Fourth Session - Thirty-Fifth Legislature

of the

# Legislative Assembly of Manitoba

## STANDING COMMITTEE

## on

## LAW AMENDMENTS

42 Elizabeth II

*Chairperson*
*Mr. Bob Rose*
*Constituency of Turtle Mountain*

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**MANITOBA LEGISLATIVE ASSEMBLY**
**Thirty-Fifth Legislature**

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# LEGISLATIVE ASSEMBLY OF MANITOBA

## THE STANDING COMMITTEE ON LAW AMENDMENTS

## Thursday, July 22, 1993

**TIME — 9 a.m.**

**LOCATION — Winnipeg, Manitoba**

**CHAIRPERSON — Mr. Bob Rose (Turtle Mountain)**

**ATTENDANCE - 11 — QUORUM - 6**

*Members of the Committee present:*

Hon. Messrs. Driedger, Manness, McCrae, Hon. Mrs. McIntosh

Messrs. Gaudry, Lamoureux, Pallister, Reid, Rose, Sveinson, Ms. Wasylycia-Leis

Substitutions:

Mr. Martindale for Mr. Reid

Ms. Barrett for Ms. Wasylycia-Leis

**APPEARING:**

Harry Enns, MLA for Lakeside

Jean Friesen, MLA for Wolseley

Gerry McAlpine, MLA for Sturgeon Creek

Jerry Storie, MLA for Flin Flon

Judy Wasylycia-Leis, MLA for St. Johns

**WITNESSES:**

Bill 35—The Fisheries Amendment Act:

Pascall Bighetty, Assembly of Manitoba Chiefs

Bill 47—The Residential Tenancies Amendment Act (2)

Michel Mignault, Professional Property Managers' Association

Alan Borger, Jr., Professional Property Managers' Association

Robert Hanson, Apartment Investors Association of Manitoba

Peter H. Warkentin, Apartment Investors Association of Manitoba

Gail Jarema, Private Citizen

Bill 49—The Summary Convictions Amendment and Consequential Amendments Act

John Ryan, Private Citizen

Ellen Olfert, Winnipeg Harvest Inc.

Rene Jamieson, Winnipeg Harvest Inc.

Rick Penner, Habitat Re-store

Bill 52—The Manitoba Foundation Act

Dan Kraayeveld, Executive Director, Winnipeg Foundation

David Cohen, Executive Director, Jewish Foundation of Manitoba

**MATTERS UNDER DISCUSSION:**

Bill 24—The Taxicab Amendment and Consequential Amendments Act

Bill 35—The Fisheries Amendment Act

Bill 47—The Residential Tenancies Amendment Act (2)

Bill 49—The Summary Convictions Amendment and Consequential Amendments Act

Bill 52—The Manitoba Foundation Act

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**Mr. Chairperson:** Order, please. Will the Standing Committee on Law Amendments please come to order.

The following bills will be considered this morning: Bill 35, The Fisheries Amendment Act; Bill 47, The Residential Tenancies Amendment Act (2); Bill 49, The Summary Convictions Amendment and Consequential Amendments Act; Bill 52, The Manitoba Foundation Act. If time permits, we will resume consideration of Bill 24, The Taxicab Amendment and Consequential Amendments Act.

For the committee's information, copies of the bills being considered today are available at the front table in front of me. A list of persons wishing to appear before this committee for presentations to these bills has been distributed. You will note it is on two pages with two bills on each page.

### Point of Order

**Ms. Judy Wasylycia-Leis (St. Johns):** If I could make a committee change, Mr. Chairperson. I am sorry to interrupt your proceedings.

**Mr. Chairperson:** You do not have a point of order. If you want to just wait until I get through the routine here. We are aware that you want to make a committee change.

* * *

**Mr. Chairperson:** Copies of the presenters list for Bill 24, The Taxicab Amendment and Consequential Amendments Act has not been distributed yet this morning and will not be distributed unless the committee moves into consideration of that bill this morning.

For the public's benefit, copies of the lists of presenters for these four bills are at the back of the table for your perusal. Should anyone present wish to make presentations to any of these four bills, would you please identify yourself to the staff at the back of the room and your name will be added to the list.

I would also ask at this time if there are any of the presenters who are currently listed this morning, if you have a written text which you wish to have copied and distributed to the committee members, if you would give it to one of the staff members and that will be done for you.

As mentioned at the committee meeting last night, it is my understanding that this committee will first proceed with Bills 35, 47, 49 and 52 and will revert to Bill 24 when these bills have been disposed of.

## Committee Substitutions

**Ms. Judy Wasylycia-Leis (St. Johns):** Mr. Chairperson, I move, with leave of the committee, that the honourable member for Burrows (Mr. Martindale) replace the honourable member for Transcona (Mr. Reid) as a member of the Standing Committee on Law Amendments effective today, with the understanding that the same substitution will also be moved in the House to be properly recorded in the official records of the House.

I move, with leave of the committee, that the honourable member for Wellington (Ms. Barrett) replace the honourable member for St. Johns (Ms. Wasylycia-Leis) as a member of the Standing Committee on Law Amendments effective today, with the understanding that the same substitution will also be moved in the House to be properly recorded in the official records of the House.

**Motions agreed to.**

**Mr. Chairperson:** Is it the will of the committee then to proceed with the consideration of public presentations on Bill 35? [agreed]

## Bill 35—The Fisheries Amendment Act

**Mr. Chairperson:** I will now call No. 1, Pascall Bighetty, Assembly of Manitoba Chiefs.

Good morning, sir. Your copy of your written presentation is being distributed. You may begin when you are ready.

**Mr. Pascall Bighetty (Assembly of Manitoba Chiefs):** My name is Pascall Bighetty. I am also a commercial fisherman from Pukatawagan, and I am representing the aboriginal and nonaboriginal fishermen from northern Manitoba.

* (0910)

The purpose of my presentation today is regarding The Fisheries Act, amending The Fisheries Act. In 1969 agreement with the federal marketing regulations by three provinces, Alberta, Manitoba, Saskatchewan, Northwest Territories agreed to a marketing monopoly with the exception being Ontario who would only agree to an approximate 50 percent monopoly and the other 50 percent free enterprise.

By 1988, Saskatchewan and Alberta passed provincial legislation amending respective provincial fisheries acts permitting the sale of fish direct from fishermen to retailers, wholesalers and processors. Provincial sales in Saskatchewan today total approximately 1.8 million pounds annually creating an alternative for fish sales of their total fish catches. That should be Saskatchewan today consumes 1.8 million pounds of fish annually.

What we want today is equality with the provinces of Saskatchewan and Alberta. We have an abundant supply of fish in Manitoba, and Manitobans are being denied access to their markets with the fish.

Reasons for requested amendment to the Manitoba Fisheries Act are as follows. There is insufficient fish prices offered by the Freshwater Fish corporation or less than 48 percent of the fish sales dollars being returned to the producer. An amendment to the Manitoba Fisheries Act would allow fishermen to go on the open market with their fish catches in cases where FFMC will not buy all species of fish produced by the fishermen. For example, Freshwater will only buy from fishermen

as follows: 60 percent of whitefish produced, 50 percent of trout produced. They do not take any rough fish. This results in 4 million pounds to 5 million pounds of fish going into the bush each year as nonsaleable fish to Freshwater Fish Marketing Corporation. Such fish must be discarded while fishermen continue to fish for species that are saleable to FFMC. Fishermen must be allowed to go onto the open market with the "bushed" fish now restricted by FFMC.

Access to markets outside of Freshwater resulting in increased sales of fish by fishermen will create much needed jobs in the North in the processing/packaging sector as well as or full employment of commercial fishermen.

Free enterprise buyers will be enticed to invest in the northern commercial fisheries where presently the monopoly has no reason to invest such resources.

Presently fish consumption in the province of Manitoba is very low due to the retail price. Direct sales by fishermen would result in improved quality as well as an acceptable consumer price and, most important, increased returns to the fish producers.

Commercial fishing is becoming extinct under the present monopoly which affects not only commercial fishermen but the various service industries required by commercial fishermen such as airways, retails for groceries, fuel companies, et cetera.

The corporation, FFMC, monopoly cannot continue to enjoy a total fish purchasing and marketing monopoly and, in simple words, continue to say to the commercial fishermen of this province that we are the sole purchasers of your fish catches.

If the price that we at FFMC decide to pay you is too low or below your production cost, quit.

If the credit policy that we at FFMC decide is not to your satisfaction, you can quit.

If we at FFMC cannot sell your fish, we say we will only buy 50 percent of your catches in your net, take it or leave it, bush it, we do not want it.

Fishermen and the livelihood of themselves, their families have been forgotten by the present marketing monopoly. The marketing monopoly has had its day of benefit to commercial fishermen of this province. Today the returns by the monopoly to commercial fishermen is below their actual cost of production and must be improved and can be improved through direct free enterprise sales. Manitoba commercial fishermen presently have no barometer to gauge if in fact they are receiving the best possible return from their sales with the present monopoly and we are asking for an alternative.

In view of the circumstances that haven taken place since the 1969 agreement between provinces and the federal government, it would be appreciated if this legislative body would give support to the requested amendment to the Manitoba Fisheries Act which would give equal opportunities to commercial fishermen of the province as enjoyed by their counterparts in other provinces. It would result in fresh fish affordable to the consumers.

On a last note, if we are not allowed to sell our fish directly to Manitoba consumers, I think that the northern fishery will die. We have been thinking as the Assembly of Manitoba Chiefs that it there is no fishery in northern Manitoba, then there will be full-scale tourism development in northern Manitoba where it only opens from June, July, August and September, four months of the year. We cannot allow that to happen, and I thank you very much.

