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Tuesday 24 November 2009

**Journal
des débats
(Hansard)**

Mardi 24 novembre 2009

**Standing Committee on
Social Policy**

Occupational Health
and Safety Amendment Act
(Violence and Harassment
in the Workplace), 2009

**Comité permanent de
la politique sociale**

Loi de 2009 modifiant la Loi
sur la santé et la sécurité
au travail (violence et
harcèlement au travail)

Chair: Shafiq Qadri
Clerk: Katch Koch

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Tuesday 24 November 2009

Mardi 24 novembre 2009

The committee met at 1556 in committee room 1.

OCCUPATIONAL HEALTH AND SAFETY AMENDMENT ACT (VIOLENCE AND HARASSMENT IN THE WORKPLACE), 2009

LOI DE 2009 MODIFIANT LA LOI SUR LA SANTÉ ET LA SÉCURITÉ AU TRAVAIL (VIOLENCE ET HARCÈLEMENT AU TRAVAIL)

Consideration of Bill 168, An Act to amend the Occupational Health and Safety Act with respect to violence and harassment in the workplace and other matters / Projet de loi 168, Loi modifiant la Loi sur la santé et la sécurité au travail en ce qui concerne la violence et le harcèlement au travail et d'autres questions.

Le Président (M. Shafiq Qaadri): Collègues, j'appelle à l'ordre cette séance du Comité permanent de la politique sociale.

We'll begin the hearings, as you know, on Bill 168, An Act to amend the Occupational Health and Safety Act with respect to violence and harassment in the workplace and other matters.

As my colleagues and all members can see, we have a vote in approximately 25 minutes, so we'll obviously adjourn within reasonable transport time for that.

We have protocol, as you know: 10 minutes per presenter. That will be strictly enforced with military precision.

CANADIAN AUTO WORKERS UNION

The Chair (Mr. Shafiq Qaadri): I would invite now to begin the day's proceedings Ms. Sairanen and Ms. White of the CAW, the Canadian Auto Workers union. Welcome; I'll be starting your time in a moment. Please do introduce yourselves individually. That, of course, goes for all presenters as you are being permanently recorded in Hansard. Please begin.

Ms. Sari Sairanen: Great. Thank you very much. My name is Sari Sairanen. I'm the national health and safety director of the Canadian Auto Workers union.

I have two colleagues with me. On my right are Julie White, the director of our women's program, and Jamie

Wright, who is the chair of the CAW's health and safety committee.

Bill 168 introduces enhanced protections against workplace violence, new measures to address workplace harassment, and a pioneering measure to include violence and harassment that occur as a result of domestic violence.

While this legislation is an important step forward, in its current form the bill separates definitions of "workplace violence" and "workplace harassment," and sets out separate provisions to address workplace violence, harassment and domestic violence. The result is that the legislation continues to emphasize the risk of physical violence rather than focusing on the continuing behaviours that result in risk to safety, well-being and health.

Ms. Julie White: My name is Julie White, director of the women's programs for the Canadian Auto Workers union. I'd like to speak to the importance of ensuring that workers have the right to refuse work, based on serious harassment and/or violence in the workplace.

We believe that a worker who has reason to believe that workplace-related harassment or violence is likely to endanger him or her must have the right to refuse work under the Occupational Health and Safety Act.

It's imperative that a worker who is facing harassment or violence in the workplace have the same protections under the act as a worker who faces any other workplace hazard. Harassment and violence should be recognized for what they are: workplace hazards.

The right to refuse work, in the cases stated above, was first negotiated between GM, Ford and Chrysler and the Canadian Auto Workers union in December 1994, nearly 15 years ago. While most issues of sexual harassment continue to be handled through the joint harassment policy, both the union and the company recognized and understood the need for added protection mechanisms for workers who find themselves facing serious cases of harassment and/or violence, including threats of violence. The union and the employer understood that if unresolved, the situation could potentially escalate to a more serious situation.

The CAW's experience with the right-to-refuse language indicates that there is a very low number of recorded incidents where the right to refuse was enacted by a worker. This was not achieved merely by the policies and procedures alone, but by joint collaboration between the union and the company to create a culture in the

workplace that clearly supports safe and healthy workplaces through enforceable policies, procedures and workplace training. The right to refuse, in our experience, is not a detriment to employers, as others may have led you to believe, but in reality has been a successful collaboration over the last 15 years.

The right to refuse has developed a workplace culture that fosters healthier relationships and creates safer workplaces for everyone. It took courage, nerve and, yes, even guts 15 years ago from a small group of people who had the vision that they could create a workplace free from harassment and violence. Today, you have that same opportunity.

Thanks for your attention.

Mr. Jamie Wright: In addition to the other comments, I would like to focus my time on the application and deficiencies of section 50 of the Occupational Health and Safety Act as it applies to Bill 168.

Section 50 of the Occupational Health and Safety Act, as you know, provides protection to workers from reprisals by the employer for exercising their rights and seeking enforcement under the Occupational Health and Safety Act. Bill 168 will give employers additional duties and responsibilities, and also provide workers extended rights such as the right to refuse when they have reason to believe they could be harmed due to workplace violence and harassment.

This is good, but the problem is that if a worker has experienced violence or harassment in the workplace, it is conceivable that they would be intimidated in many ways by the employer or supervisor not to exercise their rights, such as the right to refuse work, thus in a round-about way making these rights ineffective to the worker. In practical terms, I would suggest that section 50 does not provide the protection it should to a worker who is looking for the act to protect them, especially if they're facing violence or harassment in the workplace. Let me explain what I mean.

If a worker feels they've been reprimanded against, intimidated or coerced by the employer or supervisor because they have sought protection under the act, they have two options available to them to deal with the reprisal: (1) They can file a grievance, if they're a unionized worker, or (2) they can file a complaint with the Ontario Labour Relations Board by filling out form A-53. Neither of these procedures is effective in the short term. They take weeks or months to reach a resolution. I would suggest to you that filing a complaint with the Ontario Labour Relations Board is an involved procedure that most workers would have difficulty completing per the board rules—and would most likely not pursue the complaint and suffer through the effects of reprisal from the employer.

The Ministry of Labour can and should take a more active role, as in the other Canadian jurisdictions. Bill 168 should be amended to give inspectors the power to investigate section 50 complaints of reprisals on workers. These powers should include the ability for inspectors to issue orders and recommend prosecutions. Amending

section 50 of the Occupational Health and Safety Act would provide workers with one more layer of protection from harassment and violence in the workplace, adding teeth to Bill 168, reinforcing the message to workplaces that any interference with a worker seeking the very protection Bill 168 provides, through intimidation and coercion, will be dealt with immediately and strongly by the Ministry of Labour and its inspectors.

Ms. Sari Sairanen: In summary, we would like to have seen a violence regulation instead of amendments to the Occupational Health and Safety Act. The definition of violence excludes psychological violence. There is a lack of recognition of violence as an occupational hazard. There is a lack of recognition of joint health and safety committees' and/or health and safety representatives' role in the workplace. As well, the right to refuse excludes psychological violence and harassment. And as my colleague Jamie has elaborated on regarding section 50, reprisals remain untouched.

That is our submission.

The Chair (Mr. Shafiq Qadri): Thank you very much. We have a minute or so per side, beginning with the Progressive Conservative caucus. Mr. Hillier.

Mr. Randy Hillier: It's clear that this bill has generated a lot of interest, as seen by the number of people in attendance. I'm also quite surprised to see the number of submissions from people who, unlike you, didn't get the opportunity to make a deputation to this committee. I think it's clear that the government should allow for more time during committee to actually hear from these people, hear their good comments and make amendments where required.

The Chair (Mr. Shafiq Qadri): Ms. DiNovo.

Ms. Cheri DiNovo: We in the New Democratic Party absolutely agree, and plan on putting forward an amendment to extend the definition of violence to include psychological violence, harassment, bullying etc. I appreciated your comments too about workplace inspection—just a comment aside that health and safety committees exist in less than half of the employers. That's part of our problem, of course, but there need to be regulations to make sure that whatever we pass here is enforced. That's problematic as well, but we'll do our best. Thank you for coming before us.

1610

The Chair (Mr. Shafiq Qadri): The government side: Mr. Dhillon.

Mr. Vic Dhillon: Thank you for appearing before us today. I know you folks have been working with the ministry on this issue.

Would you agree that the policy and program approach in the bill is a good start for raising awareness and beginning to deal with harassment in the workplace?

Ms. Sari Sairanen: Well, it certainly is a good beginning. We appreciate the opportunity to appear in front of the committee and look forward to further discussions on this, as we stated in our submission. This is a good beginning, but it's not the end.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Dhillon, and thanks to you, Ms. Sairanen, Ms. White and Mr. Wright, for your deputation on behalf of the Canadian Auto Workers.

The Chair would ask the committee: Shall we proceed with one more presenter for a further 10 minutes, which will clock us down to about five minutes to the vote, or adjourn now?

Interjection: I think we can go on.

The Chair (Mr. Shafiq Qaadri): All right, fair enough.

COLLEGES OF ONTARIO
OCCUPATIONAL SAFETY AND HEALTH
ADMINISTRATORS

The Chair (Mr. Shafiq Qaadri): I now invite Ms. Mulrone, of the Colleges of Ontario Occupational Safety and Health Administrators, to please come forward. Welcome. I'd invite you to please begin now.

