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Tuesday 28 April 2009

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Mardi 28 avril 2009

**Select Committee on
Elections**

Review of election legislation

**Comité spécial des
élections**

Révision de la législation électorale

Chair: Greg Sorbara
Clerk: Trevor Day

Président : Greg Sorbara
Greffier : Trevor Day

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

SELECT COMMITTEE ON ELECTIONS

COMITÉ SPÉCIAL DES ÉLECTIONS

Tuesday 28 April 2009

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The committee met at 1605 in committee room 1.

ACCESSIBILITY FOR ONTARIANS WITH DISABILITIES ACT ALLIANCE

The Chair (Mr. Greg Sorbara): Okay, I'm going to bang the gavel. Note that we're beginning at 4:05. Welcome to the hearings of this select committee on elections.

My law school partner, David Lepofsky, who is the chair of the Accessibility for Ontarians with Disabilities Act Alliance, joined by Catherine Tardik and the inimitable John Rae—

Interjection.

The Chair (Mr. Greg Sorbara): I could begin this session with a lot of stories about the time that Lepofsky and I were studying law under the guidance of the wonderful Harry Arthurs—no, it wasn't Harry then, was it? Who was it, David? Who was the dean?

Mr. David Lepofsky: It was Harry Arthurs, and one of the two of us was studying, and I tried to remember. I think it was me.

The Chair (Mr. Greg Sorbara): No, Harry had retired as dean. Harry had retired as dean, and it was the guy who later became the head of the securities commission.

Mr. David Lepofsky: Stan Beck.

The Chair (Mr. Greg Sorbara): Stan Beck; that's exactly right.

Mr. John Rae: Could we possibly extend the time, Mr. Chairman, so we can hear some more of these stories?

The Chair (Mr. Greg Sorbara): The stories are all confidential. I can't destroy Lepofsky's reputation, and he wouldn't dare want to destroy mine. It's already tarnished enough.

Welcome to David, Catherine and John. For the purposes of this afternoon, we look forward to a presentation of about 20 minutes from the deputants and then a period for questions from committee members. Then, at around 5 o'clock, we're going to have a closed session to begin to put together the next steps for the work of this committee. Welcome, David, and I'll turn it over to you.

Mr. David Lepofsky: We want to thank the committee for affording us this opportunity to present. Over the past decade, both the current coalition that I serve and the predecessor that we took over for in 2005 have been, among other things, battling in a campaign to achieve

fully accessible elections in Ontario, elections in which voters with disabilities can fully and equally participate. We welcome the opportunity to address this to your committee. We are optimistic because in the last provincial election, we wrote each of your political parties—we being non-partisan—to ask you each whether, if elected, you would commit to achieve an accessible election action plan. All three of your parties agreed. We'd like to take you up on that and to tell you how we think it might best be done.

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To begin, my colleague John Rae is going to talk about just one of the kind of barriers that some folks with disabilities still face when seeking to participate in an election. John?

Mr. John Rae: I'm really pleased that this select committee has been established. Although here today we are representing the AODA Alliance, I do most of my work through the auspices of the Alliance for Equality of Blind Canadians, of which I am first vice-president. I can tell you that we've been meeting with Elections Canada for over 10 years and have not much to show for that time, and yet the province of Ontario only gave itself the power to look at alternate methods of voting before the last provincial election and here we are today. So I'm encouraged at the work you're doing. Also, I've just finished a brief to the review of the Municipal Elections, Act and I really do wish that the two could have been brought together so that we'd see one omnibus bill and not two.

My part is simply to say that I want to be able to participate in an election like you gentlemen can, and I don't think that's too unreasonable. From my standpoint as a blind person, what do I mean? Well, very simply, we all get literature through the door in print; I can't read. Your various parties establish websites that are getting better but I think have some ways to go. We all want to participate in candidates' meetings, and the last one that I went to in Ms. Wynne's riding was at a school where a friend of mine, Sharon Dever, who uses a wheelchair, had to sit at the bottom of the steps, couldn't get in; the press got interested in that problem. I, as a blind person, was confronted with the situation that in order to ask a question, you had to write your question on a card. Well, I got somebody to write it. Whether my question ever got into the box is something I'll never know.