**Mr. Chairperson:** Thank you, Mr. Bighetty, for your presentation this morning. Are you prepared to answer questions or discuss your presentation with committee members?

**Hon. Harry Enns (Minister of Natural Resources):** I have two questions, Mr. Bighetty, that I would like to pose. Part of the issue that you raised deals with federal legislation in terms of exporting outside of the province. That would require a federal change. I believe you are also probably aware that fishermen can ask for a producer permit from the Manitoba director of Fisheries and permit them to identify Manitoba retailers that can sell you fish there. You are aware that you can get that kind of a permit, right?

**Mr. Bighetty:** Yes, I am aware of that. For example, in Ontario, they not only sell their fish to Ontario, they sell their fish to United States. Our problem here as northern commercial fishermen is that we have our hands tied where we want to sell our fish. You know, we have an abundant supply of fish in Manitoba. It is not like Newfoundland. You go to Newfoundland, there is no fish there. We have

fish in northern Manitoba jumping out from the water, and we cannot sell them to meet the needs of our expenses at least. We are not Newfoundland fishermen. We are not given 500 million bucks like they do to Atlantic fisheries. We are poor fishermen. Why do you not allow us to sell our fish to Manitobans at least?

* (0920

**Mr. Jerry Storie (Flin Flon):** Thank you, Mr. Bighetty. Your presentation dealt with an issue that the Minister of Natural Resources, I believe, had initially promised that he would attempt to address. Although I have some reservations about a wide-open free-market system for commercial fishermen, just as I would have concerns about a wide-open free-market system for barley or wheat, the fact is that the disadvantages that northern fishermen face are significant. One of the major disadvantages, of course, is the cost of transportation. You mentioned in your brief that the provincial government had reduced the freight subsidy for fishermen across the province.

I am wondering whether the Assembly of Manitoba Chiefs has ever done a comparison between the subsidies that are available, for example, to farmers, the transportation subsidies, the crop insurance subsidies, the product subsidies, and done any sort of comparison between the amount of subsidy that we get compared to the contribution of agriculture to our gross provincial product versus the subsidies that are available to fishermen, which are in a provincial sense, almost nonexistent. Has AMC ever done that kind of comparison?

**Mr. Bighetty:** We have not done that.

**Mr. Storie:** Mr. Chairperson, I would certainly encourage the assembly to do it. I would encourage the Province of Manitoba to begin to look at how important freshwater fishing is to the province of Manitoba because I think it addresses some of the problems that you talk about. You could make a decent return if you had the same kind of transportation subsidy, for example, that certainly western Canadian farmers have had for many decades.

Dealing with the specifics of this bill, the one that Mr. Enns, the minister, decided to go with deals with the sale of quota. I am wondering whether the assembly was consulted, first of all, with respect to the decision to allow individuals to sell quota, to allow quota to become the property of individuals.

**Mr. Bighetty:** We were of the impression that Filmon's speech on free enterprise in Manitoba was legal, was law. We did not know that there was a proposed amendment until yesterday. That is how ill-informed we were on this bill.

**Mr. Storie:** I want to thank Mr. Bighetty for that, and I want to assure him that that is the general opinion in northern Manitoba. I have met with the South Indian Lake fishermen, Granville Lake fishermen, Pukatawagan fishermen, and there was virtually no consultation that I can find with respect to this issue.

I am wondering whether you can tell us what your concerns, and committee members may not know that you were the chief at Pukatawagan for many years, what kind of impact you would see the sale of individual quota might have on communities like Pukatawagan.

**Mr. Bighetty:** It used to be that we used to fish because the price of fish was good. If you compare prices per hundredweight for Lake Winnipeg, they pay less than a cent a pound per hundredweight to take their fish to Transcona, whereas in northern Manitoba, like in Pukatawagan, South Indian Lake, we pay 45 cents a pound per hundredweight. So there is absolutely no comparison, what we have to pay here.

I hope that this Legislature could carry on with what was promised to the fishermen. If that does not happen, well, I am afraid that not only the Freshwater Fish Marketing Corporation in Transcona might close down, because of the fishermen that we have spoken to, they are not going to fish. They are just going to boycott. They are just not going to fish at all this fall.

**Mr. Storie:** Mr. Chairperson, that is certainly more than a portion of the problem. It is a major part of the problem.

Dealing with the issue of sale of quota, I understand that in Pukatawagan, for example, I was told on Monday that there are approximately 60 lakes currently licensed to Pukatawagan fishermen and that some of the quotas assigned to individuals are fairly small. Would you be concerned if individuals could freely sell their quota to the highest bidder outside the community of Pukatawagan?

**Mr. Bighetty:** Well, that might be the case if we have to continue to fish under the existing regulation under FFMC. I guess that is going to happen. For example, on quota, you mention in the Pukatawagan area, 60 lakes. There are over a million pounds of fish that are supposed to be taken out annually. We can only afford to take out about 200,000 pounds.

**Mr. Storie:** Mr. Chairperson, I have a concern that this legislation gives the minister the right now to assign certain areas of the province, to allow cabinet essentially along with the minister to have discretion where quota can be sold, under what conditions it can be sold without any say.

I have a concern that the problems you have mentioned that face northern fishermen, particularly the transportation problem because it is so expensive, that what is going to happen is that over time if the wholesale sale of fish quota is allowed, fishermen in northern Manitoba who are experiencing low prices, difficulty paying off the loans they have to MACC, will sell their quota. They will sell their quota to the highest bidder and they will generally be the larger fishermen.

What will happen then is when prices are good, they will fish in northern Manitoba. When they can justify fishing in northern Manitoba to pay for the high transportation costs, they will fish in northern Manitoba. When they cannot justify it, they will shut down the fishery entirely, and fishermen in Pukatawagan and the people who rely on employment in the fishing industry will be left to fend for themselves. I am wondering whether that is a concern that has been discussed amongst at least some of the northern chiefs.

**Mr. Bighetty:** That is a concern with most of the northern chiefs. We just cannot continue to fish under existing conditions. It is not economically possible.

**Mr. Storie:** I know the acting minister wants to assure us that the sale of quota is not intended at this point for northern Manitoba. The minister has given us that assurance. Unfortunately, the legislation gives them the right, essentially as I see it, to change that at a moment's notice, but I would like to just, if my assumption is correct, make a suggested amendment.

I am hoping Mr. Bighetty will support it, and that is the idea that before any individual quota is sold from within a resource area of a northern community, the community somehow would have right of first refusal on the sale of that quota. In other words, if fishermen X has 15,000 pounds outside of Pukatawagan, before he can sell that quota he has to give the community, either the fishermen's association, a development corporation in the community, the band, right of first refusal. In other words, before the resource can be sold out from under the community, the community has to have a say.

Would you support that kind of amendment?

**Mr. Bighetty:** Yes.

**Hon. Albert Driedger (Minister of Highways and Transportation):** Mr. Chairperson, the member for Flin Flon clarified it to some degree. This legislation applies basically only to Lake Winnipeg and Lake Winnipegosis. I am told by Mr. O'Connor from the Natural Resources department that there is no intention to impose this on the northern communities unless they would want it and that the regulations, when they are drafted, will be addressing that portion of it.

**Mr. Storie:** Mr. Chairperson, I appreciate that this is the acting minister and that is the advice he is getting from staff. Staff always believe that their minister is the most honourable and the best, and that is as it should be. Unfortunately—

**Mr. Driedger:** You are saying I am not.

**Mr. Storie:** Well, no, but you are just the acting minister. They have no faith in you, no.

Section 33(2) says, area of application of regulations. It says: "A regulation made under subsection (1) may be made to apply to the whole of the province or any part of the province."

In other words, cabinet decides.

**Mr. Chairperson:** Order, please. I would just ask the committee members, we will have all kinds of time to debate the bill. We have other people waiting to make presentations, so would you address your question, please, Mr. Storie.

* (0930)

**Mr. Storie:** Mr. Chairperson, I am simply responding to the minister's clarification. [interjection] Yes, and he is asking me not to. The regulation, of course, can apply to the whole province.

The other suggestion that I would make in this bill and perhaps Mr. Bighetty would comment on it and that is that in the event that a regulation should be

made that applies to even the east side of Lake Winnipeg, the small communities, that there be a year's moratorium, that if this law should pass, if Bill 35 should pass, that there be at least a year's moratorium to allow the communities—perhaps on the east side of Lake Winnipeg, but others certainly—a year to prepare to purchase quota for their communities. If we pass this bill tomorrow and it is proclaimed, theoretically, fishermen could begin immediately to purchase quota for small communities, Northern Affairs communities, First Nations could get themselves together and say, no, we are going to buy that.

Would you support a year moratorium if this bill should pass on the sale of quota?

**Mr. Bighetty:** That would depend on each community, I guess, on each reserve.

**Mr. Storie:** Okay. That is my question.

**Mr. Kevin Lamoureux (Inkster):** I thank Mr. Bighetty for his presentation. I just have a comment and some questions.

I know it was about a week ago I was actually over at Cantor's Grocery. I do not know if Mr. Bighetty is familiar with that particular store. He is. I was talking to the owner, Joe Cantor. He expressed a lot of concerns about freshwater fishing and actually I am sure would find that he is in complete compliance or in agreement with Mr. Bighetty. He himself would like to be able to purchase direct from northern fishermen to be able to sell a product believing that it would be better prices for the consumer, that the fishermen would benefit also. It would be better quality and so forth, many of the points which you, Mr. Bighetty, have brought up in your report.

Have you or the assembly approached independent groceries and applied for these permits? I know I had asked the minister the other day inside the Chamber and brought up the specific example of Cantor's. He had implied, you know, all he has to do is find someone who will do the fishing on his behalf and go and get a permit.