Ms. Kim Mulrone: My name is Kim Mulrone, director of employee health, success and continuity at Seneca College. I am here today representing the views and recommendations of the Colleges of Ontario Occupational Safety and Health Administrators committee, an advisory committee under the framework of Colleges Ontario. We are a professional association of occupational health and safety management staff and practitioners at the 24 colleges of applied arts and technology in Ontario, and we appreciate the opportunity to provide input to proposed Bill 168.

We recognize that workplace violence represents a very real safety hazard to workers, and should be addressed, like other safety hazards, from within the regulatory framework of occupational health and safety. Other provinces have introduced workplace violence legislation under their respective health and safety laws, and we applaud the government of Ontario's move to adopt similar laws.

This piece of legislation has been long awaited—perhaps too long for the victims of workplace violence and their families—and we do not want its intent to be compromised or diminished in any way.

Our concerns lie primarily with operationalizing this piece of legislation, based on language, in some sections, that is somewhat subjective and ambiguous. However, we do believe that, with some minor alterations, the intent of the bill can be protected and employers will be able to comply without causing undue burden in terms of responding to frivolous complaints. It will also ensure that the publicly funded business of colleges—the education of students—continues without unnecessary interruption.

There are workplaces, such as our provincial colleges, that are not solely comprised of workers with clearly defined duties and responsibilities under the Occupational Health and Safety Act. Our campuses include children in special programs, teenagers and those retraining for new careers or to upgrade their careers. Due to the make-up of our campuses, the post-secondary education

system offers unique challenges to addressing workplace violence and harassment.

In regard to the definition of “workplace violence,” our committee endorses the proposed definition, as it uses the words “the exercise of physical force” or the “attempt” to use “physical force.” This precise use of language clearly identifies the types of actions that would constitute workplace violence or the threat of workplace violence. This is very helpful, as we anticipate that without the use of clear, unambiguous language, there will be allegations of workplace violence and work refusals related to those allegations that were not envisioned when this bill was created.

However, in regard to section 43, the right to refuse work, we believe that the wording “workplace violence is likely to endanger himself or herself” is subjective and open to interpretation in regard to when a worker can refuse work based on workplace violence. We recommend that precise language, similar to what appears in the definition of “workplace violence,” be used instead. An example of wording might include “the exercise of physical force by a person” or “the attempt to exercise physical force by a person against a worker is likely to endanger himself or herself.”

This revision in section 43 will ensure that the work refusal process is not used for minor disagreements or negative comments that may occur between staff members and students within the classroom environment. These types of interactions do occur and are inherent in the duties and responsibilities of front-line staff and faculty, and should not be included within the scope of the proposed bill. We believe they are best managed through codes of conduct or similar policy and procedures.

Turning to the subject of workplace harassment, we endorse that workplace harassment is not grounds for a work refusal. However, we are concerned that the proposed language will result in claims of workplace harassment against our students by our employees. Students are clients. They have certain expectations in regard to their education, and will voice their opinions. Indeed, the exchange of thought and ideas and the ability to challenge beliefs and theories is an integral part of the teaching and learning process, and we do not believe this would constitute workplace harassment. We believe that, for the most part, these exchanges are inherent in the duties of front-line staff and faculty and, again, are best addressed through codes of conduct or other forms of policy and procedure where necessary.

Therefore, in regard to workplace harassment we recommend that the definition be revised to indicate a course of vexatious comment or conduct that is intended to demean, belittle or cause personal humiliation or embarrassment and any act of intimidation or threat. Workplace harassment is normally a series of incidents, but can exceptionally be one severe incident that has a long-lasting impact on a worker. It would also be helpful to indicate that the legitimate and proper exercise of management's authority does not constitute workplace harassment, as we believe this will also be an issue.

In regard to domestic violence, we acknowledge and appreciate both the seriousness and complexity of this topic. However, we believe that domestic violence is sufficiently addressed within the proposed definition of workplace violence. We are unclear why there are additional requirements linked to domestic violence compared to workplace violence. Requiring employers or supervisors to take steps when they “ought reasonably be aware” that domestic violence would expose a worker to physical injury is purely subjective and requires employers to have a level of understanding beyond what might be considered reasonable in regard to the duties of an employer. We therefore recommend that section 32.0.4 be removed.

“Provision of information”—subsection 32.0.5(3)—causes concern given our diverse and complex environment. Our workplaces are comprised of workers, students, visitors, clients and contractors. The requirement to provide personal information about a person with a history of violent behaviour is almost impossible to achieve. It would require a level of knowledge that isn’t attainable without a criminal background check. In addition, there are college programs specifically targeted towards at-risk youth. It is conceivable some of these students may have a history of violent behaviour for which they have paid their debt to society. That is the role of post-secondary education, to provide access to education. We do not believe that a history of violent behaviour in itself warrants the disclosure of personal information, and we do not want to discourage those who are seeking rehabilitation through education. Therefore, it is our recommendation that this be amended to indicate that information regarding an individual with a history of violent behaviour is to be provided if the risk of workplace violence is likely to occur in the workplace and expose the worker to physical injury. This is consistent with the definition of workplace violence.

Finally, the creation of a workplace violence prevention program, including a risk assessment and a process to address workplace violence, will require a significant time commitment due to the complexities that have been mentioned. We recommend a phase-in period be permitted to provide the necessary time in order to create the required policies, programs and procedures. With the fiscal constraints the public sector is currently facing, the resources are not likely available and will have to be prioritized within individual organizations.

In conclusion, the Colleges of Ontario Occupational Safety and Health Administrators committee is in support of the intent of this bill, but would ask that you consider our submissions as we believe we have significant experience and insight in identifying areas of concern. We believe our revisions will further improve upon the standards to which employers are held in protecting the health and safety of workers in Ontario in a responsible and measured fashion and will ensure the original intent of the bill remains intact and that business will not unnecessarily be interrupted.

Thank you for your time.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Mulroney. Thirty seconds a side. Ms. DiNovo.

Ms. Cheri DiNovo: Because of the cases of Theresa Vince and Lori Dupont and other submissions we are planning on amending the definition of violence to include psychological violence. Would you be in favour of that? It doesn’t seem from your submission that you would.

Ms. Kim Mulroney: I would with a very clear definition, something that gives us something to rely on when we’re defining those incidents.

Ms. Cheri DiNovo: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. DiNovo. To the government side, Mr. Dhillon.

Mr. Vic Dhillon: Just a couple of things: Can you clarify your concerns with the provision-of-information clause? Secondly, as the bill stands, the employer’s duty would kick in when the worker’s likely to encounter this person at work and is likely to be exposed to physical injury. Are you suggesting more limitations to this clause?

Ms. Kim Mulroney: In our environment it would be very difficult because that hazard could be a student, and we do not necessarily know the background of our students. As I said, we target—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Dhillon. To the PC side, Mr. Hillier.

Mr. Randy Hillier: Thank you very much for your comments. I believe they have lots of merit. Clearly, 30 seconds does not allow for a thoughtful discourse and discussion. Hopefully, we can get some more time in this committee for discussion and debate.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Hillier. Thanks to you, Ms. Mulroney, for your deputation on behalf of the Colleges of Ontario Occupational Safety and Health Administrators.

I inform my colleagues we have approximately five minutes in which to vote, and despite the constant optimism of some, should the government not fall, we will be returning. Committee is recessed.

The committee recessed from 1617 to 1627.

REGISTERED NURSES’ ASSOCIATION OF ONTARIO

The Chair (Mr. Shafiq Qaadri): Colleagues, we’ll reconvene. I think we’ll attempt to have at least two presenters before we have to adjourn again for the next vote. The next presenter I invite now is Ms. Doris Grinspun, executive director of RNAO, and colleagues. Welcome. I’d invite you to please begin now.

Dr. Irmajean Bajnok: I am Dr. Irmajean Bajnok from the Registered Nurses’ Association of Ontario. I wish to let you know that Doris Grinspun, the executive director, sends her regrets.

I am currently the director of international affairs and best practice guidelines, and the centre for professional nursing excellence at RNAO. RNAO is the professional organization for registered nurses who practise in all

roles and all sectors across Ontario. Our mandate is to advocate for healthy public policy and for the role of registered nurses in shaping and delivering health services. With me today is Valerie Rzepka. She is the nursing policy analyst with RNAO.

I want to draw your attention to the package that we have provided for you. I'll highlight just a couple of insertions in that package. First is our submission. Second is a copy of the best practice guideline that we have developed related to preventing and managing violence in the workplace. There is also a copy of my speaking notes and, as well, a copy of an article in our Registered Nurse Journal that highlights very poignantly this entire issue of workplace violence.

I am pleased to speak to you today about Bill 168. Before I get into our views about this legislation, RNAO would like to acknowledge the families of Lori Dupont, Theresa Vince and the many others who have senselessly lost their loved ones to workplace violence.

Like all working women and men, nurses rely on a safe work environment. It is essential to our ability to give safe practice and quality care. Lori Dupont was a registered nurse who was brutally murdered by her former partner, Dr. Marc Daniel, at Windsor's Hotel-Dieu Grace Hospital. In its verdict, the coroner's inquest expressed the hope that its recommendations would save lives in the future with regard to domestic and workplace violence.

In tackling workplace violence and harassment, Bill 168 represents a very significant step towards improving workplace safety, but at the same time, it stops short in a number of critical areas. I will discuss three of RNAO's recommendations today: first, the need for a broader definition; second, the need for whistle-blower protection; and third, the need to replace medical advisory committees with interprofessional advisory committees, or IPACs. The remainder of our recommendations can be found in our written submission, which you all have.