The most important part is voting day. I happen to live in Toronto Centre, and while Toronto Centre is not

unique, we are different from some ridings in this province and in this country by the number of candidates we have. Ten is not unusual. We've had more, we've had less, but 10 is a decent average. So, for me, I get the ballot given to me in a template, I get the number of candidates read to me, and I go into the voting booth and mark my X. Then it comes time to leave the voting booth, and I will never know whether I voted for the candidate that I thought I voted for and the candidate I wanted to vote for. I'll never know for sure because, you know, it's print. You folks can run your eye down your ballot in the riding where you live and make sure you voted for yourselves—at least I assume you vote for yourselves. I want to be able to leave the voting booth knowing that I voted for my preferred candidate just like you and your friends and family do. Well, that involves alternative methods of voting, and I'm pleased that, in the last by-election that was just held, there was a test of a voting machine that looked good to me. I look forward to the results of that test and to the work of your committee in implementing a system that will remove that barrier and many others that can still confront the broad range of people with disabilities in this province who want to participate fully in the electoral process.

Just one more point: I'm speaking at York University when I get back from the west coast, and I'm going to talk about the legal system in this country, even though I'm not a lawyer—I should let David do this, but I'm going to do it anyway—and I'm going to start by talking about 1981, the International Year of Disabled Persons. That was operated with the theme, "Full participation and equality." That wasn't last year, gentlemen; that was 1981. It's time we achieved that goal. Thank you.

Mr. David Lepofsky: For a perspective on what was done in the 2007 election to achieve the goal that all voters would expect we had already achieved—fully accessible elections—Catherine Tardik will spend a few minutes giving a unique perspective. Catherine?

Ms. Catherine Tardik: Thank you, David. As a former employee of Elections Ontario's communications department, I had the unique opportunity to view the accessibility features espoused during the 2007 provincial election and referendum from a good vantage point. Part of my duties during the 2007 election and referendum included working on a variety of projects aimed at supporting Elections Ontario's accessibility features, specifically the information kits for electors with special needs, arranging for large print and for braille printing of householders, contacting stakeholder organizations and contributing to the training manual for Elections Ontario staff. During my remarks, I'd like to outline some of the challenges in relation to the accessibility of provincial elections.

In 2008, Elections Ontario completed a report on accessibility that speaks to the accessibility goals and outcomes of the 2007 election. This report includes details of Elections Ontario's efforts to achieve full accessibility. If you read it, it sounds very promising. Some of the measures it describes included providing tar-

geted information to special needs populations; accessibility at advanced polls and returning offices; reaching out to stakeholder organizations to provide them with election kits; updating the TTY phone system to incorporate new web technologies for persons who are deaf, deafened or hard of hearing; providing braille householders and householders on tape; training call centre staff to answer questions related to accessibility; and, last but not least, providing training specific to accessibility for poll officials.

I can attest that Elections Ontario planned to provide accessibility features during the 2007 election. However, intention is not the goal; delivering accessibility is the goal. Unfortunately, the way Elections Ontario acted on these initiatives clearly and significantly limited the outcome's effectiveness. This resulted in inconsistencies and service delivery gaps. The troubling result is documented in the aforementioned report on accessibility. The report claims that Elections Ontario received 100% accessibility at returning offices and advanced polls and 98% accessibility at poll locations on voting day.

Unfortunately, this optimism is flatly contradicted by the results of an independent survey detailed in the report that was completed by Ipsos Reid on behalf of Elections Ontario. According to the statistics found in the Elections Ontario accessibility report, the Ipsos Reid survey revealed that a very troubling percentage of electors with special needs reported facing barriers when participating in the electoral process. Fully 44% of electors with special needs reported that they encountered a problem on election day, with the majority of these involving challenges specifically related to physical barriers. Fifteen per cent of complaints specifically outlined challenges related to the ability to cast their ballots.

Given my first-hand experience working as an employee of Elections Ontario, it is my assessment that the Ipsos Reid statistics provide an accurate depiction of accessibility features during the 2007 election and referendum. In 2007, this outcome is simply unacceptable.

To illustrate my assessment, I will address two service delivery gaps: first, choosing accessible poll locations. The current Elections Act and Elections Ontario policy related to sourcing accessible returning offices and poll locations indicates that this duty is the responsibility of the returning officer in each riding. Based on my observations during the 2007 election, returning officers did, in fact, choose these temporary locations. However, it should be pointed out that returning officers made these decisions without training outlining how to best determine accessibility features of temporary locations, or with any reliance on best practices from other jurisdictions. When it came to accessibility training, returning officers and poll officials received training consistent with general special needs training concerning assisting electors with special needs. This training was provided to all Elections Ontario front-line staff, including the call centre. With regard to the training for the call centre, I can speak specifically to that as I was asked to provide the training to those staff members only two days prior to election day.

