

# Human rights Cop-out legislation backfires in Tory faces

Debbie Bodinger

In late November of last year Dr. Robert Elgie, Ontario's Minister of Labour, created an uproar when he introduced an unexpected bill to Provincial Parliament. Gays were upset and worried; disabled groups were so incensed that they banded together from over 60 separate interest groups in order to fight the legislation.

What so many people including several members of the York community were disturbed about was Bill 188: An Act to Provide for the Rights of Handicapped Persons. How could a piece of legislation about such a "motherhood and apple pie" issue arouse this kind of reaction among the very group it was designed to protect? And why were gays concerned about it at all? The answers lie not in what Bill 188 was, but what it wasn't. It wasn't an amendment to the Ontario Human Rights Code.

Various interest groups, most notably the gays and the disabled, had been waiting for the code to be amended since 1977 when the Human Rights commission published recommendations for its revision. Among the recommendations were that disability and sexual orientation be included as prohibited grounds for discrimination.

When the code first went into effect in 1962, it provided that no person should be denied equal access to housing, services, or employment on the basis of race, creed, colour, nationality, ancestry or place of origin. It has remained essentially unrevised since then except for the inclusion in 1972 of sex and age (for persons between 40 and 65 years).

In 1976 an extensive review was begun, with public participation being invited and encouraged. Public hearings were held, and briefs were solicited. Over 300 briefs from both individuals and groups, were received. The Human Rights Commission published the culmination of their effort in 1977 as **Life Together: A Report on Human Rights in Ontario**. Both gay and disabled groups were optimistic, for the report recommended that both categories should be covered by the code, but nearly two years passed and nothing happened. No amendments were proposed.

Then, in July of 1979, in the context of a debate about the rights of the handicapped, Dr. Elgie announced that he would soon be introducing an amendment to the code. (The code falls under his jurisdiction as Minister of Labour, since its emphasis was originally on employment.) Suspense mounted as the public wondered when the amendment would be introduced and which groups would be covered. But the issue was touchy. While there was increasing pressure to include the disabled in the code, gay rights remained controversial. The NDP had committed itself to amending any bills concerning the Human Rights Code to also include sexual orientation. With a minority government, and with a considerable number of Liberals as well as the NDP behind gay rights, the Conservatives did not want to confront the issue. Elgie, it seemed, was caught between leaving the disabled unprotected, and risking the embarrassment of the Government.

His solution was Bill 188. By introducing a separate piece of legislation to deal with handicapped rights and not bringing up the topic of the Human Rights Code, he could side-step the gay issue.

No one expected gays to be pleased with Bill 188, but the surprise — this time for Elgie — was that the disabled didn't like it either. Quickly they rallied to express their concerns, and managed to convince Elgie to not proceed with the bill.

One of the people involved in the fight

against Bill 188 is an Associate Professor of Psychology here at York. Stricken with multiple sclerosis several years ago, Dr. Len Theodor has become involved with the problems of the disabled — both in terms of his research in psychology, as well as his political activities. Among his numerous political involvements, are his participation in the MS society and as delegate to the Wheel Trans advisory committee, the committee responsible for making policy concerning public transportation for the disabled. Most recently, he has become a member (representing the MS society) of the coalition that formed to fight Bill 188.

According to Theodor, the coalition had three major objections to the legislation. First of all, they were concerned that the bill was riddled with qualifications and exceptions that rendered it essentially ineffective. For example, Bill 188 did not prohibit discrimination *per se*, it prohibited "knowing discrimination". Secondly, there would be a two year period before Bill 188 took primacy over other legislation. During that time other bills could be passed including the phrase "Bill 188 notwithstanding" and effectively undo any effect it had. (One of the concerns expressed in the **Life Together** report was that the Human Rights Code be given primacy.) Finally, and most importantly, the group did not like the idea of having their interests placed under separate legislation. Bill 188 was not part of the Human Rights Code and set up a separate Office of the Handicapped under the Ministry of Social Development. This, Dr. Theodor said was a continuation of "the segregationist and patronizing attitudes of the government and the able-bodied public. The action implies that the problems of disabled people are not ones of human rights, but rather of social development."

Bill 188 ignored what **Life Together** had

stressed: that the disabled want to be integrated into society, not put away somewhere out of sight, or shoved into some separate category.

To Dr. Theodor, what was impressive about the situation that evolved around Bill 188 was how the disabled community, usually fragmented into a number of separate concerns, was able to unite for their common benefit. "The tradition," Dr. Theodor said, "has been for the handicapped to gratefully accept whatever society concedes to them. And, Bill 188 is typical of what is usually offered: a package designed to look good but have no real clout."

But in this case the disabled at last realized that they could have a say in their own matters. When Bolinda Morin, the Metro Coordinator for the Disabled and Elderly, called the first meeting at city hall to discuss Bill 188, representatives from over 60 handicapped groups attended. Out of this meeting grew the coalition that eventually met with Davis, Elgie and Birch (the Minister for Social Development). The coalition was able to convince them that it would not be in the government's interest to pass legislation to protect a group over that group's own objections. They also agreed that any further legislation would be in the context of the Human Rights Code, and that the coalition would have an input into its formation.



