount of information, and I think there's an awful lot more, in terms of the impact of this legislation, than perhaps even the government thought in the first place.

Dr. Evans's report: You did a news conference a week or two ago and identified that the \$1-billion cost to bars and pubs in Ontario didn't include restaurants or doughnut shops and 50,000 jobs. Any comment on that? We just recently heard that it was questioned that it only used 100 bars and pubs in Ottawa and that the Fair Air Association receives industry funding. That was raised on some of the research, that it was funded by industry or the private sector. We don't have the figures, but a lot of the other studies are funded by government, oftentimes through a health unit that has maybe already taken a position. Any comment on that? You may have been here when that was being discussed.

Ms. Bodirsky: Unlike you, I have not been here for the entire day—I'm sure you're all very tired—but I was here for that. Two points, if I may.

First of all, you suggested that a number of people have gone unheard in this hearing process, and you're quite right. While it was my pleasure to ask Leonard and Tim to accompany me today, the reason I did was because there are so many people who feel they are going unheard in this particular debate.

In terms of Professor Evans's study, yes, it studied the top 100 bars in Ottawa and similar numbers in the other jurisdictions as well. The reason this was done is because the professor looked at sales tax data, sales tax receipts for these places. We're talking about an incredible quantity of data, which, I would add, is freely available and is attached to the report itself, which is somewhat unusual for many of the reports that were referenced in earlier presentations. Usually they don't let you see the data on which their outcomes are based. This is Ministry of Finance data. It took a year of freedom-of-information requests to get this information in the first place. This is as much as we could get, and after a year we said, "OK, this is all we're going to get. We're going to work with this." I'm very comfortable with the results. Professor Evans stands by them, as do we. The numbers speak for themselves.

There is significant harm. You can look at the report. If you talk to real bar and pub owners, if you talk to real bingo operators, as opposed to people who claim to be experts in these fields, then you will hear very clearly that there is economic impact. I think you're right. There is often a predetermined outcome to many of the studies. In this case, we were able to acquire the data and put it through a rigorous analysis, and at the end of the day, the data spoke for itself. If the data had shown that there was no economic harm, frankly, we wouldn't have released

the study. I can tell you that in every case where we have done research, we've released it, because the numbers do indicate very clearly economic harm. We're not hiding anything. What we are doing is making information available, information that the government has available to it as well. We would urge the government to look at that data. If there is any question about the information that was used, I would suggest strongly that you do your own analysis and let us know what results you find.

The Vice-Chair: Thank you very much. The time is up.

I wish to thank everyone who made presentations here today. They're excellent presentations. Unfortunately, not everyone can be heard. Thank you very much. There are no more presentations today. We'll just declare this meeting adjourned until tomorrow morning in Tillsonburg at 9 o'clock.

The committee adjourned at 1812.

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Ms. Monique M. Smith (Nipissing L)

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