It is estimated that 50% of health care workers will be physically assaulted during their professional careers. Nurses are three times more likely to experience violence than any other professional group. Given that nurses comprise over 60% of all regulated health professionals, the impact of workplace violence on both nursing and the delivery of nursing care is significant indeed.

While acts of aggression and violence are commonly considered physical, escalating levels of social, verbal and emotional violence are being found in the workplace today. Perpetrators of such violence are not only patients and their family members, but also fellow health care professionals. This sort of violence includes socially isolating a colleague, gossiping, bullying, throwing things and other aggressive behaviour.

Nursing students also experience violence in their clinical placements and in a similar manner to professional staff. This can influence a student's decision to remain in the profession. There is also concern that students may begin to assimilate this conduct in their practice, thereby perpetuating the behaviour. Sustained exposure

to violence in the workplace causes some nurses to consider leaving the profession or at least leaving one workplace to go to another. Clearly, workplace violence matters to nurses and the nursing profession.

Though Bill 168 distinguishes between definitions of "workplace harassment" and "workplace violence," this distinction fails to take into account the reality that the two are inextricably linked. They involve an abuse of power and control. Other elements such as bullying, verbal abuse and harassment, which are equally harmful to workers' health and well-being, must also be taken into consideration.

Therefore, RNAO recommends, in the strongest possible terms, that a more inclusive and evidence-based definition of workplace violence, such as the one incorporated in our guideline Preventing and Managing Violence in the Workplace, be used. This definition of workplace violence includes "incidents in which a person is threatened, abused or assaulted in circumstances related to their work. These behaviours would originate from customers or co-workers, at any level of the organization. This definition would include all forms of harassment, bullying, intimidation, physical threats, or assaults, robbery and other intrusive behaviours."

Equally alarming is the likelihood that many nurses who experience this kind of behaviour will not talk about their experiences. That's out of fear of losing their jobs or feeding further conflict and confrontation. For many nurses who find themselves face to face with violence, it is easier to suck it up and move on.

While nursing is a profession where there is a greater risk of violence, when people say, "It's part of the job," that assumes it's okay and that it's going to happen. It shouldn't, and nurses need to recognize the risk, know how to respond and de-escalate, and find ways of preventing it from happening.

RNAO encourages the commitment of the government to enact legislation to foster integrity and ethical behaviour, and maintain a workplace environment where workers can respond to workplace harassment or violence without fear of retaliation.

Though the Occupational Health and Safety Act does contain wording prohibiting reprisal by the employer, RNAO, in our guideline Preventing and Managing Violence in the Workplace, suggests that whistle-blower protection for those who report violence in the workplace must be explicit. Strong wording needs to be added to Bill 168 to protect workers who report incidents or potential incidents of workplace violence and harassment.

In addition, the Dupont-Daniel coroner's inquest jury recommended that every workplace policy to address violence should reflect an analysis of the power differentials that exist between different groups of employees, workers and staff. Until systemic and archaic hierarchies that are embedded in our health care system are addressed, these power imbalances will continue to permeate and negatively affect health care work environments. Hierarchies not only impact health care workers, they can also have adverse effects on patients and cause unsafe acts.

1640

The Manitoba pediatric cardiac surgery inquest following the deaths of 12 infants stated that because nursing occupied a subservient position within the hospital structure, issues raised by nurses were not always treated appropriately. It was clear that legitimate warnings and concerns raised by nurses were not regarded with the same respect or seriousness as those raised by physicians.

Medical advisory committees, or MACs, created under the Public Hospitals Act, are not only barriers to collaborative practice, they also reinforce inequitable power relations between physicians and other professionals. We know from the Dupont case that power differentials jeopardize both patient safety and workplace safety.

RNAO therefore calls on the government in the strongest possible terms to amend the Public Hospitals Act to replace hospital medical advisory committees with interprofessional advisory committees, or IPACs. These would represent and reflect the quality of inter-professional collaboration. We believe that every worker has the right to work in a supportive environment where workplace violence in all of its forms is not tolerated.

Thank you for the ability and opportunity to respond.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Bajnok. On behalf of the committee, I will thank you, Ms. Bajnok and Ms. Rzepka, for your deputation on behalf of the Registered Nurses' Association of Ontario, and of course extend our greetings to Ms. Grinspun as well.

ONTARIO NURSES' ASSOCIATION

The Chair (Mr. Shafiq Qaadri): I now invite our next presenters to please come forward. Linda Haslam-Stroud, of the Ontario Nurses' Association, welcome.

Ms. Linda Haslam-Stroud: Thank you, Chair.

The Chair (Mr. Shafiq Qaadri): Just to advise my colleagues, we'll be clocking down till about six minutes or so, which hopefully will provide enough time for the vote and to your colleagues. Please begin.

Ms. Linda Haslam-Stroud: Good afternoon. I'm Linda Haslam-Stroud. I'm a registered nurse from St. Joe's Healthcare in Hamilton, renal transplant. I'm also president of the Ontario Nurses' Association, which represents 55,000 registered nurses and allied health professionals, and also over 12,000 nursing students across Ontario. With me today is Lawrence Walter, our government relations officer.

In our written submission, there are a number of recommendations that should be considered that we believe are essential to keep us, the nurses, caring for our patients. You do know already that workplace violence is a growing concern for us on the front lines, and of course the risk of violence, certainly in the health care sector, is prevalent.

There's much to be commended about Bill 168, and I'd like to acknowledge the addressing of some of the risks of violence and harassment in the workplace—

certainly domestic violence spillover, the worker's right to refuse, and also the duty to address the risk related to the personal history of a person with violent behaviour. While there is much to applaud, there are two seemingly small but fundamental flaws that we believe need to be addressed to add to the value of this bill.

First, the definition of "workplace violence," which says now "the exercise of physical force by a person against a worker" is problematic. Not all workplace violence is directed at us the worker, but the workers, the nurses, are involved in violent incidents as part of workplace violence. We know that the government intended to make the workplace safe, be it directed at a worker or whether the worker is actually caught up in the crossfire as part of our duties as nurses.

The first fundamental flaw in Bill 168 can simply be corrected by amending the definition of "workplace violence"; presently it says "against a worker," and we believe it should be amended to say "against a person." We believe that that simple amendment will make employers turn their attention to what the root cause of workplace violence really is—as patients, weapons, or adverse events take place.

You may not have heard the news today, but we had a case of two gunmen coming to the Hamilton Health Sciences Corp., the Hamilton General site, and actually took a prisoner that was being cared for by that facility. That gives you a little bit of an example of where it wasn't against me, the worker, but it was a person-to-person situation that was taking place, actually, with the police.

Second, the harassment can escalate to violent behaviour which can cause physical injury. In fact, at the inquest of Lori Dupont, our member and our nurse from Windsor, where she was murdered, expert witness Dr. Jaffe—you've heard from the previous speaker—described the continuum of behaviour by the perpetrator, which culminated in her murder. During his testimony, he actually identified missed opportunities when steps might have been taken to prevent Lori's death. He talked about the very threatening and harassing behaviours, such as stalking, that fell short of physical violence and force, but which were recognized precursors to what actually happened and the physical force that ensued.

In the proposed definition of workplace violence, the definition remains confined to the actual exercise or attempt to exercise physical force and, we believe, ignores the threatening statements and behaviours at the high end of the harassment spectrum, such as stalking. We believe that that continues to be a missed opportunity in Lori's horrific death.

Accordingly, we are proposing an amendment to the definition of workplace violence to address this second fundamental flaw to ensure that the threatening statements and behaviours such as stalking are included in the measures and procedures to control workplace violence.

We have proposed two alternatives to cover the threatening statements and behaviours in our submission, and they are found on page 4; I won't go through them. Door

one or door two—we've given you two opportunities to take a look at it.

In addition to these two critical changes in the definition of workplace violence, we are also proposing amendments to five other sections.

First, in subsection 52(4), we would like the act to require employers to at least report to the joint health and safety committees and to the union workplace committees so that harassment at the high end of the spectrum is taken to them. So the committees can intervene if necessary by making recommendations to the employer, calling in the Ministry of Labour, or whatever route needs to be taken.

Secondly, we are also recommending an amendment in section 32 to add, "in consultation with joint health and safety committee or health and safety representative and employers must consider the recommendations thereof." In every other hazard in the act, we have the benefit of being able to have policies, measures, procedures, controls and risk investigation. The joint health and safety committee is consulted for all those other hazards. Why not this one? The amendments in section 32, we believe, are really crucial to ensure the same level of participation for the hazard of workplace violence as for all those other hazards I mentioned.

Thirdly, we are asking for an amendment to subsection 32(2) to include the words—and you might think they're minimal—"training and educational programs." It presently says "information and instruction." The current bill says "information and instruction" versus the phrase "education and training" in the health care regulation. We want to ensure that the same level we currently have in the health care regulation of the act regarding education and training for the hazard of violence is included. We believe that, as it stands, it is actually watering down what we already have.

Fourthly, the language used in Bill 168—to "assess the risk of workplace violence"—raises concerns regarding the term "risk" versus "hazard." If I can explain a bit further, because it is somewhat complex, we need language that requires the employers to assess if there is a risk of the hazard of violence. What we're basically saying is that, presently, we only need to have the employers obligated to look at the risk; we want to eliminate the hazard. So we're suggesting amendments there, and you'll see them in our document.

Fifth, and lastly, the hazard/risk assessment under section 32 should also be provided so that the joint health and safety committees receive the information in writing. Doing so will provide the committee with concrete evidence that an assessment was actually conducted, and it will give the committee a baseline to analyze the assessment and make recommendations to the employer for a safe workplace.