Is that done? Are you aware of things of that nature actually being done?

**Mr. Bighetty:** Well, we are aware. We are aware that it is being done. Our main concern—for the North anyway; I do not know about Lake Winnipeg fishermen—is that if we can be allowed to sell our fish to Manitoba so that we can get the same opportunities as Saskatchewan and Alberta, I do not think that freshwater ran broke since 1988 when Alberta and Saskatchewan allowed their fishermen to sell their fish directly to the consumer. It is just that I get frustrated when I go to Safeway. You know, I have to buy sole and the fish that are from the Atlantic Ocean or the Pacific Ocean when we have an abundant supply of fish here in Manitoba that we can give, that we can strengthen the economy by selling fish to Manitobans so they can have fresh fish.

The other day I went to look at a fish there. I could see through it. We have a lot of fish here in Manitoba, and we just cannot understand why we are not allowed to sell our fish. We work hard, I tell you.

**Mr. Lamoureux:** Last night in committee we were talking about the importance of a board and regulations in terms of the taxi industry. Here we are talking about trying to open the doors to allow individuals—what would be the arguments? Why is it necessary? Are there jobs that are being protected in southern Manitoba? Why is it the way it is right now, in your opinion, and is it necessary?

The concern, of course—and I think it would be virtually unanimous inside the Legislative Chamber—is that we want to ensure that there are jobs and opportunities, in particular for our aboriginal people in the North. Is there any potential threat by opening it up that there is going to be loss of jobs or that that community we want to see grow and prosper would be at a disadvantage?

**Mr. Bighetty:** If Manitoba allows us to sell our fish to the retailer, of course the Freshwater Fish Marketing Corporation's employment may vary. Let us not forget that there is 80 percent aboriginal fishermen. If you go to the Freshwater Fish Marketing Corporation employment scale, you will not see one aboriginal working there.

**Mr. Lamoureux:** If we were to open it up, do you feel that there would be any loss of employment opportunities in northern Manitoba to aboriginal people, in terms of as commercial fishermen, or do you see the industry growing? You talked about the abundance of fish. If it were opened up, would it threaten that? Would it threaten job opportunities? Are you just going to get individuals coming from the south, draining the rivers and the lakes in the North and then leaving once the fishing stock has been depleted? Is that a threat?

**Mr. Bighetty:** I do not think that is the threat. I think it will definitely increase employment in the North. The only company that attempts to destroy fish is Manitoba Hydro. It is not the fishermen.

If the doors were open for us, we would strengthen the economy of Manitoba. As you said earlier, in Saskatchewan the Saskatchewan people consume over 1.8 million pounds of fish a year. That is exactly how much rough fish we throw away every year.

**Mr. Lamoureux:** Finally, with respect to the whole issue of quota, in your opinion, if you are going to have quota, and it seems to be a given that there is going to be quota that is there, is it better to have quota based on individuals being assigned a certain amount of quota or, let us say, assigning quota on a lake that can be drawn? Which would be better, in your opinion?

**Mr. Bighetty:** Definitely a quota on a lake to be drawn, because the individual quota has not be working. It is not working. If you give a guy 15,000 pounds of fish quota annually, well, he is not going to fish. He is going to just go out there, and he is going to be afraid to go over his limit. Whereas, in Pukatawagan, where we come from, we have a 250,000-pound lake quota, where we go out there and catch as much as we want and we can. The individual quota, that is the thing that is not working for our commercial fishermen in northern Manitoba anyway.

**Mr. Gerry McAlpine (Sturgeon Creek):** Thank you, Mr. Bighetty, for your presentation.

One comment that you made to Mr. Lamoureux was that the fish quota or lake quotas are not working for you. Maybe you could just expand on that. Why are they not working?

**Mr. Bighetty:** The lake quotas are working. It is the individual quotas that are not working, because if you give an individual person 15,000 pounds of quota, he is not going to go and get that out right away because he is out for the rest of the year. Whereas, on the other hand, if you give a quota of 500,000 pounds to a community and tell them, well, there is 500,000 pounds, go and get it, we will go and rush and get that 500,000-pound quota out as soon as possible. Whereas, if you give them each a 5,000-pound quota, they will not go out because they will be afraid to go over their limit.

**Mr. McAlpine:** The purpose of the freshwater marketing board is to maintain the lake quotas to the various fishermen, how many people can fish on that, and what their quotas are. Is that correct?

**Mr. Bighetty:** I think it is province who regulates the quotas. It is not the Freshwater Fish Marketing Corporation. I think their sole purpose there is to monopolize our fish. I think that is their only job description.

**Mr. McAlpine:** If they were to open the market up to what you are suggesting here, what is that going to do to the stocks of fish in the lakes in northern Manitoba?

* (0940)

**Mr. Bighetty:** I do not think that it would diminish the fish stocks in Manitoba, because over the past, since 1969, the fisheries have been declining, and is going down. It would even enhance the growth of fish, because we will be able to take out the unwanted gull fish which are in a lake.

How should I explain it? If you go into a lake and if there is too much rough fish in a lake, there will be less of the whitefish or pickerel. It will definitely not decrease the fish population whatsoever.

**Mr. McAlpine:** On the free market of marketing fish, would it be of any benefit to provide permits instead of just opening it up? Would that solve your issue?

**Mr. Bighetty:** We were so happy when the Premier (Mr. Filmon) announced a free market. I think that is what I was directed to attempt to tell the MLAs here.

Of course, you will have to have a permit. We are not saying that we should not have a permit. What we are saying is that we should be given a permit to be able to sell our fish to whomever we want, because we have no say.

For example, the pickerel prices here this spring, my fishermen tell me we had about 85 cents a pound, and for one species in Ontario, they were getting $2.50. It is just not fair. It is not a fair ball game.

**Mr. McAlpine:** One more question on this. For you to market your fish to these individual vendors, or sales outlets, whose responsibility would it be to transport that stock of fish under the present system as it now is?

**Mr. Bighetty:** Probably it will be up to the retailer and the fisherman, and if we know that, we will have to abide by Fisheries regulations, and we will abide by them.

**Mr. McAlpine:** Thank you.

**Mr. Chairperson:** So if there are no other questions for the presenter, I thank you very much for your presentation this morning, Mr. Bighetty.

That completes public presentations on Bill 35. We have a number of public presenters on 47, 49 and 52. What is the wish of the committee? Should we proceed with public presentations?

**Some Honourable Members:** Yes.

**Mr. Chairperson:** That is agreed. Shall we proceed in numerical order of the bills? That is agreed.

I will then call public presentations on Bill 47, The Residential Tenancies Amendment Act. The first presenter, No. 1, Julie Van De Spiegel, Landholders League of Manitoba? Is Ms. Van De Spiegel here? I will then call the second name. That name will be called again.

Number 2, Michel Mignault, Professional Property Managers' Association. Good morning, sir, did you wish to have a written copy of your presentation distributed to the committee?

## Bill 47—The Residential Tenancies Amendment Act (2)

**Mr. Michel Mignault (Professional Property Managers' Association):** I believe that has already been undertaken, Mr. Chairperson.

**Mr. Chairperson:** Thank you. You may begin when you are ready.

**Mr. Mignault:** Thank you very much, Mr. Chairperson. It is indeed a pleasure for me to appear before you on behalf of the Professional Property Managers' Association. With me is Alan Borger, Jr., who is here as a resource person to our association. He is a solicitor and has been advising us with regard to these amendments.

My presentation is based upon a letter addressed to Mr. Roger Barsy, the director of the Residential Tenancies Branch, and I will read from it verbatim: Dear Mr. Barsy, as requested, the following are our comments regarding Bill 47 and The Residential Tenancies Act.

Item No. 1, Notice to new tenants, Section 25(2). Should not 91(1) be amended as well? This section gives the new tenant the right to terminate if a rent increase is authorized after the beginning of the lease term. If a new tenant has notice pursuant to Section 116.1(1) that the current rent being charged is to be increased within three months after the commencement of the tenancy, why should the tenant then have the right to terminate the tenancy when the rent increase is approved?

The second item, Determination when Tenant not Located, Section 32(7). We feel 60 days notice is too long for a landlord to wait for the director to make a determination with respect to security deposits if the director cannot locate the tenant. We submit that this section should provide for determination by the director as soon as possible. The tenant could then be given, say, a 30-day right of appeal.

Item No. 3, Deposit paid the director if no claim by landlord, Section 33(1). For administrative convenience, we are of the opinion that the landlord should be permitted up to 90 days to forward the security deposit, or that portion against which the landlord has no claim, to the director. The reason behind this is simply that, generally speaking, it has been our experience that residents generally within that 3-month period will show up and ask for the security deposit.

Item No. 4, Director to determine payment. The same comment as in Section 32(7).

Item 5, Compensation for breaches of act or agreement, Section 55(1). This grounds the right of a landlord or tenant to compensation for breaches of the act or a lease. Subject to the duty to mitigate as set out in 55(2), 55(1) does not limit losses. An overhead allowance of some sort, as set out in Section 55(2), should be justified when the tenant fails to repair or fails to pay rent, and as a result, the landlord incurs direct and indirect costs. For example, the director and the commission have taken the position that service costs are not compensable, but there is no authority for doing so.

Item 6, Landlord may impose late payment fee, section 69(4). We feel that the wording of the amendment should read:

When a tenant fails to pay rent on a specified date in the tenancy agreement or tenders a dishonoured financial instrument, the landlord may require the tenant to pay a late payment fee determined in accordance with the regulations. This would be an administrative charge over and above the mandated late payment charges by the regulations. The regulations should be clear that the fee is due and payable as rent.