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Second, an important accessibility feature that was promoted in advance of the election was not in working order on election day. TTY services enable persons who are deaf, deafened or hard of hearing to directly communicate with others over the phone. The updated TTY technology that was put in place for members of the public to call did not work properly during election day. Approximately 40 TTY calls were left unanswered due to technical difficulties. Unfortunately, the call centre staff did not provide this information to the communications department or the IT department until after the polls had closed. Thus, it was not possible to fix the problem until it was too late.

Given my experience specific to the accessibility features offered during the 2007 election and referendum and the results of the Ipsos Reid independent survey, it is clear that Elections Ontario failed to fulfill its mandate to ensure consistent accessibility features for electors with special needs.

Before I conclude my remarks, I'd like to thank the committee for their time. As we near the 2011 election day, I would reiterate the alliance's position that time is of the essence when it comes to accommodating the needs of voters with disability.

Mr. David Lepofsky: Thank you, Catherine. Let me conclude with essentially three observations.

First, the goal is fully accessible elections, certainly by 2025. That's what the disabilities act that all three of your parties voted for requires. "As soon as possible" is what all parties voted for in a resolution in 1998—for accessibility across the board. There is no reason why we cannot have fully accessible provincial and municipal elections the next round coming up.

The second point is to give you a quick update on where, as far as we can tell, the government is in implementing its commitment to an accessible election action plan. As far as we can tell, there is no ministry in charge and no minister with lead responsibility on fulfilling that election commitment. What we do understand is that an interministerial task force of public servants was set up. We met them last fall. Their work was at an extremely preliminary tentative stage and we've been told since that they are awaiting the outcome of the work of your select committee before going further. At that rate, we are not going to meet any goal of full accessibility in the next provincial or municipal elections. By the way, we are aware that elections Ontario has been doing some work in this area and we commend their efforts. They too have agreed that legislative reform is needed to enable them to do all they wish to do.

Third, I'd like to quickly summarize the recommendations that we ask your committee to adopt. These are spelled out in more detail in our brief. We ask your committee to include in its report to the Legislature a recommendation that elections legislation be developed, tabled, introduced, debated and passed before the next provincial and municipal elections to address the issues. We know that your committee's mandate is only for

provincial elections but the barriers are identical, the solutions are identical and, by bringing the two together in one bill, the solution will be quicker than if it is left to separate policy silos. We ask your legislation to make mandatory needed steps to achieving accessibility and to implement monitoring measures so that we will know whether compliance takes place, not months after an election when we read an appalling report like that made public by Elections Ontario, but before the election, when we can fix things before voters are called upon to cast their votes.

We conclude by noting that some might think that it's good enough to turn to Elections Ontario and rely on professions of good intentions. We're confident that their intentions are good, but we've had comparable professions of good intentions from Elections Ontario for a decade. We have learned that leaving it to voluntary action, not legislative guarantees, will not provide accessibility. We learned that, and all three of your parties learned that, when you unanimously voted for the Accessibility for Ontarians with Disabilities Act in 2005. We are eager to work with your committee, with the government and, indeed, with all three parties on establishing a regime that will fix this: where possible, through legislation; where not possible, through an all-party accord.

We look forward to your questions, and we would be delighted to do whatever we can to assist you in your work.

The Chair (Mr. Greg Sorbara): Thank you, David, Catherine and John. We'll start with Mr. Kormos, and then move to Mr. Zimmer and Mr. Sterling.

Mr. Peter Kormos: I think the most interesting thing you brought to us is information about this inter-ministerial committee you met with, which says it now awaits this report. We didn't hear about them, and it would have been interesting to have them come and tell us what they had in mind, how far they had come along and what their goals were.

I've read your report and the recommendations, and I'm more interested in section 3, "What the Ontario Government Should Do," which is process. I'm asking, Chair, is there any interest in embarking on this? It's separate and apart from what this committee is doing right now, but is there any interest on the part of the government, especially with respect to section 3, in terms of getting that process back up and running? The committee is already there, apparently.

The Chair (Mr. Greg Sorbara): Obviously, David Lepofsky can't answer that, and I can't perhaps answer it as fully as you would like.

I am vaguely aware that the committee exists. Obviously the governing party is aware of its election commitment, and I absolutely agree with David Lepofsky and the committee that a more comprehensive approach solves more problems with one go. But this committee is authorized to look at the Ontario Election Act, and I think that that committee is waiting.