While we applaud the government's actions to introduce Bill 168 and address workplace harassment and violence, which we seem to have each and every day, unfortunately, our recommended amendments will ensure that threatening statements and behaviours such as stalk-

ing, at the high end of the spectrum of workplace harassment, are covered under the legislation. Without this amended definition, this legislation will not help to prevent tragedies like the one which was inflicted on our nurse Lori Dupont.

With these and the other amendments that I have put before you in our written submission, it is our opinion that Bill 168 will be better able to meet the government's intention of making the workplace safe from violence and harassment so that we, the nurses of Ontario, can take care of our patients and provide them quality care. Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you. Thirty seconds a side. Mr. Hillier or Ms. Jones.

Ms. Sylvia Jones: I just want to thank you for your presentation. You've given us some very specific amendments that we can look at and try to incorporate. Thank you.

The Chair (Mr. Shafiq Qaadri): Ms. DiNovo.

Ms. Cheri DiNovo: Lori's mother was here, as well as Theresa Vince's daughter, testifying before this committee. We're certainly going to be putting forward amendments that match yours. Thank you again for your deputation.

The Chair (Mr. Shafiq Qaadri): To the government side. Mr. Dhillon.

Mr. Vic Dhillon: I know you've been working with ministry staff to address violence and harassment issues in the health care sector. One of your suggested amendments was to change the words "against a worker" to "against a person." It appears that your concern is that a worker would not be covered if they were indirectly affected by violence in the workplace. As the bill does in fact cover these situations, would you agree that clarification of this would address your concerns?

The Chair (Mr. Shafiq Qaadri): I'm sorry, Mr. Dhillon, I will have to intervene and now inform my colleagues that we need to break once again. The committee is adjourned until post-vote.

The committee recessed from 1647 to 1659.

NONVIOLENT OBLIGATION IN THE WORKPLACE FOUNDATION

The Chair (Mr. Shafiq Qaadri): Colleagues, we'll reconvene. There's another vote pending in 28 minutes.

I now invite Ms. Lanspeary of NOW, the Nonviolent Obligation in the Workplace Foundation. Welcome. Once again, I think we'll try to do one, perhaps two presentations, and we'll recess yet again.

I invite you to please begin.

Ms. Janet Lanspeary: Good afternoon. My name is Janet Lanspeary. I am the CEO, president and founder of Nonviolent Obligation in the Workplace (NOW) Foundation, a non-profit organization.

The purpose of my presentation today is to speak to the committee about the importance of the non-violent obligation in the workplace mental health bill that I authored in 2007. The information contained in this

petition serves as a quantum leap forward in defining workplace violence not just as harassment, but all forms of psychological violence. I will now read the petition:

“To the Legislative Assembly of Ontario:

“Whereas the laws that govern health and safety in the workplace do not address the prevention of psychological harassment and all forms of psychological abuse in the workplace, this is a request for the Legislative Assembly of Ontario to enact the following bill:

“We, the undersigned, petition the Legislative Assembly of Ontario as follows:

“To implement ‘the province of Ontario non-violent obligation in the workplace (NOW) mental health bill’ in order to protect Ontario workers from psychological harassment and all forms of psychological abuse in the workplace.

“Repeated psychological trauma, consciously or unconsciously induced in a workplace, can result in trauma and post-traumatic stress disorder. Post-traumatic stress disorder is a serious psychiatric injury. Workplace psychological trauma can result in suicide”—and also, in the case of Lori Dupont, in death. “This bill protects the mental health of Ontario workers. This bill puts the responsibility on employers to ensure psychologically healthy workplaces.”

This petition was requested, and I granted permission for it to be read in the Ontario Legislative Assembly in May 2007.

My intention today is to focus on the impact of workplace psychological trauma on its victims. This is vividly expressed by an article I will read to you written by Marty Gervais in the Windsor Star entitled “Battered by Workplace Violence.”

“I don’t know this woman’s name. I don’t know where she worked. But I do know her story.

“It’s her story that’s important.

“It’s her story that somehow gets repeated in the lives of other people. Not the specific circumstances that pertain to her alone, but similar situations, parallel scenarios.

“I’m talking about violence in the workplace. About people being targeted by fellow workers, by managers, by individuals who go out of their way to be dismissive, who find subtle and devious ways to bully and harass, who search out every opportunity to belittle and make other people’s lives miserable.

“And in some cases, resort to physical violence.

“The woman I met is a mental health counsellor. Let’s call her Alice.

“Alice worked at a facility in this city dealing with mental health issues. She is articulate, educated, sensitive and organized.

“The night before I interviewed her, she confessed that she had made meticulous notes, and had them with her. But Alice didn’t need the notes.

“The story she tells is lodged in her heart. It is not easily forgotten, even though it’s been a year or more since she was the target of a fellow worker and a manager who felt pressured to hire her.

“And if you had asked about violence in the workplace a few years ago, she might’ve rolled her eyes in disbelief.

“But the following changed her mind.

“Alice landed a job as a mental health counsellor working in a different department of the same organization where she had already been employed.

“The move was a disaster. She found a manager who regularly would summon employees to his office, shut the door, and after heaping a tirade of abuse on these poor unfortunate souls, would dismiss them.

““One fellow came out, and his face was just ‘white’—and you never knew what happened.’

“These tirades—or ‘rages’ as she described them—left many employees, including herself, feeling battered and worthless.

““No one said anything, perhaps out of fear that if they did speak, they’d lose their jobs.’

1710

“Stories emerge

“Later, their stories would emerge.

“Later, but only after this woman was finally fired from her job, did the tales of the others—the others who had endured this ‘psychological terror’—emerge.

“But what happened to Alice?

“Her story begins with this manager finally hiring her, but only after she sought the support of the human resource department and the union.

““I think this pressured him into hiring me.’

“No sooner on this job, she began to feel targeted by a fellow worker assigned to train her.

“At first, the signs of psychological abuse were subtle—mostly through dismissive juvenile grimaces at staff meetings, but soon blowing up into a monstrous burden for her to endure.

“When Alice sought support from another co-worker, whom she had petitioned to take over her training, this only inflamed the woman that troubled Alice.

“The bullying at that point stepped up, and soon Alice grew ‘fearful’ of this co-worker, especially after this woman confronted her: ‘She stood there with her hands on her hips, and started screaming at me, telling me, “You’re not going anywhere!”’

“Not long after, this woman finally assaulted Alice by jamming her elbow with such force into her spine that it nearly knocked her over.

“A year later, Alice still seeks medical help for the injury.

“What followed was swift and confusing. Alice was sent home, and then over the next few weeks was fired.

“She is now fighting that decision...

““Unless you have experienced it, as I have, you don’t know it exists.’

“Now her goal, she said, is to raise the awareness of violence in the workplace, and to help others speak up.

““I want to make a difference,’ she said.

“In her own situation, she hadn’t ‘read the signs’ that she had stepped into an environment where abuse was accepted without challenge.

“The final blow came the day she was fired. The union representative who had sat in on that meeting remarked to her, ‘If you hear that I said to someone, “Fire that bitch,” it’s not true!’

“She knew then she was on her own.”

Alice is no longer on her own. She speaks for every abuse victim, she speaks for Lori Dupont and, most importantly, she speaks for herself. I know this. I, Janet Lanspeary, am Alice.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Lanspeary. We have about 30 seconds or so per side, beginning with Ms. DiNovo.

Ms. Cheri DiNovo: Thank you. In the NDP we’re fighting to amend the bill to make it stronger to recognize the continuum of violence, from harassment and bullying right up to the physical act. But thank you very much for your deputation.

The Chair (Mr. Shafiq Qaadri): The government side: Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much for your presentation. It’s because of the work of groups such as yours that our government is taking this issue of violence and harassment in the workplace so seriously. Again, I just want to express thanks for your presentation.

The Chair (Mr. Shafiq Qaadri): The PC side: Ms. Jones.

Ms. Sylvia Jones: Thank you for your presentation this afternoon. I appreciate your taking the time to put that together.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Lanspeary, for your deputation on behalf of NOW, Nonviolent Obligation in the Workplace.

ANDRZEJ WROTEK

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward, Mr. Andrzej Wrotek. You’re present? Welcome, sir.

Once again to my colleagues, we’ll count down to about eight minutes, when we’ll adjourn once again for the vote.

Welcome, sir. You’re welcome to please begin now.

Mr. Andrzej Wrotek: This is my input for your consideration regarding Bill 168, An Act to amend the Occupational Health and Safety Act with respect to violence and harassment in the workplace and other matters.

Bill 168, as proposed, sees human resources and management as protectors and implementers of policy which would shield workers from violence and harassment. Unfortunately, human resources and management can also be considered as perpetrators of harassment and psychological violence in the workplace—this is my own personal experience which I’m talking about.

The problem of workers abused by their management and human resources is like an iceberg: Only the tip is sometimes visible. It only comes into view when the victims resist and somebody hears their complaint. The older employees—I am 61 years old—with many years of service with the same employer cannot afford to go in

silence and are the red flag raisers. The problem will become more visible as more people approach age 60 and unscrupulous employers try to get rid of them with the help of harassment and psychological violence. Younger workers look, in a situation like this, for another job and leave when harassed by managers and human resources; nobody knows that harassment occurred.