I will skip to No. 8. I just went out of order in my sequencing. Submission by tenant, 138(4). The

tenant shall provide the landlord with a copy of the notice to the director. We feel that if a tenant is filing an application, we should be receiving a copy of it in advance so that we know what the case is all about.

Notice of appeal 161(2). A significant number of the appeals that are being filed are frivolous and vexatious. It is not uncommon for a tenant to fail to attend the first hearing, file their appeal toward the end of the appeal period and then fail to attend the appeal hearing. We do not suggest that the right of appeal be eliminated. However, to reduce the incidence of frivolous appeals by landlords and tenants, it is submitted that the prescribed form be amended to require the landlord or the tenant to state simple grounds for their appeal.

If it is too much to expect that a landlord or tenant, perhaps with the assistance of the Residential Tenancies Branch, state that the facts are in dispute or that there are mitigating factors, perhaps the form could be amended to make the appellant choose these options from a list available to them. It is submitted that this would reduce the incidence of frivolous claims in accordance with the intent of the act.

* (0950)

Item 9, Notice in specified matters, 161(2.1). This section reduces the appeal period from 14 to seven days for two situations: (a) failure of the landlord to return security deposits if the tenant makes application for return and the landlord has failed to make application; and (b) in respect of orders for possession.

This latter provision is important, but we are somewhat confused as to how it will affect the administration of the appeal process. What happens when a tenant fails to appeal an order for possession within the seven days time period but appeals the director's decision for rental arrears and exit charges after the seventh day but before the 14th day?

Will the landlords' right to terminate be stayed under 163(1) pending determination by the commission, which might be a month or more after the date of the appeal? Will the commission then be able to make a conditional order that gives the tenant several additional weeks from the date of the appeal to effect payment?

Item 10, Adoption of director's findings. This provides that on appeal the commission may accept the director's findings of fact insofar as a party to an appeal put them at issue. This is an important section which has been badly ignored by the commission. The preamble of this act states: And whereas Manitobans recognize the small sums of money typically at issue between landlords and tenants, the need for prompt settlement of disputes and desirability, et cetera.

In spite of Section 168 and the Preamble, the commission has taken the position on several occasions with respect to landlord's claims for rent arrears and exit charges that notwithstanding that the tenant failed to appear at the hearing in the first instance, failed to respond to the landlord's registered mail addressed to them, appealed on the last possible day and then failed to appear at the appeal hearing, it was incumbent on the landlord to reprove its entire case.

Indeed the commission expected that for a very minor claim in dollar value of exit charges, the landlord could not rely on its exit charges schedule of which the tenant had prior written notice and which was accepted by the director.

No, the commissioner thought it was incumbent on the landlord to call its resident manager as witness at both hearings and to have pictures ready to support his evidence.

The director also took the position that the appellant's absence put a greater onus on the landlord to prove its case. Perhaps it should be clear that the standard is merely a civil standard, and perhaps there should be a provision that would require the commission to accept the director's findings of fact unless a party puts them in issue, especially when the appellant fails to appear. An administrative change would suffice. Alternatively the act should be amended and the word "may" be replaced with "shall".

Item 11, Powers of the commission on appeal, 170(1), orders by the director under 154(1). The director and commission apparently take the position that they can make conditional orders that give the tenants more time to pay before an order for possession is effective, notwithstanding the cause of action arose several months before, notwithstanding that the tenant has not demonstrated good faith and notwithstanding that by giving the tenant more time they are readily exposing the landlord to more exposure from judgment-proof debtors. There are certain

breaches that should not invite this type of discretion, and nonpayment of rent is one of them.

Mr. Chairperson, that concludes our presentation.

**Mr. Chairperson:** Thank you, Mr. Mignault, for your presentation this morning. I am sure that many members would appreciate an opportunity to dialogue with you on your presentation if you are prepared to do that. Thank you. Are there any questions for Mr. Mignault?

**Mr. Doug Martindale (Burrows):** Thank you, sir, for your presentation. I have a question about No. 3, deposit paid to director if no claim by landlord. I believe The Residential Tenancies Act now says 14 days. These amendments change it to 28 days, and you would like 90 days. Could you tell me why you would like it changed to 90 days?

**Mr. Mignault:** Essentially we do not have a fundamental problem with 28 days. It has been based on our experience and quizzing our members that generally speaking, within that 90-day period, the resident will come back if he is entitled to his deposit. Then the cheque will be there, and we will simply give him the cheque. It is about that basic. So it gives us some leeway at least to have the money available. If the tenant does arrive and asks for his money, we simply give him the cheque; otherwise we would be obligated to forward the monies on to the director.

**Mr. Martindale:** Why should you need leeway when it is the tenant's money?

**Mr. Mignault:** As I indicated, it simply facilitates the administrative process. Rather than burdening the administration with these types of things, it is just operationally—you know, the tenant is getting the interest anyhow, so we are not really holding back on anything from the tenant's perspective.

**Mr. Martindale:** When one of your tenants signs a lease, is that the time at which you require the security deposit to be paid, at the beginning of the tenancy?

**Mr. Mignault:** Yes.

**Mr. Martindale:** Okay. And how long before occupancy does that usually take place, or does it vary?

**Mr. Mignault:** That depends. I mean, it just depends on when the tenancy is taking place. It could be a day, a week, a matter of hours.

**Mr. Martindale:** But as soon as the tenant enters into a lease agreement, they must pay the security deposit. They do not have 14 days or 28 days or 90 days to pay the security deposit.

**Mr. Mignault:** No. I grant you, I see your point.

**Mr. Martindale:** Okay. So why should the landlord be given 90 days to return the security deposit when tenants must pay it immediately on signing a lease?

**Mr. Mignault:** Mr. Chairperson, this is only a recommendation. We have no problems with the 28 days. We are simply indicating, based on our experiences from an operational standpoint, that these things happen. That is all. We are quite prepared to live with 28 days.

**Mr. Martindale:** Is it really that difficult to submit a security deposit to the department?

**Mr. Mignault:** No.

**Mr. Martindale:** Thank you.

**Hon. Linda McIntosh (Minister of Consumer and Corporate Affairs):** Thank you very much for taking the time to come out and make a presentation today and for making your viewpoints known to us. I understand that Mr. Barsy has received your correspondence that you have presented here today, and I appreciate some of the points you made.

Just for clarification. I will not take too much time with questions because I think you have made the points quite clear in your presentation, just with regard to item No. 1, I am, for clarification, indicating that is only for renewals. I am not sure from the way you have worded it if you were aware that was just applying to renewals. So it is not really a question, it is a comment.

Just another comment, because you asked the question which I am able to answer for you on 9(b), will landlord's right to terminate be stayed under 163(1) pending determination, et cetera, and the answer to that is no.

So I just provide you with those answers and accept your brief as an indication of the concerns you have identified. I thank you for taking the trouble to put it together for us and, again, as well, for coming out. I know it is short notice and not always easy to get out to these committee hearings so I do appreciate your input.

Oh, I beg your pardon, just one other point here. Item No. 2 in your letter, the tenants generally show

up within two months and we feel it is best to have a decision made with both parties present if possible. I just give that back to you again for some clarification.

Thank you very much for your comments.

**Mr. Gerry McAlpine (Sturgeon Creek):** I missed part of your presentation. I had to step out for a couple of minutes. One thing that I think maybe requires some expanding on is the matter and the frustration that landlords do experience in terms of the tenant failing to appear at appeals. I have heard this, not maybe so much from the larger landlords who have maybe a significant cash flow, but in situations where we are dealing with smaller landlords in terms of appeals and the frustrations that they are facing.

I would like you to expand on that if you can because of the importance of this. I think it is not only a one-way situation here that we are dealing with inasmuch as the appeal is concerned. Maybe you could just expand on that and what your experiences are.

**Mr. Mignault:** Mr. Borger has attended a number of these hearings; therefore, he is probably in a better position to give you some actual bonafide comments having attended a number of these. So I will turn the microphone over to him, and he can explain to you what exactly he has seen.

**Mr. Chairperson:** Before you begin, could you identify yourself for the records.

* (1000)

**Mr. Alan Borger, Jr. (Professional Property Managers' Association):** Honourable committee members, my name is Alan Borger, Jr., and I am here as a resource person to Michel Mignault.

I have attended a hearing or two at the commission level and I have reviewed the facts of several of the cases. I was frustrated as a lawyer. The commission members take the opinion that they are essentially conducting a trial de novo. They also take the position that when the tenant fails to show at the trial at first instance before the director, or at the appeal, the landlord has a greater onus on him to prove his case.

I note your comment about smaller landlords, but I think that even larger landlords and larger property management operations are affected by this process. I have a sense of frustration just being associated with it.

The act was, I believe, proclaimed into force in September of '92, and it was designed to expedite the administration of claims between landlords and tenants. I do not think this is happening. In simple cases of nonpayment of rent—and we are not talking usually about one rental period, often more—the property managers will often try and work with tenants and give them time. However, after a certain point they will say, no, this cannot go on. To get a notice of termination and an order of possession effectively through is taking up to three months if a tenant knows the system and can play out the appeal process.

I mean, if you would like, Mr. Mignault and the other property managers can assemble cases and prove to you that this is stretching out over three months. I cannot see justification for it. You miss a rent payment. You miss a couple. You have three days. Then you have to personally serve the tenant, an apparently adult person, at the residence. It is my experience as a practising lawyer that you can evade service for a long time if you are so inclined.

There is no provision for substitutional service. There is now a provision for substitutional service in the case of when you cannot find a tenant and there is a security deposit. I submit that there should be provision for substitutional service, explicit provision right in the act. So let us say it takes a few days to find the tenant. Then we will get a hearing date set maybe 10 days later in front of the director. The hearing occurs. At three out of four of the hearings, the tenant does not appear.