Len Theodor

These commitments represent a major victory for the disabled, but gays are pleased as well. With Bill 188 out of the way, their own chances for being included in the code have increased. Among the groups across Ontario working for this goal are York's two gay organizations: Gay Alliance at York and the Osgoode Gay Caucus. Both are members of the main lobbying body known as CGRO—the coalition for Gays Rights in Ontario. Peter Maloney, vice-chairperson of CGRO, was recently invited by G.A.Y. to speak at York.

According to Maloney, the most pressing issue is that it is presently legal for a person to be denied access to housing,

services, or employment on the basis of sexual orientation alone. Consequently, although homosexual activity between consenting adults in private is no longer against the law, many lesbians and gay men still live in fear that their lifestyles will be discovered. With their jobs and their homes at stake, they are left open to the threat of blackmail.

As the **Life Together** report indicated, when this type of discrimination does occur, the Human Rights Commission is powerless to do anything about it. "One of the advantages to being covered by the code," said Maloney, "is that it would give gays legal recourse through the Commission. It would be up to the Commission to investigate and come to a decision." This is in contrast to the present situation which is represented by the John Damien case. Damien, a jockey who was fired solely because of his sexual orientation (a fact that has been freely admitted) has been trying to sue his former employers. The case has been in the courts for five years and has not yet come to trial. The expense to both parties, as well as the taxpayers, of such a procedure is enormous. Were sexual orientation included under the Code there would be established procedures for investigating and dealing with cases of alleged discrimination.

Secondly, Maloney feels "it is important for the government to take a stand on this issue. By remaining silent they are endorsing behaviour they would never openly condone." He further pointed out that experience with other human rights issues has shown that government support goes a long way toward helping to make public opinion more positive. Inclusion in the Human Rights Code would do more than give a gay person individual legal recourse; it would also help change the attitudes that lead to discrimination.

At York, and throughout Ontario, gays and disabled people alike continue to wait for the introduction of an amendment to the Human Rights Code, their fates strangely interdependent. From the beginning of the research for **Life Together** the two groups have supported each other. Gay presented briefs in favour of disabled rights; the disabled pushed for the inclusion of gays. The introduction of an amendment to cover either group would represent a foot in the door for the other. But in his meeting with the coalition to fight Bill 188, Elgie pointed out the other side of that coin. If the disabled want to be included in the code, more controversial issues (such as gay rights) must also be considered, and this process could delay the acquisition of disabled rights. But disabled groups remain firm in their insistence at being covered by the Code. "We've waited this long," they told him, "we don't mind waiting longer to get it right."

## "You, you're the one"

Erina Ingrassia

Ah, Narcissus. Staring perpetually into the pool to behold your beautiful reflection. Only your death could free you from your self-adoration. Yet, legend murmurs that even after your death, your spirit longed for a glimpse of your beauty, and quietly leaned over the boat to gaze into the river Styx. You would not die. And now, thousands of years after your journey to Hades, your spirit is flourishing in the West.

In a recent lecture at York, U of T Professor James Reed explained that the gradual emergence of a narcissistic culture began in North America in the '60s. By the late '70s it had fully developed.

Reed described two major contributing factors which he believes were crucial in the transformation of our culture.

"The psychotherapeutic movement of the '60s and '70s has been a major contributor. During the '60s, three major theorists were influential on the therapeutic movement. These three were Abraham Maslow, Fritz Perls and Carl Rogers. All three of these theorists saw society as the oppressor and believed the self should be moved out of society and be put strictly into the shelf."

That shelf is currently groaning in bookstores under the weight of so many books which Reed labels "fast-food therapy, like MacDonald's." Robert



Ringer's **Restoring the American Dream**, and Wayne Dyer's **Your Erroneous Zones** are but two best-selling examples.

According to Reed, the significant breakdown in formalized religion is the second major contributor to the culture of the Self. Said Reed, "The first series of very significant questions were being asked, and an attempt was made to restructure religion. There was a search for both the Spirit, and for new political and social orders; the split between the two has created a certain confusion."

The clean-shaven days of bobby socks and saddle shoes were replaced by the flower-power '60s. The significant questions posed on society's most influential and stable institutions were

not satisfactorily answered. Existentialism was born, and the spirit of the Narcissus was recreated. It was declared: **GOD IS DEAD, EVERYTHING IS POSSIBLE**. The new decade offered a greater freedom of personal conduct, and by the mid '70s, the ego had been transformed.

The psychotherapy industry boomed. Assertiveness training classes were being offered in high school evening programmes. Individuals were concerned in not being victimized: Why say yes, when you really mean no? And all the while MacDonald's commercials repeatedly rang in everyone's ears, "You, you're the one, you are the only reason."