Unchecked and unchallenged power corrupts individuals who consider themselves to be always right. Human resource professionals entrusted with unlimited power by their employers sometimes are not able to know the difference between right and wrong. This is what happened in my case, as described in the sequence of events leading to my dismissal.

Rogers Inc. human resources has a policy with respect to workplace violence and harassment. It didn’t prevent them from approving the harassing actions carried out by management against myself—and consequently became the harasser. Rogers Inc. chief HR officer, Mr. Kevin Pennington, obstructed any independent effort of the HR body within Rogers Inc. to investigate if the disciplinary letter handed over to me was factually correct. This question was never allowed to be raised.

The harassing actions carried out by Rogers Inc. human resources and management caused a lot of mental suffering and depression. On a recommendation from my family doctor, I spent 10 weeks on short-term disability leave. The long-term result of Rogers HR and management actions against me is my cognitive skill deterioration, which makes it impossible to look for another job as a software developer. The stress caused by the actions of Rogers Inc. human resources and management caused a rapid change in my heart condition, which deteriorated to such a degree that I had to undergo open-heart surgery at St. Michael’s Hospital in Toronto on October 26 this year. This is the fourth week after my valve replacement surgery.

It can be seen in my case that the harassment I have experienced is a form of psychological violence, which brings damage to the mental and physical well-being of the victim. It is not only harassment; it is psychological violence, which always causes deterioration of the affected individual’s physical and mental condition. Older individuals like myself are more susceptible. Harassment is psychological violence and can be severe enough to cause the victim’s death.

Please take my experience into consideration when defining the difference between workplace harassment and workplace violence. They don’t differ much from each other when impact on the victim is considered.

With workplace violence, you can give somebody a black eye; with harassment as a form of psychological violence, you can drive the victim to suicide. In my case, Rogers Inc. HR was close to obtaining this effect. This event is documented in my family doctor’s and eastern Toronto hospital’s records.

I hadn’t done anything wrong to Rogers Inc. and my managers. All I had done is hurt their pride and sense of total power over a fellow employee by refusing to

accept—obviously, they admitted it themselves—a factually incorrect disciplinary letter. This disciplinary letter would be the only one in my 18 years' employment with Rogers. Perhaps that's why I was resisting so much, which led to the results, which were difficult to predict—started very small and ended very big.

I know this is very personal input, and perhaps too personal, but I hope the commission will take the story I told into consideration.

I have one more observation, which is not contained in a document. Perhaps it would be more effective if the human resources or management member would be personally responsible for their actions. In the current arrangement, they are shielded by corporate lawyers. If they are personally responsible or accountable for what they have done to their colleague employee, it perhaps would help to moderate the attempts—to moderate their sense of power and their desire to dominate other individuals.

This is all what I want to say. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Wrotek. We'll begin with the government, 30 seconds a side: Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much for your presentation and for sharing your story with us.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Dhillon. To Mr. Hillier.

Mr. Randy Hillier: Thank you very much for coming here. No questions right now, thanks.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Hillier. Ms. DiNovo.

Ms. Cheri DiNovo: I'm so sorry for what you've had to go through. We'll try to make sure that the bill prevents others from having to suffer the same way you have done. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. DiNovo, and thanks to you, Mr. Wrotek, for your deputation, presence and written submission.

We are now at T minus nine minutes. Committee is adjourned till post-vote.

The committee recessed from 1719 to 1734.

COUNCIL OF ONTARIO CONSTRUCTION ASSOCIATIONS

Le Président (M. Shafiq Qaadri): Chers collègues, j'appelle à l'ordre une autre fois cette séance du comité de la politique sociale.

I call now our next presenter, Mr. Cunningham of the Council of Ontario Construction Associations. Welcome, Mr. Cunningham. I invite you to begin to add to the afternoon's festivities now.

Mr. Ian Cunningham: You're having fun this afternoon.

Good afternoon, Chair and members of the Standing Committee on Social Policy. My name is Ian Cunningham. I'm the president of the Council of Ontario Construction Associations, most often referred to as COCA. COCA is a federation of 31 construction employer

associations that operate for the most part in the industrial, commercial, institutional and heavy civil parts of the construction industry. We represent more than 10,000 contractor employers and we've served as their strong and united voice for more than 30 years.

It's my pleasure to have the opportunity to appear today and provide input concerning Bill 168 and ways to eliminate violence and harassment in construction workplaces.

1740

COCA endorses the goals of Bill 168: to eradicate violence and harassment from all workplaces across the province. In the construction industry, opposition to violence is already one of the absolutes in the unwritten code of conduct on construction sites. Anyone who engages in acts of physical violence on a construction site is usually fired on the spot. Even though construction work is physical in nature, takes place out in the open, fully exposed to the worst weather Mother Nature can throw at us, and provides ample opportunity for misunderstandings and disagreements within and between the many different trade crews that work together on a job, the construction industry has no tolerance for violence on work sites.

It's easy to understand why the drafters of this legislation did not take the construction industry into account when developing the provisions of this bill. Despite its very significant size and its unquestioned importance as an enabler of job creation and economic growth, construction is often taken for granted, and the unique nature of construction work is not well understood and is often overlooked.

Some of the unusual features that distinguish construction work sites from other, more typical workplaces, such as hospitals, insurance companies, retail stores, government offices, manufacturing plants or even the driver's seat on a bus, and that are relevant to this bill include the following:

—Construction work is project-based, and even a small contractor could have 10 or more jobs operating concurrently at various stages of completion. Through the course of a year, projects are completed and new ones begun.

—No two projects are alike. Even if a design, such as a big-box store format or a plan for a high school, is repeated identically, the site will be different and the workforce will be different.

—The physical shape of the workplace changes every day, as a project advances through its successive stages of construction to completion.

—On a construction work site, the office, the meeting room, the lunchroom, the repair shop, the storage room and so on are often the same half-ton pickup truck.

—Unlike most workplaces, there is no resident workforce on a construction site. The workers on the site change almost daily as the project advances. The early trades complete their work. Then the middle trades take over, as do, finally, the finishing trades. None of this is in any sort of predictable pattern.

—At any one time, there are workers from many different employers/contractors working together on a job site. Teamwork and flexibility among crews are the hallmarks of a successful construction project.

—Projects for subtrades may be of short durations, and a construction worker may work for many different employers/contractors through the course of a year.

—A unionized construction employer does not hire workers based on their experience, background, technical and interpersonal skills or references but simply accepts the workers provided to him by the hiring hall.

—The construction industry has an active provincial labour-management health and safety network and a construction legislative review committee that considers all proposed regulatory changes that apply to the industry.

I want to state that it's critical that this bill works for the construction industry. The construction industry is an enabling industry that makes most other industries possible. We build the stores, warehouses, factories, offices, schools, hospitals, police stations, courthouses, pubs and resorts. We build most of the places where Ontario works and plays. The last thing that construction needs, and that our economy needs, is to allocate resources unproductively in our very best efforts to comply with legislation which, by its very design, is impossible to comply with.

Now on to our proposed solution:

In many instances in the past, special consideration has been given to the construction industry in various statutes and regulations recognizing its unique characteristics. The return-to-work regulations made under the Workplace Safety and Insurance Act specifically for the construction industry, which recently took effect, are the product of such special consideration given to the industry.

Other examples include the CAD-7 WSIB rebate program for construction employers, and the special provisions for construction that exist in the Ontario Labour Relations Act.

This bill itself provides the taxi industry, because of the unusual attributes of its workplaces, with different treatment and allows the Lieutenant Governor in Council to make regulations that are appropriate, practical and workable for that industry in order to achieve the goals of the legislation; namely, to eradicate violence and harassment from workplaces across Ontario.

We simply ask that the construction industry be given the same treatment as the taxi industry so that practicable regulations can be developed for our industry that will better serve to eliminate violence and harassment from construction workplaces.

Thank you for your time and attention, and I'd like to use my remaining time, if there is any, to respond to your questions. Again, thank you.

The Chair (Mr. Shafiq Qadri): Thank you. Yes, about a minute or so per side, beginning with Mr. Hillier.

Mr. Randy Hillier: Thank you very much, Mr. Cunningham. It's a pleasure to hear some other views

here, because as somebody who's worked in ICI, and reading this legislation, you can see the traps and the difficulties, the impossibilities in enforcing this sort of legislation as it's presently written for the construction side. There is clearly more of a white-collar administrative perception to the legislation as far as preventing workplace violence. Without exemptions, how do you see things developing in construction with this bill?

Mr. Ian Cunningham: What we would like to see, as I mentioned in the presentation, is the same kind of—not exemption, because we favour the bill and we want to take positive steps for the industry that will achieve the goals of the legislation, but we would certainly prefer to have—

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Hillier. Ms. DiNovo.

Ms. Cheri DiNovo: Thank you for your submission. Clearly, this legislation was brought forward on the basis of a couple of very high-profile cases. I hope it's not only about that, but it is in part about that: both women, both escalating systems of violence. I hope this is changing, but I know that mostly you're dealing with men on the construction sites. It's a very different kind of work atmosphere.

In terms of exemptions, you talk about the taxi industry. Because your industry is very different from the taxi industry—

Mr. Ian Cunningham: Absolutely.

Ms. Cheri DiNovo: Are there specific exemptions or amendments you'd like to make?

Mr. Ian Cunningham: We'd like the opportunity, as in the taxi industry, to develop either with our employee partners or in some parallel process, to work together to develop something that is workable. A couple of the issues that jump out instantly are the posting of the policy in a visible place—now, where are you supposed to post the policy—

The Chair (Mr. Shafiq Qadri): Thank you, Ms. DiNovo. Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much for your presentation. You raised a concern with the MOL staff of how your sector would deal with policies and programs for violence and harassment due to subcontracting situations. Assuming it would be dealt with in the same way current policies and programs are, can you elaborate on your concern about the policies and programs aspect of the bill?