There is nothing to cover a landlord's overhead charges in these. The landlord appears. He or she, usually a property manager, puts forth their evidence. There will be an order at the director's level. Usually the order is unequivocal, and it is based on the facts. Under the legislation the way it is today prior to Bill 47, the tenant has 14 days to appeal. We are finding a number of appeals on the 13th or 14th day.

An appeal before the commission is scheduled a month to a month and a half later. We again attend the commission hearing. The tenant at the one that I attended—but I am told it is common experience—does not show again. The chief commissioner in this case took the position that it was a trial de novo. He will not look at Section 168, which allows him to accept the director's findings of fact, unless a party present puts them in issue.

Nobody is present. He takes a position that there is a greater onus.

Incidentally, I would not make this legal and that is the intent of the act, unless the commissioner did that, but the commissioner says we have a greater onus now, greater than the civil standard I assume. So the commissioner at that level will make a determination.

At the trial I attended, the commissioner found that the rent was in arrears. It had been so for about four months. However, because we did not call our caretaker to present evidence about the amount of detergent used and the exact amount of time and we did not call him as a witness and we did not have pictures to prove this, that an exit charge for $23.50 should be disallowed. The exit charges were scheduled to a notice sent to the tenant with the notice of termination. The tenant had ample opportunity to conduct the cleaning at that time, but no, we are supposed to have documentary evidence, photographs, we are supposed to call caretakers so that they can be cross-examined, and the tenant does not even show.

Another thing that is happening at this level is the commissioner will say, I find that there are rents in arrears for three months. The tenant has another month or another two weeks to make good the rent and if he does that, he can stay in. So the process continues with us. I cannot speak definitively about when we do get a judgment and when this does finally go through, but I suspect that two weeks security deposit is not enough to cover the kind of frustration and the kind of rental arrears and the kind of damage that is being done to apartment buildings in this city.

**Mr. McAlpine:** One last question, the word you are suggesting here, the appellant does not appear and administrative changes would suffice. Alternatively, the act should be amended and the word "may" be replaced with "shall."

What is the impact of that going to be?

**Mr. Borger:** At that point the commission would have to—in the situation where the tenant or the landlord does not even appear, especially when they have not appeared at the trial—they would have to accept the director's findings of fact. If you want to make analogy to the criminal and civil courts, facts are usually not put in issue at the appeal level, but this trial de novo concept keeps coming up and I submit that it is being used abusively.

**Mr. Martindale:** Mr. Chairperson, I am sympathetic to your concern here and there is a reason. The reason is I was on the Landlord and Tenant Review Committee along with Mr. Rosenberg some years ago, and there were a number of tradeoffs on that committee. One of the big concerns with landlords and property managers was that they wanted a much faster process for order of possession. We agreed to that and landlords reluctantly agreed to other things in return. This was not in writing, but that was the way a lot of the consensus decisions were eventually arrived at. One of the things that property managers object to and small landlords objected to was making the security deposits in-trust provisions or strengthening the protection for tenant security deposits.

I am sympathetic to the specific concern, but why should I as an opposition member who represents many low income tenants agree to your suggestion about changing the order of possession and speeding up the process when this bill basically guts the security deposit in-trust provisions? It seems to me there is no fair trade-off here anymore. Landlords are getting what they want in terms of security deposits and now you are also asking for speedier orders of possession.

* (1010)

**Mr. Mignault:** I think the security deposit provisions now do not deprive anyone from protection. I think it provides more protection.

If the landlord, for example, chooses not to run through the process, the penalties are horrendous. We are obligated to hold these deposits, and I see no problem. It is saving costs from the administration side of things, which is, to my understanding, one of the big things. So I think everybody wins under these circumstances. I do not see the problem here.

**Mr. Martindale:** But you know that in Bill 47, the security deposits in-trust provisions are gone.

**Mr. Mignault:** Yes, I am aware of that.

**Mrs. McIntosh:** I just have a couple of points. I thank you for some of the issues you have raised. It is certainly helpful to have the perspective and your experience on some of the case-by-case things you are talking about, delays with owners and possession, that type of thing. It is useful for me to hear and I appreciate it.

Just, again, as a bit of a response, you asked if there could be an explicit provision for substitutional service in the act. I think if you read Section 184(4), you will see wording there that does answer that concern, and I just wanted to draw that to your attention.

I hope the cases where it is taking three months are anomalies that we can continue working on. I do not want to go into too many specifics on that right now. I just want to make one other comment, and then if you wish to respond, by all means, please do.

You mentioned the trial de nova and the commission acting as if they could hear each case anew, and indeed they can, which I think you are aware of. In Section 170(1)(b), you will see reference to the powers of the commission and their ability to act as a director would. The wording I do not have right in front of me, but I think if you read that section, you will see their authority to act in that regard spelled out.

The reason we do that is otherwise the commission would be bound by the facts—which we presume in most instances are correct—given to him, but with no ability to check them for himself or herself. That is why the act is worded that way. That is why it functions in that regard.

I would be interested in your response to that.

**Mr. Borger:** There might even be constitutional reasons for designing the legislation the way it has been. No matter what the legislation says, if you are going to give the commission the wide discretion that it has, then they will feel free and their practice is to ignore Section 168.

I do not understand why that helps the administration of these minor claims. I think something can be done about it. I do not wish to remove their discretion, but I wish to limit it.

**Mrs. McIntosh:** I understand.

Did you wish to respond as well to my comments about the three months?

**Mr. Mignault:** No, I think I would agree with Alan. The commission has discretionary powers. The manner in which they utilize them, I think, is not being dealt with correctly. To bring at issue some very, very minor situations, especially when appellants do not appear, to me, is not expediting the process.

Secondly, under Section 184(4), yes, we are aware that that substitutional service is available through there. Our concern is we do not think it is being utilized.

**Mrs. McIntosh:** Okay. I appreciate your comments on that. Thank you very much for taking the time to appear.

**Mr. Chairperson:** Thank you for your presentation this morning.

We will now call No. 3. There has been a slight change between No. 3 and No. 4. Bob Hanson and Peter H. Warkentin will both be appearing for the Apartment Investors Association of Manitoba, and there will be no representation for Dart Holdings Limited.

I would call Mr. Hanson and/or Mr. Warkentin, please.

**Mr. Robert Hanson (Apartment Investors Association of Manitoba):** Good morning, ladies and gentlemen. We have distributed some material to you that is a compilation of material that was brought forward to our association in pieces. I would like at this time to present the part that our group has put together.

The first part relates to the information we are presenting to you on guidelines and discounting. Historically, over the last four or five years, landlords have been providing a discount, although they were not calling it a discount. They were reducing the rents and paying rent on behalf of a tenant, which was permitted under the old regulations, and not called a discount.

As of last September, discounting was permitted. Now, what has happened is that those landlords who were not familiar with the process of how to register a discount were not permitted to recover their guidelines over a period of time, so the situation exists now where a lot of landlords are in a position where their cash flow is considerably cut back, where the historic fact is that the increases have, in fact, occurred. So they do not have the cash flow to maintain the level of maintenance that they should be maintaining. They do not have the cash flow, in some cases, to make their mortgage payments.

As their mortgages become due and renewed, because of this drop in cash flow, many of the mortgage companies now are cutting back on the percentage of increases they are allowed—I am sorry, the percentage of mortgages that they are

allowed to renew. For this reason, there have been dozens of foreclosures. I say dozens. There have been literally hundreds of foreclosures and unnecessarily so, we believe.

(Mr. Gerry McAlpine, Acting Chairperson, in the Chair)

We are proposing that discounting be extended to allow a landlord to register the guideline increases that were not taken and not properly registered and register them now in the same way. They were, in fact, given in the same manner and for the same reason as one month's free rent or a cash bonus or any of the bonus methods that were used prior to September of last year. However, because they did not register them or were not aware of how to register them properly, these discounts are now not legal under the current legislation.

Our position is that you should take a look at that for economic reasons. The landlords who are affected are those landlords who are not in the five-year group; in other words, that group of landlords or that group of owners who are exempt from controls by the fact that their buildings are five years or less or those buildings that are three units and under that are allowed to increase rents to market upon a voluntary move-out.

It is the group in between that has no recourse at this particular point, other than to lose their buildings. The effect of that, of course, is that those buildings, when they are foreclosed upon, are generally purchased, and the new purchaser will upgrade and apply to come off rent controls to recover their costs for renovating the new suites.

This does not do anything for the lower-income tenant who then has to pay for the same suite a higher amount because it has been renovated. If the discounts were allowed in this manner, it would allow orderly. It does not mean that the landlords could in fact increase the rents because of the market, but it would allow them eventually, as the market recovered, to recover that income. That is not what is possible at this moment in time. That is my part for the moment.

**Mr. Peter H. Warkentin (Apartment Investors Association of Manitoba):** Good morning, Mr. Chairperson, honourable members of the House, ladies and gentlemen, I have been given one part to address this morning and one of them is that the amount of work that the landlords are loaded down with these days is phenomenal. We are therefore asking the House or the committee to consider an increase in management that is allowed to pass through as a cost from 5 percent to 7.5 percent.

* (1020)

We have just as an example Section 67 which says that when there is a complaint from a tenant, the landlord must investigate. It also says under Section 39 that we now have to do a mandatory check-in, checkout condition report. That is where either one of the parties request the work to be done. The list goes on, but this is just to cite two.

So we are asking for that increase to be allowed. We are expending it and in some cases where you have two employees, to carry out all the work that is now required you need three employees and you still cannot keep up. So there is a definite increase in work.