I do know there is discussion and work going on within the Ministry of Municipal Affairs as to amend-

ments to the municipal process for elections, and that's good. I think these issues will be addressed there. I know that Minister Meilleur is very seized of these issues and is driving and advocating, from her perspective, the changes that reflect the aspirations of the alliance.

It would be, perhaps, nice if we were champions of the whole affair, but we're not. I am hopeful, however, that if we get our report in quickly, and before government, then the rest of government will identify a direction and incorporate changes as other acts come before them, or perhaps at the same time. We have no control over how quickly government will move, but the more quickly we move and submit our report, the more quickly government will be able to respond. David?

Mr. David Lepofsky: If it assists, I offer two thoughts. First, if the question is whether this committee should say something about the municipal election regime when it's not what you've been tasked to do, I'd like to respond to what I believe was an issue Mr. Sterling may have raised at an earlier session of this committee, which was addressing the issue of the cost of providing accessibility.

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There will be costs in providing some of the measures we need. Some will require no cost, but if you undertake a joint initiative to provide for accessible provincial and municipal elections, you can split that cost between provincial and municipal elections. John and I have tried out a voting machine that would work to enable blind people and people with certain other disabilities to independently mark their ballot. It's not a cheap machine, but rather than having the province buy a set of them and then municipalities each expected to buy a set of them, if it was done through a joint legislative initiative there could be a cost-sharing approach, which saves everybody money. That, therefore, means that by this committee recommending a joint legislative initiative to address municipal and provincial elections, this committee will enable a quicker, lower-cost solution to accessibility of provincial legislation, and that is in your mandate.

Mr. John Rae: David, this is the same argument we made to Elections Canada—that if they moved first, they could probably get some of their expenditure back by renting those machines that they might buy to the provinces or municipalities. I'm happy to see that Ontario be first. Hey, I live in this province. So if we can lead, maybe the feds will get involved as well, as another way of offsetting some of the costs.

Mr. David Lepofsky: Maybe perhaps, when you're in your closed session and we're not taking part in this, you might want to consider, if all the members of this committee unanimously agree that it would be beneficial for these to be dealt with through a joint bill—you might put it in as a footnote, whether or not it's in the scope of your recommendations. It would certainly help us move it forward.

What is clear to us is that right now, there is no individual minister with the lead on complying with even provincial accessible elections. We know that from talk-

ing to political staff and we know that from talking to the interministerial committee that we met with last fall. All of your parties have been in government within recent memory and know that if there's no minister in charge of a particular issue, the odds of a bill coming forward aren't good.

The Chair (Mr. Greg Sorbara): I hear what you're saying about that. I want to respond to the coordination between the three levels that hold elections in Canada and in Ontario. I take it that you're referring to the voting machine that Elections Ontario used in Haliburton-Kawartha Lakes-Brock?

Mr. David Lepofsky: Mm-hmm.

The Chair (Mr. Greg Sorbara): I had an opportunity, along with my colleague David Zimmer, to have a trial and a demonstration of this machine. I was very impressed. I think that it responds to many of the concerns about independent voting that have been raised by the alliance. But the point that I wanted to make, David, is that I am hoping that—and I said this to Elections Ontario—if these technologies are part of the future, then a joint venture corporation or co-operative, perhaps led by Elections Ontario and involving Elections Canada and municipalities for provincial elections, might be put together to undertake the costs of the hardware, the training and the software, and then make those machines and technologies available whether Canadians are voting for a new provincial government, a new federal government or new municipal governments. Our report is going to urge Elections Ontario, I hope, with taking the lead in creating that coordinated capacity. Frankly, I'm not sure it requires legislation to urge on that co-operation, because nothing Ontario could legislate could force Elections Canada to co-operate in that way, but we will be, I hope, recommending coordinating efforts, particularly in service delivery, whether that be the compilation of voters' lists or the adoption of new technologies, the coordination of service delivery for all elections at no matter what level.

Now I'm going to go back to Peter Kormos.

Mr. Peter Kormos: We're going to have to talk, I suppose, at 5 o'clock, because number 3 in the written submission here seems to be something that this committee could very well recommend and urge. We talked about an address authority and its relevance to municipal elections, so we haven't operated in isolation of other elections. But it just seems to me—and we're being told that that type of recommendation, and obviously with the urging that a minister would be responsible for seeing it through, would be very helpful—that if this is unlikely to proceed, why wouldn't we do that, then? Why wouldn't we make that recommendation specifically in number 3 on the written submission?