Mr. Ian Cunningham: I was just about to mention the posting, and the visible place would be the inside of the windshield on a pickup truck. I mentioned that the meeting room is the cab of the pickup truck. The legislation requires that workplaces be reassessed at least annually but on an as-needed basis, and the kinds of changes that take place in the construction industry almost daily in both the shape of the workplace and the people who are working—

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Dhillon, and thanks to you, Mr. Cunningham, for your

deputation on behalf of the Council of Ontario Construction Associations.

ONTARIO PUBLIC SCHOOL BOARDS'
ASSOCIATION

ONTARIO CATHOLIC
SCHOOL TRUSTEES' ASSOCIATION

The Chair (Mr. Shafiq Qadri): I'd now invite our next presenters to please come forward, Messieurs Kobus, Broadbent and Williams on behalf of the Ontario Public School Boards' Association. Gentlemen, you've seen the protocol, and I invite you to please (a) be seated, and (b) begin now.

Mr. Bob Williams: Thank you. Good afternoon—or evening now, I guess. My name is Bob Williams. I'm director of labour relations for the Ontario Public School Boards' Association. Joining me today is, on my left, Kevin Kobus, senior policy adviser for the Ontario Catholic School Trustees' Association, and on my right, Chris Broadbent, manager of health and safety for the Toronto District School Board and the public school boards' association health and safety representative. We thank you for the opportunity to address the standing committee today; we are here representing all school boards in the province—all four different types of boards—the four associations and the school business officials across our province.

1750

Although this bill originates with the Ministry of Labour, there are many significant implications that will affect school boards and schools. We know that you've heard from the employee side of the education sector and are about to hear some more from the employee side of the education sector. We're here today to provide the employer perspective.

Our associations fully support ensuring that schools are safe places for students to learn and staff to work—that's not in conflict at all—including through measures that address issues of workplace violence and harassment. It's important to note that many school boards currently have in place, and have had in place for many, many years, policies regarding both violence and harassment, and procedures that address the same things.

We've prepared a written submission, but for our time today we'll focus on some of our key issues. They are, first of all, the definitions of workplace violence and harassment; second, the disclosure of a person with a history of violence; third, domestic violence; fourth, work refusals; and fifth, a request for a separate and distinct education sector regulation.

I'll now ask Chris Broadbent to continue.

Mr. Chris Broadbent: I'll begin with the definitions that are included in this bill.

Workplace harassment: Harassment related to race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, age, record of offences, marital status, family status, disability, gender, sexual orientation or gender

identity is currently covered by the Ontario Human Rights Code. As well, harassment is already addressed under the codes of conduct as part of the Education Act and local policy of the school boards.

Harassment is addressed by school boards through an internal complaint process, which may include discipline of an employee who has harassed another employee, up to and including termination by the board. School boards consider the responses that currently exist to protect employees from work-related harassment to be appropriate and sufficient. For this reason, we believe that Bill 168 should focus only on workplace violence.

Workplace violence: The definition is extremely broad, to include any person who causes or could cause an injury, including a student with a disability. It is important that Bill 168 take into consideration the unique nature of workplaces such as schools and other learning facilities. We know that some students with special needs may not be capable of controlling their behaviour or may not know their behaviour could cause an injury. Because of these disabilities, these students may hit, kick, push or bite. School boards have resources, strategies and accommodations to address these behaviours. These students have the right to equal treatment in obtaining an education as guaranteed by the Charter of Rights and Freedoms and the Ontario Human Rights Code.

Most recently, Bill 212 and regulation 472/02 require principals to consider mitigating factors and other factors when a student behaves inappropriately. Mitigating factors include the student's age, the circumstances of the behaviour—as an example, do they have the ability to control the behaviour or understand the foreseeable consequences?—and the student's history, before determining the most appropriate way to respond to each situation. Because of this, we are recommending that students with special needs be excluded from the provisions of Bill 168 and that the bill recognize that school boards currently follow regulations that focus on progressive discipline and promoting positive student behaviour.

It is also important to note that when we refer to students with special needs in this submission, we are referring to those students with behavioural, communication, intellectual, physical and multiple exceptionalities, which may prevent them from forming intent or knowing the consequences of their actions. We also know that not all special-needs students act out aggressively.

Our next concern has to deal with the disclosure of a person with a history of violence. The bill intends to limit the disclosure of information that is reasonably necessary to protect workers. We support that. We do, however, need to ensure that proper consideration is given to the unique nature of our working environment and the presence of special-needs students.

We agree that staff who work with a person who is known to engage in violent behaviour have the right to be trained on how to address the behaviour and to be provided with assistance or personal protective equipment where appropriate. We understand that this information is

on a need-to-know basis; we need to ensure that our students and their rights are protected.

Our other concern is that there needs to be a clear definition of what constitutes a history of violence. Is one minor incident enough to create such a history? There are many instances where a student might bite or go through a biting phase, but does that mean they have a history of violence?

With regard to domestic violence, we agree that this is an issue that needs to be addressed. We recommend that a definition of “domestic violence” be included in the bill, as there are many forms of domestic relationships. Furthermore, the bill currently requires an employer to take all reasonable precautions to protect a worker against domestic violence if the employer becomes aware or ought reasonably to be aware. We recommend that an employer should take all precautions, but that the employer needs to be notified by the worker or another person. It would be very difficult to validate what someone ought to know.

At this point, I'd like to turn it over to Kevin.

Mr. Kevin Kobus: With respect to work refusals, the bill, as it currently stands, would permit a worker to refuse work or to do a particular task where he or she has reason to believe that workplace violence is likely to endanger him or herself.

Under the Occupational Health and Safety Act regulation 857, teachers are prohibited from refusing work where the circumstances are such that the life, health or safety of a pupil will be put in imminent jeopardy. The regulation does not prohibit educational assistants or child and youth workers from this. In many instances, a teacher and an EA may be in the same classroom and yet have different work refusal rights.

We recommend that the limitation on work refusals be continued and expanded to include educational assistants and any other employees who have similar responsibilities.

All of the recommendations addressed here today and identified in our written submission point to the need for a separate and distinct education sector regulation similar to what currently exists for the health sector. Schools are a unique workplace, and it's important to note that not all learning occurs in a traditional school setting. Schools support a diverse student population, and students can and do receive programming in many other learning environments.

Mr. Bob Williams: To conclude, I'd like to reiterate the strong recommendation that Kevin has just made. We're very, very willing to participate actively in the development of such a regulation with our employee groups. We think it's high time that that does in fact occur, and the introduction of this legislation makes it even more important that that occur for our sector.

Thank you again for your time today. If there is time left, we'd be pleased to respond to questions.

The Chair (Mr. Shafiq Qadri): Thank you, gentlemen. We have about 30 seconds a side. Ms. DiNovo.

Ms. Cheri DiNovo: In my constituency office, I have been privy to many teachers' tales of ongoing psycho-

logical and physical abuse, and unfortunately—I don't put this at your feet—the lack of response thereto, including having to leave work for post-traumatic stress disorder instances. I thank you for your submission. Obviously, our concern is those people, primarily those women—

The Chair (Mr. Shafiq Qadri): Thank you, Ms. DiNovo. Mr. Dhillon.

Mr. Vic Dhillon: Thank you for your presentation. You raised a concern about the reassessment of risk assessment. This bill would require a reassessment. Would your concern be addressed if it was clarified in guidance or support material?

Mr. Chris Broadbent: As we heard earlier, I think the nature of risk assessments and the frequency of them and what needs to be considered as part of the risk assessment is an issue—

The Chair (Mr. Shafiq Qadri): I need to intervene there. Thank you, Mr. Dhillon. Ms. Jones.

Ms. Sylvia Jones: You mentioned in your conclusion the need for a separate regulation regarding the education sector. You're not concerned that by putting it in regulation you won't have input and the ability to comment?

Mr. Bob Williams: As I suggested, we would be very interested in actively participating in the development of that regulation with our employee partners, and I would assume that should such a regulation be put forward, there would be a full consultation process.

Ms. Sylvia Jones: Regulations are a lot easier to change than legislation.

The Chair (Mr. Shafiq Qadri): Thank you, Ms. Jones, and thank you, Mr. Kobus, Mr. Broadbent and Mr. Williams, for your deputation on behalf of the Ontario Public School Boards' Association.

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PAUL MURPHY

The Chair (Mr. Shafiq Qadri): Our next presenter is coming to us by way of teleconference. Mr. Murphy, are you on the line?

Mr. Paul Murphy: Yes. Hello?

The Chair (Mr. Shafiq Qadri): Yes, Mr. Murphy; welcome. You have 10 minutes in which to make your presentation. The committee and Parliament are standing by for your words. Please begin.

Mr. Paul Murphy: Thank you very much for having me. My name is Paul Murphy and I was a front-line child and youth care worker in Thunder Bay from 1993 to 2005. My issues began basically from the onset of my career in 1993 with the Creighton centre. This bullying continued to escalate and my entire workplace became toxic. In 2003, I went to the executive director to bring the bullying issue forward. The entire problem was downloaded on to me, and I was encouraged to attend EAP for counselling. After 13 sessions and a brief period away from the job, I returned. Upon returning to work, my weight exploded to nearly 350 pounds. I could not sleep and I lost interest in all activities. In March 2005, I

was assaulted on the job, and this ended my career at the Creighton centre. I suffered a physical injury and lost the ability to cope.