Then under 5, page 3, item 5, Equality of management and property. For too long the administration has used the position that where there is a contractor or a person who is a contractor as well as a manager and holds property, the contractor cannot do any mark-up on his costs to pass through as a cost of the renovation increase, now the difference being that if the landlord brought in an outside contractor surely he would be permitted a mark-up and why should not the company that is working for his own.

On the other hand, I might point out that no landlord who has both a construction company, a management company and holds property, would seek to increase an unreasonable amount of cost because that forces his rent up. As a result, he would be pricing himself out of the market. So I just want that to be clear. What we are looking for is that whatever the market is, is what should be applied to both landlord, manager or contractor, depending on what the situation is at that point in time.

Item 6, Payment of relevant charges charged by a landlord to a tenant. Now relevant charge must be something that is not charging a thousand dollars for a $50 item. It has to be relevant, one. Two, if, for instance, a tenant drives down your fence, it is not a relevant charge to charge a thousand-dollar repair to the tenant, but the deductible only and the balance is Autopac. We have been through this in the courts. So we identify the relevant charges.

Then under 7, we have had a problem and the problem is this, that where you have a prescribed

charge or any cost due and owing by a tenant to a landlord, there is nothing that a landlord can do if a tenant does not pay his bill. So he goes and smashes a window; it is $300. So the landlord replaces it, sends a bill to the tenant. The tenant does not pay. There is nothing there that can force the tenant to pay, and you cannot evict him for it, and so we are looking for the same as—an accounting procedure whereby a tenant who did damage, and that bill comes to the tenant on the 10th of the month, say, and when the first of the month rolls around and he brings him $500 for rent, the first thing that is paid off is the outstanding account.

Now, it is my understanding that this is the way administration is looking at it today when we deal with charges and areas where we get the—what do you call this in the courts?

**Floor Comment:** Judgments.

**Mr. Warkentin:** Judgments, right, sorry, thank you—where judgments are brought forward, then the officer will say, well, you have a judgment on this one, and you have this money in, so that is paying off the old account, and we agree with that.

But there is nothing in the legislation, and this can change from officer to officer, and we would like to see it in the legislation to make sure it is understood by the tenants as well as the landlords alike and the branch as to what the process is.

Then we have prescribed charges. We believe that we need a deterrent, and it is not in the form of a penalty, but it is a deterrent where the people are spending their own money, who wish to engage in various activities. First of all, the philosophy for prescribed charges are "user pays," and "protection for good tenants."

We believe that we have approximately from 85 to 90 percent of excellent tenants—not a problem. But those are the people who are suffering when you have 10 people on a floor, and one is throwing a party in the middle of the floor, and the other nine tenants are awake and suffering as a result of it. We believe that is totally unfair. The tenants do not like it; they do not stand for it.

We need a deterrent that when a party is thrown by a tenant and we are being called, or even if we just go through and check on our own, that tenant has just incurred a cost to the person who has to come out, check it out. Sometimes it takes hours, or the police have to be called. They are busy; they do not come for three or four hours. In the meantime, you have to wait there; you have to be ready. All those expenses and costs and time, today, are not covered.

The tenant throws one party after another because he gets the attention that he is looking for at a tremendous cost to all the other tenants who have also paid rent and are not enjoying the peace and quietness that the document, the landlord and tenant affairs act, or the act itself, Bill 13, is to provide. There is no way a landlord can run around in circles day and night for someone complaining about the party that is being kept.

So this is why, the sound basics, for prescribed charges. We start out with, on page 4(a), Late payments. Now, when a person is late, we are asking for a $25 flat fee for the person who did not pay his rent on time, because it costs the management company a lot of time, and time is money. I can cite you the Montreal Trust, for instance—they charge $30 for every clerk hour that you are using of their time, and one hour does not take very long to be spent. So we are asking for a $25 flat fee.

At the same time while the management is going on looking for the tenant to bring in the money, the landlord is out the money in his bank account, and the mortgage money is coming due. So we are simply asking for a flat fee for the first 30 days when the landlord did not have his money in his account, and thereafter at 6 percent above the statute law interest. There is a section in statute law dealing with prejudgment interest.

The same thing applies to NSFs because what tenants will do is after you put the heat on them, they will give you a cheque, and it takes them another week or two before the cheque comes back to our bank and back to us. In the meantime, we are all running around. They are living there in peace and quiet and enjoying it, while we are running around spending money and not being compensated for it.

Now, we do know that under the present Section 55(1), it allows for compensation, but what do you do when you look for some bills, the bank what they charge you plus your time, and everybody calculates their own time. So you get anywhere from maybe $75 to $150 for a claim. We feel that what we would like to present is a flat fee of these figures, and that should be sufficient, not

necessarily covering everybody, but at least they give a good base to work from.

Then we have on page 5(c), Breach of window security, $100 per occurrence. I am sure, and no doubt you have read the article in the paper where this little baby fell out of the window. Surely, no landlord likes to have his building identified on the front page, this is where the child fell out of the window. It is the landlord who should provide the windows and the screens when a tenant moves in, and the tenant is responsible, and should be responsible, to leave those windows and screens in place so this does not happen.

* (1030)

Now, that is from the third floor, but what do you do with tenants who constantly ignore your warnings and constantly move in and out of the window, use it as a doorway, or pull the screen out and leave it out so that the mice and bugs can come in, or where it is a secure building, it also breaks the security for the people who can walk into and through their suite and into the building that would otherwise not be as easy and readily accessible.

These are the reasons for the breach of window security, and we feel that where this happens—and I can assure you, you can send these people all kinds of letters, it does not mean anything, but the moment you put a charge to that cost that we are expending, they have a second thought about leaving those windows in, and they do it.

Breach of door security. The door security is electric in most cases or a panic set from the inside. It does not take very much for a big person, or any person who really puts to it, to pull that panic hardware open. Now you have a stretched security cap that covers the panic set. Those things are awfully expensive to repair and when buildings get older, even harder to find the parts.

Now why should people like this be let go? There should be a penalty for them, and it is most often where tenants do not make their arrangements or may not even be home, or they do not want to come to the front door and be let in by a tenant or the tenant may not want to see them, and so they go and yank the door. But this is a tenant who has attracted that type of a friend.

Under the act, where a tenant remains responsible for damages done by his friend, what we do is we follow the person through to find out what suite he enters. That is the friend. That is the person who permitted or invited or brought him in, and that is the person, the tenant, who should be responsible.

Under (e) Tenant's loss of keys. It is amazing how many people will lock themselves out or lose keys. Now, when I say amazing, it seems to be, in most cases, the same people, and when you tally all the people, there are very few of them. Most of them are in the inebriated state and therefore do not care where their keys are. And at two or three o'clock in the morning, they want to wake up the caretaker to come and let them in. It is either that or go to a hotel for the night and come back during office hours. During office hours, we permit the doors to be open without charge. It is just when everybody has gone to sleep and after hours when the staff feel they have done their day's work for which they were paid, and now they are engaged in additional time. That is the deciding factor.

This way, we feel No. 1, we do not want our staff to be awakened at night, and therefore we feel that the tenants will take more care for their keys and have them with them when they come home.

Under page 6, Duty not to disturb others, $100 per occurrence. The same thing again as I described before. There are 10 people on the floor. One person throws a party. Why should all the others be awake? I can honestly tell you, I tried it. It was amazing how these two fellows—first of all, they had a party. I was called by the neighbour. I went down at two o'clock in the morning to find out whether it was fact, found it to be fact. I said, okay, no more parties.

The next time I get another call, this was around 2:30 in the morning. I go down. It is fact again. There is a party going on. So I said, okay, out, that is, the guests, which they left. I said to the tenants, be in my office tomorrow morning at eleven o'clock. By the time they came to my office in the morning at eleven o'clock, I hand them a letter listing the disturbances and also told them you are going to pay me $100. What for? Well, I said, you just engaged myself in this case to come and tell you that you were too loud for the second time. You got a warning last time, and this is the second time, and this is not right for the other tenants who have to be awake because of you throwing a party.

So they paid it. In the letter I said, the next party is going to cost you $200. Every time they saw me

down the hallway they would ask, are we too loud? I had to say, no, you are okay. Keep it up this way and there will be no more problems and no more costs. So it has worked. I have had the experience, and this is what people are looking for. It is attention, and this way they get it.

Breach of pet policy. Now the same thing applies there. Where there is a pet policy in place and tenants want to have a pet, they should sublet and move out, because it is clearly on the application itself and the tenancy, there are no pets allowed. Where this takes place, we have had the clerks at the branch office tell them, well, really the only amount of money the landlord can hold you responsible for is the amount of rent you paid that month, and if he evicts, you he cannot charge you anymore. That is the information my tenants have been getting.

I asked them to call Bev Wire and I asked them to call Roger Barsy, and I believe that part as information was sorted out because he came back, signed the letter. We have a 24-hour letter to be signed, the pet is gone, and no more to be brought in. He signed it and brought it in. However, he has now disappeared. He has abandoned the suite.

Now, when we talk about abandonment, there is nothing written in the act, but it is fact that there is such a thing as constructed abandonment. That deals with the issue of party after party. It deals with bringing in pets so that you will terminate them. It will deal with a multitude of other things that they can do such as leaving the windows open, and finally you have to fend for the security and you have to deal with it. That is constructed abandonment and should be treated the same way as anybody who abandons the suite under the act.

Page 7, receipts and duplicate receipts. This year we simply would like to have it in the legislation, so it is clearly understood that every landlord gives a receipt at the time a tenant moves in for rents or security deposits, no question. This is where landlords also need to be trained, and the tenants should be trained to make sure they get one, both sides. Where the landlord has given out receipts, and the tenant at the end of the year comes and says, I lost some receipts, could you get me another one, there clearly should be a prescribed charge permitted under the act, so everybody knows what is permitted.

