

### Employment Equity

I might say that the Department of Justice is presently reviewing the Canadian Human Rights Act and, in view of recent Supreme Court of Canada decisions, will be considering the best way to amend the Act to include the concept of reasonable accommodation. However, there is a body of application for the term "reasonable accommodation", including the results of Human Rights Tribunal decisions. The Canadian Human Rights Commission provides an interpretation of the meaning and application of the term in the *bona fide* occupational requirements guidelines with regard to employment practices.

To insert a definition of "reasonable accommodation" in legislation at this juncture I think would not be helpful and would probably be inappropriate.

We have certainly listened. We share the concerns of all Members. All I can say very positively is that those concerns will be addressed in the guidelines and regulations.

**Mrs. Sheila Finestone (Mount Royal):** Mr. Speaker, I rise to speak to the amendment on reasonable accommodation. It is a very important amendment if the wishes of the Minister are to be met. I think I have said from the very beginning that I know the Minister is of good will and that she would like to see this Bill have the needed impact. Although the Bill has a number of holes and a *lacune*, this is a particularly serious one on reasonable accommodation.

Reasonable accommodation is very important for religious minority groups as it is for the handicapped. The whole concern was expressed in a case which came before the Supreme Court. A decision has been rendered. What is sad is that the Conservative Government cares to move only when the court decisions are rendered. The decision was rendered. There is no reason not to meet the wishes expressed by the disabled.

The Government can just follow the court's expression on reasonable accommodation and how it is used as a *bona fide* occupational undertaking. I do not think it takes very much creativity to have the lawyers in the Department of Justice develop the language required to define what reasonable accommodation is all about. The Government has had the landmark decision rendered by the Supreme Court. I think that that should be good enough to direct the Minister and her staff.

When you do not apply "reasonable accommodation" and define it, you economically deprive people who have a handicap from the potential of having the workplace make small adjustments to accommodate their differences. They are not necessarily major. The Bill can accommodate that because the human rights code covers the aspect under what would be considered a *bona fide* or a justifiable occupational change.

As disabled people suffer from an extraordinarily high unemployment rate, and as it is against our principles and practices as Canadians to discriminate based on religious preference, that clause on reasonable accommodation becomes even more important.

I want to bring to your attention, Mr. Speaker, our own *Equality for All* Report. The committee listened to many groups and supports one of the wishes the Prime Minister (Mr. Mulroney) outlined in his promises to the disabled. It was during the course of consultation with many of these groups that they pointed out the need to adapt that phrase, "reasonable accommodation" to serve them best.

I bring to your attention, Sir, that the Canadian Human Rights Act does not now impose a duty of reasonable accommodation in so many words. Mr. Fairweather pointed out that the Canadian Human Rights Commission has introduced the concept as part of its guidelines on the application of the *bona fide* occupational requirement defence to a complaint of discrimination in employment. Essentially it says that if you cannot be unreasonable in your quest to serve the disabled in society, there are reasonable barriers that can be removed, escalators, elevators, the height of the toilet seat, the size of the bathroom, the accommodation of the rails, the hearing aid and certain accommodations for the handicapped who have a visible disability. They are in many instances small and insignificant, but even in one of the Minister's programs she offered a \$10,000 subsidy. If you wanted to accommodate a handicapped individual, you could ask for renovation funds in your building. What a nice incentive. Too bad the Bill is not prepared to back it up in a more substantive way.

As I said at the time we were hearing the 250 groups who came before us and spoke in the name of 1,000 signatures and for tens of thousands of people, the Binder decision had not been rendered on the Canadian National Railways Company. It has now been rendered.

Reasonable accommodation is an important way of according the full benefit of the law to disabled people as well as to religious minorities. If you want positive action, employment equity, affirmative action, then we need to respond to the special needs of disabled people in the workplace. Our *Employment for All* Report in Recommendation No. 80 reads:

We recommend that the Canadian Human Rights Act be amended so that employers are obliged to make "reasonable accommodation", that is, such special provisions as would not cause undue hardship to the employer—

You can see how considerate we were of the employers. Too bad we do not have contract compliance in this Bill as well. It continues:

—in response to the needs peculiar to those classes of employees that are protected from discrimination by the terms of the Act.

● (1700)

In essence, I have been trying to say that we have a moral and legal responsibility to put "reasonable accommodation" into this Bill. It is inherent and implicit in the application of Section 15 of the Canadian Constitution. That section, in essence, defines the character which we wish to see in this wonderful Canada of ours. If we want to have the multicultural and bilingual nature of Canada expressed equally by men and women in such a way that all members of our society can