I have been fighting with the WSIB for years to establish a claim. I went to the Smith Clinic for two years addressing my binge eating disorder with a therapist. I did attend an LMR from October 2007 to April 2008, and I was placed in a program with several ex-clients from my jail. The LMR broke down and I finally filed a WSIB claim for PTSD. My doctor ended the LMR participation and I was referred to a social worker for further counselling and supports. This involved weekly sessions, and in February 2009 I began attending group treatment on mindfulness, and I completed that program in August 2009.

OWA is addressing my WSIB issues. My mental health claim was refused because I worked as a jail guard. This makes no sense to me. I bear no ill will to anybody and I became ill from long-term bullying effects. I would not wish this on to anyone. This legislation will improve workplaces all over Ontario and it will improve situations for many.

Many want to speak to costs relating to time and insurance premiums. I want to discuss the human cost: losing your identity; losing family time; reaching dark, dark places to cope; the hopelessness; the anger; the rage; the real cost to the community. I was bullied by the employer, WSIB, Confederation College and the union, and I need this bill to reflect hope.

In closing, I want my voice to be added so as to promote healthy workplaces and encourage workplaces to invest in their employees. Bullying undermines communities, families and souls. The cost is staggering. Let's move Ontario into a "have" province by developing articulated bullying models built on hope and thus improving the lives of many.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Murphy. We've got two minutes per side, beginning with Mr. Dhillon of the government.

Mr. Vic Dhillon: Thank you, Mr. Murphy, for your presentation.

The Chair (Mr. Shafiq Qaadri): Ms. Jones of the Progressive Conservative Party. Ms. Jones?

Ms. Sylvia Jones: Mr. Murphy, do you believe that Bill 168 will resolve your issues?

Mr. Paul Murphy: I think Bill 168 is a wonderful beginning, a wonderful starting point, a very positive step in the right direction, and I think once we start moving and shifting, the natural ebb and flow is going to take over, and we're going to improve health for all Ontarians.

Ms. Sylvia Jones: Thank you.

The Chair (Mr. Shafiq Qaadri): I now offer the floor to Ms. DiNovo of the NDP.

Ms. Cheri DiNovo: Mr. Murphy, we're hoping to table an amendment that will include violence as being psychological violence as well. Bullying, currently, is just psychological violence. Would you support such an amendment?

Mr. Paul Murphy: Oh, most definitely.

Ms. Cheri DiNovo: Thank you.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Mr. Murphy, on behalf of the committee for coming to us via teleconference from Thunder Bay.

ONTARIO SECONDARY SCHOOL TEACHERS' FEDERATION

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenter to please come forward; that is Mr. Coran of the Ontario Secondary School Teachers' Federation, and colleagues, no doubt. Welcome, and please begin

Mr. Ken Coran: Thank you very much. We thought it only fitting, since the employer had three people here, that we should have three as well.

First of all, we'd like to congratulate the government for tackling a bill of this nature and bringing it to the forefront, because workplace violence is always a very critical factor to all people in the workforce, especially in schools, because schools are supposed to exemplify practices that we would like the whole society to show.

With me today is Dale Leckie, our director of protective services, and Lori Foote, who is our director of communications and political action.

You have our presentation. It's late in the day and I know you've been called out several times. Also, this is day three, I believe, of hearings, so I will try to be as brief as possible and summarize the content of these pages.

On page 1, you can see that we have identified two concerns. The first concern is one that we have expressed several times, and it deals with the fact that there is so much new legislation coming out that sometimes it is very difficult to coordinate different aspects of it.

With the passage of Bill 157 recently—Bill 157 was Keeping Our Kids Safe at School—there were some tremendous regulations that were developed, and we support those regulations tremendously.

However, with those regulations there is the duty to respond and the duty to report violent incidents. What that could do is come into conflict with some of the aspects of Bill 168, which is obviously the right to know. So we are saying that as this proceeds, there has to be due diligence paid to how one set of regulations could impact on the other, so that there's no confusion.

We know already that there are conflicting legalities with regard to some of the issues that a couple of previous presenters gave to you, one of which is the forwarding of pertinent information with regard to students with violent backgrounds.

We know that the vast majority of students in our schools are not violent, and we know that this legislation perhaps only pertains to a few. But it is our duty to make sure that that behaviour is corrected and that our workers are safe.

So with that in mind, we see that there are problems with federal jurisdiction and federal legalities as well as the Occupational Health and Safety Act. In other words,

what will take precedence? Will it be the Youth Criminal Justice Act that takes precedence over the Occupational Health and Safety Act, or vice versa?

We have to make sure, whatever is finalized, that there is some, I guess, grading of what the deciding factor is, so that people actually know what conditions they are working under and what they can expect to be protected by.

I'll give you an example that we were dealing with today in our organization. It is a teacher who had been repeatedly threatened by a student. The teacher obviously complained time and time again about this behaviour, and nothing was done. I'm not saying that this happens on a regular basis, but I think it's a fitting example.

Students have what is called their OSR, and certain information goes into an OSR, and that is basically at the discretion of the administration. Teachers have access to the OSR, so if there is a history of violent behaviour, they can check that out.

However, educational assistants don't have access to an OSR. Some of our educational assistants right now have termed the phrase, "I've been pencilled." When a phrase comes from a repetitive situation, it has substance. What is happening in a lot of situations now is, students are actually stabbing the educational assistants or the teachers with a pencil. We believe that our educational assistants should have the right to know that this is a type of behaviour that a particular type of student does on a recurring basis.

The situation I was referring to, though, is the violent behaviour, the threats, that a particular teacher had. Nothing was done. What happened was, one of our union people went and looked at the OSR to see if there was something in the OSR that would help this teacher in a positive nature to deal with this particular student and the behaviour.

That particular union representative is now under—I guess they have been deemed not fit for work. We are currently in a court battle because they have been suspended from work for the next six months.

Here we have a union leader who is trying to take something in an OSR that should help to work with the student, and they are being penalized and put through this undue hardship. So certainly we have concerns with regard to a situation such as that.

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I'm on page 3 now. A lot of issues deal with the implementation of effective practices, and with any implementation, that means there has to be the proper training. When you hurry through legislation or hurry through changes, a lot of times that training is not done. What we are saying is that we want to work with people so that the training is done effectively. We're not here to prevent things from improving, we're here to help, and because of that we're saying, very similar to what the public school boards' association says, that we believe there should be something that is specific to the education sector.

We believe there are regulations—and I know there's a question about regulations that was already mentioned.

We believe there should be regulations in place, because it is through these regulations that there will be actions taken. A lot of times when policy is just done, it is deemed policy, and the actual implementation of the direction of those policies—we don't see it all the time. So we're saying let's make sure there's proper training, and we want to be involved so that we could help to make sure this works properly, because the intent of it is to work. We're saying that we would like to be there to help and make it work properly.

We talk about the joint health and safety committee, and that's also mentioned in some of the bill with regard to information flowing to the joint health and safety committee. We want to make sure that those joint health and safety committees are respected, because what we're seeing currently in a lot of cases is that there is tremendous breakdown in communication, so that the appropriate information is not going to our joint health and safety committees.

The last component there deals with—we want to make sure that there are regulations, as I said, as opposed to guidelines, because guidelines have no force, and we want to make sure this works.

You can see on the very final page that there is a list of six recommendations. The first one there is that regulations are developed. The second one says that we should have an education-sector-specific component of this legislation, and we would be more than willing to sit on that with our OPSBA colleagues and our Catholic colleagues to make sure that we work collectively so that schools do model exemplary practices. The other one talks about the fact that we don't want to see components of this bill removed. Instead, we would like possibly to see some things added, pending the results of these consultations. The big one right now, though, is the confusion that we believe will exist between Bill 157 and Bill 168, and we want to make sure that that is very clear so that everyone understands what their rights are and what the conditions are. I guess the most important one talks about the fact that we would like to sit on any body that does develop these regulations, because we do represent 60,000 workers—not just teachers and educational assistants; we also represent people in the university sector—and we believe that the experiences we have will lead to fruitful discussions and hopefully developing regulations that will in fact work, create schools as places that we would like everybody to be in and model exemplary practices.

So that, very quickly, is our presentation. We would love to take any questions that arise.

The Chair (Mr. Shafiq Qadri): Thank you, gentlemen. There are 20 seconds per side. Ms. Jones.

Ms. Sylvia Jones: With 20 seconds, I'm going to thank you for your presentation.

Mr. Ken Coran: Thank you very much.

The Chair (Mr. Shafiq Qadri): Ms. DiNovo.

Ms. Cheri DiNovo: Ditto. Thank you for coming out.

The Chair (Mr. Shafiq Qadri): To the government side.

Mr. Vic Dhillon: Thank you. I just want to clarify: You raised concerns about the Ministry of Education regarding legislation on this bill.

Mr. Ken Coran: Yes.

Mr. Vic Dhillon: I can tell you that Bill 168 is compatible and can be implemented together with the—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Dhillon. Thanks to you, Mr. Coran, Mr. Leckie and Ms. Foote, for your deputation on behalf of the Ontario Secondary School Teachers' Federation.

VALENCE YOUNG

The Chair (Mr. Shafiq Qaadri): I call now, expeditiously, our next presenter, Ms. Valence Young, and billboard to please come forward. I invite you to please begin now.