When we talk about the tenants shall be liable to the landlord, we are not saying that every landlord will charge every tenant. It is only those guys who make themselves a nuisance, where year after year, they come, in spite of having taken the time by the landlord and management to give them their receipts, and you find they want another one at the end of the year because they did not look after it.

Under (j), Breach of laundry washer and dryer policy, the same thing. Buildings are not designed to emit the moisture, and so when people bring their washers and dryers in the suite and it is overhumidified, the mildew is growing, the ceilings darken, the paint peels, all these kind of things, there has to be a deterrent. This, of course, does not include any damages that they create, but where they are found to have a washer and dryer, there should be a deterrent penalty.

File service fee is simply where one tenant rents a one-bedroom suite, and three months down the road they see they really need this extra money. The landlord allows two people in a one-bedroom suite. The suite is big enough, so the tenant comes to the landlord and says, I would like to bring in a roommate, is that okay? The landlord has to do research, et cetera, and for that we feel it is a file service fee that the landlord should be allowed, a one-time charge, so the tenant who is in the suite can be relieved of the financial burden that he or she otherwise thought they could handle and now find themselves in need of assistance. Otherwise, there is no interest in the landlord or management, unless they get paid for it, to let the other person be there. Under the lease, it says that the tenant can only be there if he is allowed by tenancy agreement.

* (1040)

Assignment or sublet fee. We believe that the $40 presently in place is not worth it. It does not cover the cost, and we feel that the hundred dollars is a reasonable charge for an assignment, the reason being that the landlord goes through the cost when the tenant comes in, expending time, research, et cetera, and then either he or she is accepted or rejected. What we are talking about here is where the tenant is getting the benefit, and should it not be to the benefit of the management company or the landlord, to move out and relieve themselves of the obligation of the tenancy agreement for the balance that they are assigning.

What we are suggesting here is that the landlord should get a fixed fee of a hundred dollars where the tenant is approved. They pay the hundred dollars with the application and if the tenant is rejected, and that is where we come in say an hour, $30 for the time plus long distance charges or whatever you have to go through, licence bureau where you have to pay a fee, et cetera, do the research. That should be covered.

At that point in time, when a tenant is turned down, he gets half of that money back. So $50 remains with the landlord and management company simply because in some cases we find that the tenants do not disclose the full information. When we start doing the research, we find out a lot more about him than maybe he would like to forget.

Then, Tenant liable to landlord, that is under (m)—should the tenant not be present at time of move out, condition report being completed or sign same, the tenant shall be liable to the landlord for a prescribed charge of $100 which does not eliminate any compensation legally due to the landlord from the tenant under Section 55(1). We believe that the check-in condition reports and checkout condition reports are essential.

What our experience has been is where tenants move in to a nice clean place, they sign the cleaning sheet, they sign the damage report, condition report sheet, this is what we have found. When they move out, while the landlord's inspector goes with a tenant and looks at the carpet being soiled, looks at the range being dirty, looks at the fridge being dirty, looks at the bathtub being dirty and those things are marked, and then the inspector says to the tenant, would you please sign? The tenant says no I am not signing and walks out.

He or she does not want to admit in writing that is what they saw together. They were quite happy to sign when it was clean and they moved in, but when they had to see and it was recorded as to what the tenant left, they did not sign. Then they come before the branch and they will say, well, after all, I left it cleaner than the way I got it. Time and time again you will hear that.

The commission takes the same position. They look at what did the officer do. Well, we will do the same thing. That is the frightening part. We need to get those tenants there when they move out, when they say they are ready for a checkout, that they have left it clean the way they got it. We are not asking for anything more than what they got.

Under page 9, condition reports where requested by landlord. We have covered that in part. We are saying now that a landlord shall prepare: No. 1, the rental unit shall be prepared by the landlord for the check-in condition report as required by the act and the regulations. So, clearly, this establishes what the tenant gets and should sign for.

Under 2, the tenant shall prepare the rental unit, et cetera, for the checkout condition report at the expiry date of the tenancy agreement, abandonment or termination by the landlord. In other words, the lease has expired, the tenant has abandoned or the landlord terminated for whatever reason. That is when a tenant needs to prepare the suite for checkout. That means under repaired and compensated, under 3, a tenant shall before vacating the rental unit repair all damages as set out in Sections 72 and 77 and as set out in the landlord's house rules or the tenant before vacating shall have compensated the landlord in full for all property damages and related damages such as loss of rent, et cetera.

When a tenant moves out and leaves you with a lot of damages, that compensation may be $500 or $1,000 to repair and paint, but it does not compensate the landlord when he now loses one month rent during the time that the damages are being repaired and the two months that he otherwise has time under the act to rerent the suite. That is what we feel is reasonable and fair. So we are bringing that to the committee here.

Rental unit deemed ready for checkout condition report under 4—the rental unit shall be deemed ready for a written checkout condition report after the tenants and occupants, not only the tenants, but the occupants, (a) have removed all personal belongings including all furniture from the rental unit, storage locker, car stall, et cetera; and (b) when all cleaning has been completed to the same standard as noted in the check-in condition report, which must be approved and accepted by the landlord, because the tenant will say, well, they are saying to the commission now after they do not commit themselves in writing what they see, they say, well, I left it cleaner than what I got it. So it has to be the standard that the landlord sets out and has had for a period of time, has also had the documentation signed by the tenant on the condition report.

Page 10 then, tenant to serve landlord written notice giving date and hour of checkout condition report. Now, what we have is, we have an overholding situation. We have a tenant coming in for the first, but the guy or the person does not leave till two or three days later. What do we do?

As landlord, we are exposed to a liability. The tenant has not paid his rent and he has not cleaned up and he has not moved out, so we have a problem. It shall be the tenant's responsibility to arrange for and advise the landlord in writing of date and time the rental unit, storage, parking stall, et cetera, will be ready for the written checkout condition report, this report to be completed and signed by the tenant and landlord at least 12 hours prior to termination of a tenancy agreement.

That way, we know the tenant has a place to move to. We know that they have arranged for the trucks. We know that they will have it cleaned out and ready for that time. That is only reasonable and fair for any tenant—I am talking about the incoming tenant—as well as for the landlord to know that everything is in order and also for the tenants themselves who are moving, that they know what they have to arrange for and make sure that is in place at that time. Otherwise, it is all hearsay—well, I told, I phoned, who I talked I do not know—to avoid those problems.

Hearing charges—branch and commission hearing charges, 15 percent of claim to a maximum of $250 excluding all professional charges, including but not limited to landlords, lawyers, investigators, bailiffs, et cetera.

Charges—the professional charges shall be made part of the landlord's claim, if any, against the tenant under Section 55(1). We talk about the speedy return of security deposits, is one thing, but we do not talk anywhere about the speedy return or the speedy payout to a landlord.

* (1050)

The tenants go in hiding, you cannot find them, the damages are now with rent, the bill is $2,000. Forget the security deposit of $250, we have to now go and find that person. We want to try and collect our $2,000, and he is now working in B.C. Well, surely, it should not be our responsibility to spend extra money that he could otherwise tell us where he lives and so that we can have a discussion or garnish the wages or whatever. Why should we have such a tremendous cost and time spent and outside people to help us find this guy? Clearly, there should be legislation and we believe this is what would cover that where this happens. Now, that is only for a small percentage that this applies, but it has to be there for a deterrent because if not, what is happening is that this becomes a passed-through cost of operation. That passed-through cost of operation is being paid for by the 90 percent of the good tenants, and all of the tenants I have given this example to are furious. They say, is this what is happening in our province today?

* * *

**Mr. Kevin Lamoureux (Inkster):** Yes, my sincere apologies for the presenter. He has given a wonderful presentation, but I am just wondering if the committee might make the decision that we will not be dealing with 24. I know that there are a number of people who are waiting to make presentation on Bill 24, in the Members' Lounge, if we can agree that we will not be dealing with that, so that they can get on back to work, because I am sure they will be coming back this evening.

Just as a courtesy, and again my apologies for interrupting, I just would like them to know, because I know they are waiting. There are at least a dozen people, and there is no chance it is going to come up today, this morning.

**The Acting Chairperson (Mr. McAlpine):** How many other presenters are here for the other bills?

Is there agreement to allow the presenters on Bill 24, to advise them that they will not need to present today? Is there agreement? [agreed]

You may proceed, Mr. Warkentin.

* * *

**Mr. Warkentin:** Thank you, Mr. Chairperson.

Under 11, on page 10, Proper Identification of All Branch Staff, under I believe it is Section 185, where the director has all kinds of power to send people out to offices, and if the landlord does not ask for that person to identify themselves, the person can step in and say, I want to review your records.

Now, we feel that not only at that stage, but also when we go to the office of the branch, we feel we need to know whom we are talking to, and we even find it difficult in spite of Bev Wire and Roger, who have tried very hard to get the staff to comply. But just here, this week, I phoned the office and had to

ask the person three times for her name. I do not think that should be necessary. In business, what we do is, we say, good morning, so-and-so, Linda speaking. At least it gives you an idea whom you are talking to. Then it is a matter of finding which Linda. Sorry, Mrs. McIntosh.

We feel it is important that the staff be identified so that when we speak with them, we know who they are. We believe there should be a picture, the name, and a serial number. When I talk about a serial number, we should by cross-reference be able to, if someone comes to our office and says, I am from the branch and I want to do an investigation on your file, we should be able to see that picture, serial number and name.

We call up the branch and say, Serial No. 2560 is in my office, who is this person? If that compares, we are satisfied it is the right person. We do not need any imposters in our business as it is, and we clearly need to know whom we are talking to, if we are talking to someone in authority. We feel it is important that we have that.