Mr. David Zimmer: Sorry, Peter. I missed the—

The Chair (Mr. Greg Sorbara): Whether we do or not will be up to this committee. On the one hand, I have a desire to inspire through the report of this committee a new comprehensive Election Act for Ontario, but I am not averse to the notion that in our report we would

recommend, to quote the recommendations, a “central, accountable lead on the project, to oversee all work and bring forward legislation.”

My anticipation is that the ministry responsible for democratic renewal will be responding to this report—

Mr. Peter Kormos: That ministry doesn’t exist any more.

Mr. David Lepofsky: We were told that that function has now been rolled into Cabinet Office. We’ve been trying to keep track—

The Chair (Mr. Greg Sorbara): Its successor, yes.

Mr. David Lepofsky: —of who’s got it, but that’s who’s got it now.

The Chair (Mr. Greg Sorbara): That’s right, but that function is still alive and well in government.

Mr. David Lepofsky: Right.

The Chair (Mr. Greg Sorbara): It’s through those people that we will get a report. But I hear what you’re saying about wanting a lead. We can’t determine a lead; we can only recommend.

Mr. David Lepofsky: That’s fair.

The other thing that I think is core to our presentation—Catherine’s presentation summarized it, but it may be worth putting into the record the actual report of Elections Ontario on accessibility in 2007 because it really is a stunning report. If you read about the first 14 and a half pages, it sound great. It lists all the great things that were done, and they are all the right things to do, and if you just stopped there, you’d think, “Man, we’ve solved the problem.” Then they slip in this couple of paragraphs where Ipsos Reid reports that fully 44% of the people with special needs reported problems related to things like casting ballots, reading signs in front of the polling station or getting access to the polling station.

Now, there may be issues like new voting technology that are going to take some creativity, and it’s great that that’s under way. However, there is absolutely no reason why in the year 2007 or in the year 2011 there should be a single polling station in the province of Ontario that has not chosen to be disability-accessible. These are not buildings we buy; they are buildings or facilities that they go out and select in advance.

An example of what could be done under legislation is a requirement that the polling stations be pre-selected long enough in advance—maybe a year, maybe six months; we do have fixed election dates now—and those be made public so that people with disabilities can learn about them and, if they have any concerns about them, they can report them and have the polling station changed before the writ drops and before it’s too late. There are ways to build this into legislation to provide for a low-cost but high-impact monitoring process. What’s important is, we know that if we leave it to a non-legislative regime of putting on paper the right steps and professing good intentions, it won’t solve the problem. It hasn’t, time and again.

The Chair (Mr. Greg Sorbara): David, I want to go back to an important part of Catherine’s remarks here before the committee which dealt with the lack of

appropriate training and time for training of election workers. Part of our report will, I hope, recommend a fairly different regime for creating the workforce that delivers elections. I think that’s going to be very important because—well, just to use the example of poll clerks, who can’t be selected until 10 or 12 days before the election. It’s an absurdity to think that part of the workforce can be appropriately trained just to run the general election, let alone to deal with the challenges affecting those with accessibility issues. So I honestly believe that if we move towards a different regime for recruiting the workforce, we will have taken a giant step towards dealing with some of the issues that Catherine talked about. That’s not to say that there need not be any specific legislative reference, I’m just saying that we think—I think, at least—for many practical purposes, some of the issues that this committee is dealing with in its report will address the issues you’re dealing with in your submissions.

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Mr. David Lepofsky: We’re heartened to hear that. We’ve obviously just put forward broad-brush recommendations. One of the things that we’ve recommended is, it’s worthwhile to reach out to the disability community because they can provide you with many more ideas.

But let me just, if I may, take one of the points you’ve mentioned that’s very important, and that’s training, and highlight that while it’s important, we would agree with you that it’s not the sole solution.

Time is of the essence, as Catherine said, when it comes to elections. If the polling station is inaccessible and you find that out on election day, there’s nothing you can do about it. You can’t get them to move the polling station and go back and vote the next day. If polling stations are going to be selected all around the province, you can provide some training to the people doing the selecting, but if they don’t have the background knowledge in accessibility, handing them a manual that’s 500 pages thick—who knows if they’ll actually read it? Being able to assimilate it and use that knowledge and make the right choice may be an unreasonable expectation of them, which is why, in addition to training, we need legislative safeguards such as a monitoring regime. The illustration I gave earlier would be a low-cost one. We’d simply make it public some months in advance so people can call up and say, “Maybe, using that training, you thought that place was accessible, but there’s actually a real problem.” Then at least they can be alive to the problem before it’s too late.