Ms. Valence Young: Thank you. It's my pleasure to be here this evening. I am an elementary school teacher. I am also an occupational health and safety activist at the local, provincial and federal levels. I'm also a learner. I just received my master's of industrial relations from the Queen's University school of policy studies.

I wanted to share with you this evening my research, which is being handed to you, for your use and consideration in planning to move ahead with Bill 168. I researched school boards and union locals with the elementary panel across Ontario. I wanted to find out how effective the internal responsibility system is for occupational health and safety in the child-occupied workplace.

I hope you can see the chart here. This is the standard chart that I adapted with the author's agreement to demonstrate the structure of the internal responsibility for elementary schools, and actually all education sector organizations in the province, and I'll be referring to it during my discussion.

What I found was that survey participants, both management and teachers, expressed a very strong commitment to developing an effective internal responsibility system within the education sector, but the research identified specific weaknesses within the internal responsibility system, specifically teacher and principal training and the reporting cycle process for occupational health and safety issues.

I also found out that more than 60% of survey respondents identified workplace violence as a major hazard in their schools. I want to draw your attention to the Ministry of Labour 2008-09 education sector, the pages of which I've included on the last two pages of this four-page handout, and a quote from that, which says, "Budgetary constraints used for reasons for non-compliance in many areas such as ventilation, joint health and safety committee functioning, mould, violence prevention etc."

What I'd like to encourage you to do is to read the Ministry of Education sector reports, particularly for education, to see how often the term "workplace violence" is referred to as a major workplace hazard.

There will be urgent need, as you well know, members of this committee, for best practice staff training, policies and procedures in support of new workplace violence prevention programs, and I ask you to consider as a way forward with Bill 168, as the Ontario school boards' association and the Ontario Secondary School Teachers' Federation have discussed, the importance of developing collaborative committees on the subject of Bill 168, specifically, in my view, on establishing best practice templates for workplace violence policy and procedures. We need best practice templates across the province of Ontario in our schools, and a core committee of workplace stakeholders could certainly work to provide effective examples of that in the very near future.

I would like to thank you for your time. But before I close, I'd like to call your attention to page 2, where I include this lovely chart; and the other aspect is the chart below on how different organizations respond to information concerning safety, which includes the concept that developing occupational health and safety is a maturational process. So please consider those charts.

My contact information is there. I'd be happy to contribute further. Thank you so much.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Young. About two minutes per side, beginning with Ms. DiNovo.

Ms. Cheri DiNovo: Thank you for this information. It certainly will help.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. DiNovo. To the government side.

Mr. Vic Dhillon: Thank you for your presentation.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Dhillon. Ms. Jones.

Ms. Sylvia Jones: With two minutes, you mention, "More than 60% of survey respondents identified workplace violence as a major hazard in their schools." Can you extrapolate on that? Is that peer on peer? Is that student to teacher?

Ms. Valence Young: There was a real variety. Certainly some of them were special education concerns. Some of them related to classroom concerns, student-worker connections. In particular, there are concerns for educational assistants in our sector and also examples of workplace bullying with parents and also administrative personnel.

Ms. Sylvia Jones: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones, and thanks to you, Ms. Young, for coming forward with your deputation.

ANNA MOSCARDELLI

The Chair (Mr. Shafiq Qaadri): I'd now invite our final presenter of the day to please come forward, Ms. Moscardelli. Welcome, and I'd invite you to please begin now.

Ms. Anna Moscardelli: Committee members, thank you for allowing me this opportunity to share with you my concerns over Bill 168. As an individual, I felt a need

to state my comments because, in 2008, I faced workplace harassment that sent me on a destructive spiral, where at times I felt just short of suicidal.

Unless one has experienced workplace violence and/or harassment, one will never be able to understand or feel what someone who has been exposed to this type of treatment goes through.

I would first like to touch on the points in Bill 168, which was on the website.

Section 32.0.1 requires an employer to have policies that are to be reviewed annually. However, this does not apply if the number of employees is five or fewer.

Section 32.0.3 sets out how the employer will deal with incidents, complaints and threats of workplace violence.

From this, who will approve and enforce these policies when the person violating the employee is the employer or senior management? A suggestion would be that government have an anonymous avenue for these workers. Many establishments do not want government interference; however, there are times when it is needed.

If a worker does speak out, what sort of vengeance will the worker face? If a worker refuses to work or chooses to take a leave of absence, what will the consequences be upon returning to work? This is where workers require very strong protection from retribution by employers if they come forward with complaints of violence and/or harassment.

This committee should be made aware that regardless of whether an establishment has two workers or 100 workers, the negative effects can be worse in a smaller establishment, because the safeguards are minimal.

Physical violence complaints that could lead to criminal charges can be dealt with through the police department. However, when you have all the workers against one worker, it can be very difficult to prove.

This legislation must include penalties for all employers, senior administrators and companies that fail to enforce the legislation to protect the worker. This must include crown corporations, government offices and/or unions.

Above are my concerns based on the bill. Now, here is my story.

For over 13 years, I was an individual who worked with different government ministries and agencies, offering input, which led to a successful advocacy and paralegal business assisting individuals who were dealing with government red tape. From this, I gained much respect within our community.

In 2007, I secured a position that could lead me to my long-time career goal. For me, life was going as I had planned. Needless to say, months went by and things began to happen at work.

As each day passed, friends, family and loved ones watched me get knocked down. The more I tried to speak out for help, the worse things got. Because of many trips to the doctor's office, I was left with no choice but to quit or go on sick leave.

What would I do? I was a single mother who hadn't applied for her paralegal licence because the plan was to follow in my boss's footsteps. For me, sick leave was my option, hoping that time away would resolve issues, which it did.

I was told not to go back to work by friends and family, for fear of what was awaiting me, for they had already heard from my co-workers that I no longer worked there. Left with few options, I returned and was immediately terminated.

I was devastated and shocked, because my boss was holding out his hand to shake my hand while proceeding to tell me how I was a great employee and how he appreciated everything I had done. I was then escorted out to my car. Imagine how I felt.

I did attempt to exercise my rights through the labour board but was told that because my employer was a crown corporation, there was no protection for me; I could file my matter with the Ontario Human Rights Commission, which I did. My matter is scheduled for mediation this Thursday; however, my former employer is accusing me of a breach of confidentiality for speaking out.

This is what some workers face, and it is a fear tactic that can send anyone overboard. This is where very strong protection from retaliation is needed for workers who attempt to exercise their rights.

After being terminated, I remained in a depressed state for months. I attempted to rebuild my business, but the depression overpowered me. Imagine your children seeing their mother, an individual who could overcome anything, now lying in a bed, giving up and losing everything she had worked so hard for.

Finally, in June 2009, a year to the day after being terminated, I began to overcome this terrible depression. Life for me has greatly improved. However, I no longer have the dream that came with that job, mostly because of what happened and how everything was pushed under the rug.

You see, I did approach my manager, my co-workers, my employer, his wife, local and provincial association members, and even top human resource employees. Everywhere I turned, I was told to keep quiet and say nothing; just do the job. Unfortunately, that silence destroyed me and everything I had worked so hard for—but only temporarily.

With Bill 168, there is no protection for workers such as myself. One can only ask why. Why is it that crown corporations are exempt? Do we as individuals not deserve the same protection as individuals who work in private industry? Where does an individual go when co-workers turn their backs to protect their own position because the intruder is your immediate supervisor or your employer's spouse?

Further, because the spouse does not fall under the definition of employee, again there is no protection for the worker. What does an individual do when the employer chooses to disregard the situation or turn his own

back, ignoring the issues in front of him or her? These are questions that only this panel can answer.

In closing, I would like to leave you all with this: I had a great, positive support system filled with friends, family and loved ones who helped me overcome the negative treatment that destroyed my self-esteem. Imagine if I had no one to lean on. Where would I be?

Do we allow someone else to go through something similar? Do we allow the employer to be exempt, especially when the employer is someone who brings in this sort of legislation? If anything, I believe government members should be held to the highest regard for the fact that government sets the rules for protection of individuals, yet some feel that they are privileged because of the position they hold.

I hope that my submission will be used to protect others from enduring this sort of treatment. Hopefully my story will help someone else from going through what I did

Sincerely submitted by Anna Moscardelli, former special assistant to Bob Bailey, MPP, Sarnia-Lambton. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Moscardelli. We've got less than a minute per side, beginning with Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much for coming forward and sharing your story. Would you agree that

Bill 168 is a step in the right direction to addressing violence and harassment in the workplace?

Ms. Anna Moscardelli: I think it's a step; I don't think it's enough, for the simple fact that, again, if it's a small establishment, there's little that the employee has for protection. It's he-said-she-said, and unless you have a lot of documentation, there's minimal there for you.

Mr. Vic Dhillon: I also just want to clarify that the crown is bound by OSHA. Thank you very much.

The Chair (Mr. Shafiq Qaadri): Ms. Jones?

Ms. Sylvia Jones: Thank you for your presentation, Anna.

Ms. Anna Moscardelli: Thank you.

The Chair (Mr. Shafiq Qaadri): Ms. DiNovo.

Ms. Cheri DiNovo: Just so you know, we're putting forward an amendment to strengthen the whistle-blower part and to cover all provincial workplaces, not just some. Thank you very much.

Ms. Anna Moscardelli: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Moscardelli, for your presence and written deputation.

Just to inform my colleagues, we have clause-by-clause hearings on this bill on Monday. The committee is adjourned.

The committee adjourned at 1823.

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