The other advantage of putting this all in legislation—you can’t put everything in legislation, but putting in the basic benchmarks and requirements in legislation is this: You’re proposing an Election Act that’s going to stand the test of time; it’s going to apply not just to the next election but to the next several. We don’t want to have to come back after the 2011 election and find out that while there were some good ideas, they weren’t legislated and we got another report like this one with 44% of voters

with disabilities reporting problems. We'd like it to be enshrined in legislation so we don't have to go back and fight, election after election, to preserve the gains made.

The Chair (Mr. Greg Sorbara): I understand that, although I do not believe that the legislation we hope emerges out of the work of this committee will be a perfect document. I would simply point out, for example, that I believe this committee is going to recommend legislative changes to create what's referred to at the federal level as special ballots. The special ballot or the mail-in ballot is not designed specifically for those with accessibility issues, but it will be a mechanism to assist a statistically significant portion of the population who, for one reason or another, didn't like proxy ballots; they are going to be able to vote for the first time. So there's a number of ways that we're going to attack this thing.

Mr. David Lepofsky: That's great. Perhaps what you may find most practical for this committee, given that you are hoping to get a report out relatively soon, is to recommend that the legislation that you call on the government to develop achieves certain things, and our brief offers you what those things should be. You can talk about what the key components would be without expecting yourselves to draft—I know that there had been some discussion within this committee about possibly drafting a bill, but it may be that you might not be in a position to draft this part of that bill. But you can indicate both what it needs to do and what process the government ought to follow to develop it.

Mr. John Rae: But it's also important that the committee, to what extent it thinks it can, look at items that may not necessarily be covered by the act or by legislation, which really require all-party agreement, things like how candidates' meetings are conducted, doing outreach recruitment to try and increase the representation of us on your staffs and those sorts of things. Those are things which may be beyond at least what the current Election Act looks after, but nevertheless they are also important issues that impact upon our opportunity to participate fully in the electoral process.

Mr. David Lepofsky: If I could just build on that, we recognize that there are certain things that the Election Act can't cover or likely won't cover and that public servants can't deal with. One of those may be all-candidates' debates. There may be room to regulate them by legislation, and we would encourage that that be considered, but if a decision is made that it can't for some reason, we have sitting at this committee the three political parties that take part in all of those all-candidates' debates and we have sitting before us the three political parties that each promised an accessible election action plan. Whether you're government or opposition, your parties could agree to a joint, all-party accord such as one that would agree that your candidates will only take part in all-candidates' debates if they are accessible.

That may not be legally enforceable, but it will have significant public impact. It means that a candidate from any of your parties, if they get a call to take part in an all-candidates' debate, need simply say to the host organ-

ization, "Are you offering us a location that's accessible?" And if the answer is no, then all the candidates should be on record as saying, "We won't go there. Get us another location and we'll be happy to do it." We'd like to call on all your parties to, if you feel you can't include that kind of thing in legislation, do it instead by way of an all-party agreement. And believe me, if you reach that agreement and make it public, we'll make sure voters hear about it.

The Chair (Mr. Greg Sorbara): Understood. Mr. Sterling.

Mr. Norman W. Sterling: I'm confused as to what the Ipsos Reid poll showed as primary concerns of the community in terms of the election process. What were the deficiencies and what is the primary focus of your concern with regard to providing more access? Because we have talked about the accessibility issue, the physical issue, with regard to schools, which are generally very accessible, and whether or not this committee should make a recommendation—a recommendation that I am in favour of, but other members of the committee, as you've heard, are not—that we demand the use of schools on election day and that, notwithstanding collective agreements, teachers would have a PD day. That would be dictated in legislation. I have no problem with that in terms of dealing with one day every four years that we do that. Other parties disagree with that.

Notwithstanding that, how important are these issues? Because we have been basically dealing with one issue, and that is the machines, which are very expensive, \$11,000 or \$12,000 apiece. I'm unclear as well as to how many machines you would require in any particular constituency, given the fact that one person located in one area might want to have a machine and somebody in another area might not.

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The other part of what we have been led to believe by the Chief Election Officer is that the only way to do this properly, in his view, is to rent these machines and hire technical support for each machine in each location. That's what we've been led to believe, and so your suggestion about buying these machines and holding them for a long period of time has been rejected by the Chief Election Officer.

Mr. David Lepofsky: There are three things in your question, and they're all really important. One is the machines, one is Ipsos Reid and one is poll locations. Why don't you start with poll locations and then I'll cover the other two?

Ms. Catherine Tardik: Okay. I'll deal a little with Ipsos Reid, because the details in the Elections Ontario accessibility report are kind of thin in relation to the specifics that Ipsos Reid identified. They indicated that 44% of electors with special needs had issues on election day and that 15% of those had problems casting their ballot. The only stats that they gave indicating accessibility barriers were in relation to physical barriers. They said that that was the majority of the 44%.

As an illustration of that, the returning officers are the ones who are responsible for picking those poll locations

and advance poll locations, and they made efforts—I'm not going to say they didn't—but they didn't adhere to a standard. There were no set rules or guidelines to help the returning officers to develop or determine what the best possible location was. So in many instances, ramps were built to facilitate accessibility, and if a ramp was put in, then the site was deemed accessible. There was no higher level of standards.

So speaking to what David was referring to earlier, it's important for there to be some sort of prescriptive description of what the accessibility standard is, and I'm sure the built environment accessibility standard is going to help that. But for the last election, what was deemed accessible was just not necessarily the case.

Mr. David Lepofsky: Let me just add that I'll provide the committee afterwards with the full text of the report and I'll mark the relevant passages. There was talk in it about navigating the polling station or difficulty with signage in front of the polling station.

By the way, because we're a community coalition, we've been involved with this for years. We get our healthy amount of anecdotal stories about this, which we can't offer as systematic evidence, but we can say that we hear enough of it to know that it's not just one day or one place or one person.

The other question that was raised about cost of the equipment—this is where it would be very worthwhile, as part of developing this legislation, for the government to put some public servants into action to research some options. I know that Elections Ontario has done some. They've contracted with one company. They've shown us one machine that was quite good—it needed a little tweaking, but it was quite good—and it's quite expensive. We're not necessarily sure that you need to spend that much money to achieve this. One thing we know about access technology is, the access technology from 20 years ago that used to cost \$50,000 is now available, if not for free, then for a couple of hundred bucks. So it may be that there will be some upfront costs at the start, but the cost of this technology will evolve.

We've got a bunch of infrastructure money, as I recall, from the budget being offered for new technology. I can't think of a better project to encourage people to bid on than to come up with the highest-yield, lowest-cost voting technology, as one possibility. But you shouldn't be locked into the price tag that Elections Ontario has given for the one machine they've shown us as being the price that has got to be paid from now into eternity for this kind of equipment.

Mr. John Rae: If I might just add, we're talking here about machines. That seems to be the focus of our conversation. Let me be clear that what we're after is outcome—outcome; that is, that we can independently verify how we voted. There may be other ways of doing that. I am told, but I have not seen it and I haven't found out about it, but maybe staff could research it, that there exists some kind of wand that you could wave over it; after you put your X in the hole, you could wave it over and be able to verify it. Now, I haven't seen it and I don't

really have information about it, but somebody told me this exists.

What we always suggested when we started work with Elections Canada was for them to bring in a variety of machines, get a focus group or two together, develop a bunch of questions, put the machines through their paces and determine which machine is the best. I've recently been told that the city of Toronto has a new and upgraded version of the AutoMARK. I had seen the previous version; it was pretty good. I think the Dominion systems version that we saw, which was used in the by-election, was superior because it provided options for persons with disabilities, which is good. I'm told the AutoMARK may do that too, but I haven't seen it.

So my point is, especially when you consider the Vote America act and research that's going on in the US, what's available now is not likely what's going to be available even five years from now. So the rental option may very well be a better way to go, because the technology is going to change. I think we can predict that. So, again, we aren't married to one particular solution. What we're looking for is outcome.

The Chair (Mr. Greg Sorbara): David, have you answered all the questions that Mr. Sterling raised?

Mr. David Lepofsky: I believe so.

The Chair (Mr. Greg Sorbara): Norm? Any further questions?

Mr. Norman W. Sterling: These other issues, we haven't really dealt with. As Mr. Kormos said, we were not aware of a committee dealing with these other issues that you're engaging us in today. I would like to deal with them as well in our report.

Mr. David Lepofsky: Just so you'll know where that came from, you'll see attached to our brief a letter from last December sent to the assistant deputy minister of community and social services responsible for the accessibility directorate. That letter is an effort to summarize the substance of the meeting that we had with them as of then. We're not aware of any major developments since then, other than being told that they are awaiting direction from here. But the substance of it is there, and we understood from this group—it was an interministerial working group that had gotten together. They had done some preliminary work about gathering ideas and they, in a very open and friendly and collegial way, asked us to talk about some of the basic issues that folks with disabilities face in elections. So it was a very early-on type of discussion.

Mr. John Rae: Certainly, in that preliminary meeting we indicated that we were quite willing to come back and to dialogue with them on specifics as their work progresses. We still are. We've not been invited back yet, but we remain quite willing and anxious to come back.

The Chair (Mr. Greg Sorbara): I'm going to turn to other committee members now for questions. David, do you have any questions?

Mr. David Zimmer: I have one question, just to sort of help me get a human perspective on this. Can the alliance give me any sense of how many or an estimate of

how many persons with disabilities are not accessing the democratic process because of access issues? I know that's a hard question, but have you got some sense of that?

Mr. David Lepofsky: We don't have any statistics, but what we can tell you is this: Over 1.5 million Ontarians have a disability. They are disproportionately older folks; disability comes with age. So they are not evenly distributed because of age.

Among the most common of them that were raised, some of the specific barriers we're addressing, although not all of them, are vision loss—I think it's that half of people with serious vision loss are either over 50 or over 65—hearing loss and mobility limitations. They don't all carry a label. It might be somebody who doesn't use a walker or a wheelchair but who can't walk long distances, and if from the parking spot near the polling station to get into the building and get to the polling booth is too long a walk, they may just not go, and we won't know about it unless somebody mentions that on the phone or sends us an e-mail or whatever.

We have actually tried to minimize some of the impact by encouraging voters with disabilities to vote at advance polls, simply because if there's a problem with access there, they at least have another day when they can go back and try again. We think folks with disabilities should be able to vote the same day as everybody else, election day, but we've tried to do that. Our effort in that regard may, in fact, reduce some of the problems we end up hearing about just inadvertently. We can't give you any sort of solid statistics.

Mr. John Rae: We also have to include people whose disability is invisible, people who have literacy issues and people who need plain-language versions of documents which may or may not be available. Certainly, the political discourse can often be at a fairly high level—sometimes it's at a pretty low level, too, but at least the verbiage is at a level that may pose comprehension problems to certain members of the community, whether those people identify as having a disability or not.

Mr. David Lepofsky: The other thing is, Catherine just reminded me that voter turnout in the last provincial election was 52%. What we don't know, of course, is how many of those who didn't turn out didn't turn out because of barriers and so on. It wouldn't surprise us,

obviously, if that had an impact. To me, enough data is in the Ipsos Reid information collected, that 44% of voters with special needs whom they surveyed—they are independent of us and government and so on—reported problems taking part in the voting process. If 44% of people without disabilities had trouble participating in the voting process, we'd either call ourselves Florida or this discussion would have been over long ago and legislation would have been passed.

Mr. David Zimmer: Thank you.

The Chair (Mr. Greg Sorbara): Any other questions? Okay, there being none, David, do you want a final comment? Then we'll complete the open session of this committee's hearings.

Mr. David Lepofsky: We thank you for the opportunity to appear. We appreciate that all three parties want to approach this in a—

Interjection.

Mr. David Lepofsky: Exactly. We appreciate that all three political parties are approaching this discussion in a non-partisan way. We all want to get to the same place, and we appreciate that your election commitments point us to the right direction.

Your select committee is the one place where change can start. The more detail you put in your report, the more you focus on what the government should put in its legislation if you don't feel comfortable writing the details of it yourself, the more likely is the chance that we can get this solved.

Please accept the deadline. The deadline should be that there are no inaccessible ballots, no inaccessible polling stations and no inaccessible all-candidates' debates in 2011. There's no reason between now and then that we couldn't fix that problem, and the same for the municipal elections between now and then.

Thank you very much for the opportunity. We'll e-mail the relevant parts of the access report from Elections Ontario to the clerk for your assistance.

The Chair (Mr. Greg Sorbara): Thank you very much, David, to you, Catherine, and to you, John. Good to see you again.

This committee is now going to recess for four minutes and 40 seconds while we prepare to complete the day's proceedings in closed session.

The committee continued in closed session at 1701.

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