Under page 11, item 12, Rent increase audits. It is unbelievable the amount of work that we have to go through, especially if you have a number of buildings, the stacks of paper that we have to send to the branch that they then set an officer to and they examine the material. At no time will they make a list saying, well, a swimming pool is $25,000, carpet on the third floor of building such and such in the hallway is a thousand dollars, five suites Nos. 10, 22, 3, et cetera, were recarpeted.

If that information were taken down by the auditing officer and in a simple letter compiled and that sent out to tenants, they would soon realize we did not get a $25,000 swimming pool. How simple would it be to say, hey, officer, we did not get this pool, come and check, the same thing with carpets and whatever else. We are not talking about nuts and bolts or whatever.

This is what we feel would be the best information to the tenants so that they would understand, because no tenant is going to go through a stack of paper like this. They have to be an auditor and spend a couple of weeks at it to find it. That is what the branch officer takes, and I do not see why an accounting auditor could do it any faster. We are talking about time.

The fact is that we first of all have to go through all our bills and we have to photocopy them and send them in. What is wrong with the branch doing the same thing as the other tax auditors do? They come to your office. They sit down. You give them a table. They ask a question, we give them the file. He writes down the notes. We would be saving trees like you would not believe and time and money. We feel it is important that there be a change in this area. If we want to create jobs, this is the way to do it. If we want to quit cutting trees and come down to reality where it should be, we should be introducing this type of an audit, we believe.

Contravention of act or breach. I will not read through all this. We have the sections noted that there should be five days for possession of the suite. If you get a roaring party or whatever else, the landlord should be able to serve notice so that the tenant is out in five days. The sections that are affected are 67, 70, 72, 73, 74, 77, 78, and the tenant should be exposed to Section 55(1) where he does damage that there is compensation to the landlord which protects 90 percent of the good tenants, because they do not have to pay for it through the pass-through system. What we believe is that the possession process is way too long and is not properly conducted in our views.

Coin-operated equipment and parking. Under 14, all coin-operated equipment and parking stalls should be identified as landlord and tenant related, thereby eliminating GST and PST on same. However, they should be removed from rent control, due to the fact that these are optional services provided by the landlord or outside operations to tenants.

For instance, in my particular case we are near the university and we have a lot of tenants that go home for the weekend. They take their laundry with them. That can be done throughout the city overall. That is their choice. Why should that be under control when they have the freedom to choose? The controls are on the suite, not on the person. The suite is what they have to use. That is where they live. They do not necessarily have to use your laundry equipment or your parking stalls. Why should an old lady on retirement pay for a parking stall that she does not need? It is tying both tenants and landlords to something that is really not workable.

**The Acting Chairperson (Mr. McAlpine):** Mr. Warkentin, I realize there are no time limits, but there are other presenters, and we would like to move along as quickly as we could.

**Mr. Warkentin:** I am just about done. I am leaving a section out, and I would like to go to a few amendments to the legislation and then I am finished.

**The Acting Chairperson (Mr. McAlpine):** Thank you.

* (1100)

**Mr. Warkentin:** Page 12, No. 15, Tenants' all-risk and liability insurance the tenants shall carry: We believe that the tenants are at risk. We are talking about all tenants. We feel that they should carry adequate house insurance for their own household furniture, et cetera, as well as liability, because if there is a tenant of means, and we believe a fair amount of them are, they can be subrogated against by the landlords' insurance companies and their lawyers. What you are doing now is pitting the tenants against the insurance lawyers, because there is no representation in the act anywhere about insurance protecting tenants. We feel this should be clearly brought forward and also feel that it should be implemented.

Prejudgment interest: I am not quite sure whether it has been addressed in the amendments. We feel that prejudgment interest, as set out in the landlords' house rules or tenancy agreement, and if none is incorporated in same, then as set out under the Court of Queen's Bench Act, CCSMCC280 statute law.

The dispensation of security deposit and dispute: We believe that the way—and if we understood the amendment right, what it simply means is that if a landlord has $300 of a tenant's security deposit and interest, total, and there is $100 not in dispute at the date when the landlord completes his bill, then the act requires the landlord to send back the $100 to the tenant and hang onto the $200 until the dispute is settled. That is totally unworkable.

There is no rhyme nor reason, as we see it, to that, because the moment the landlord is finished with his accounting, he now has to look at it and say, hey, I am going to appeal this, or I am going to take it to the branch, so I have to take off $15. I do not know whether the tenant is going to appeal it or whether we will have to appeal the decision, so there is another $15. In the meantime, there are also other charges that have to be dealt with. In the meantime, you sent $100 back. Now you have to start calculating the interest. I think it is 1.5 percent or 2.5 percent right now that the landlord has to pay to a tenant on the security deposits. It is a nightmare. It is a real draw for accountants, and no one benefits. We believe that the funds should stay together until the final decision has been reached. You make one accounting. You write one cheque to each whatever, and that is it.

We will skip over to page 26, if we may, please. Here we are being very bold. We are saying that at present the residential tenancies consequential amendments act, when you read it like that and interpret it, is really saying the residential tenancies. It is written for the tenants and the consequences are carried by landlords. We feel that this should be changed to landlord and tenant residential amendments act, would be more properly describing the facts.

On page 27, Part 1, Definition. In this act we suggest that what should be added is prescribed charges. Prescribed charges are a fixed charge per occurrence as compensation for time, travel and administration in lieu of compensation under Section 55(1), also to greater effect to Section 67, et cetera.

Wear and tear. I think it is fair to say that the biggest single argument is what wear and tear is, whether it is at the branch level or at the commission level. We are recommending that wear and tear is loss or damage caused by reasonable wear or use which is moderate and not excessive. Wear and tear should include, but not be limited to the following, and we have noted the minor chips, cutting board cuts, worn keys, burned-out range elements, worn light switches and plugs, fridge compressors, evaporators, et cetera. That, we believe, should be in the definition.

The other thing is extra ordinary cleaning. What does that really mean when you read it? What do you understand it says? We believe what it really means is the tenant is supposed to clean that suite back to the condition they got it in, but if for some reason the washroom has not been touched at all by the tenant, the landlord would now be required to do extra cleaning in the washroom. That is something that tenants should pay for and pay the landlord to do so. We say that extra ordinary cleaning is any cleaning required to bring the rental unit to the standard established on the ingoing, check-in condition report after a tenant has vacated or abandoned the rental unit or complex.

Some of these items are on page 28, Service and Facility. Parking and related facilities, we feel should be repealed. Laundry facilities under 1(1)(c) should be repealed; and 1(1) amended: delete "and" after related services and add after related services "with the exception being an agreement between the landlord and tenant to the contrary."

In other words, this act covers a whole spectrum, and when you have a house, for instance, and the landlord and tenant agree that the tenant shall cut the grass, then why should the landlord come and cut the grass from across the city or shovel the snow after a snowfall? It does not make sense the way it is written in our view.

The more notable one—and I do not want to take all the time here—is, I believe, on page 30—the rest can be read and dealt with: Obligation to take care and repair damages. Clearly, a tenant should be responsible for what they damage, and we suggest that a tenant shall take reasonable care and ensure that any person he or she permits in the residential complex takes reasonable care not to damage wilfully, negligently or by omission the rental unit or residential complex including services and facilities. Where damage has occurred, the tenant shall serve notice in writing to the landlord within 72 hours after each occurrence and shall prior to vacating or abandoning the rental unit, subject to subsection 2, repair any damage in a good and workmanlike manner. The repaired finished product shall match the surrounding undamaged areas or the tenant shall pay compensation to the landlord to repair the damages and pay compensation under Section 55(1).

If you look at it the way the act reads right now, the landlord has to serve notice on the tenant if he wants the damage repaired. Well, what landlord can keep up going snooping around all the suites to see if there are any damages? It does not make sense.

One other one is under Tenant. I missed that one. I would like to just go back—yes, on page 28, Tenant—and substitute with, in other words, repeal the whole paragraph and replace it with "tenant" means a person who is entitled to occupy a rental unit under a tenancy agreement but does not include a government agency or any other person that pays rent on behalf of a tenant in connection with a tenant's right to occupy the rental unit.

The way it is written right now, if a person is in there, he is occupying, so that is one right. The other person has a right if he pays rent and is in by agreement. That is the thing we would like to have changed.

Thank you very much for your attention.

**The Acting Chairperson (Mr. McAlpine):** Mr. Warkentin or Mr. Hanson, would you be willing to, if there are any questions, answer any questions for the committee members? I would remind the committee members that there are other presenters, so if you have any questions please keep them as brief as possible.

**Mrs. McIntosh:** I do not have any questions, just a comment. Thank you for your presentation. I believe that this was sent to my office earlier, so I have looked at it and I believe, in talking to my deputy, it has been indicated to you that we hope to be establishing a tenant-landlord advisory committee in the fall so a lot of the recommendations and so on can be discussed fully with other members of the interested community as well. So I thank you for bringing this here for all of us to examine.

**The Acting Chairperson (Mr. McAlpine):** Thank you very much for your presentation.

We call No. 5, Gail Jarema. Your presentation is being distributed. You may proceed when you are ready.

* (1110)

**Ms. Gail Jarema (Private Citizen):** Mr. Acting Chairperson, members of the Legislature, you will be glad that this is only one page I think.

In introducing myself, we are owners of a small number of rental properties, and it is from this point of view that I am speaking. I believe that the act for residential tenancies is very cumbersome and difficult for both tenants and landlords, and those are the groups for which it was written. I believe it was written from the bureaucrat's point of view.

I am recommending to this legislative committee that an amendment be made to Bill 47 to put a process in place to write legislation to satisfy the two groups affected, that is, the tenants and the landlords. I believe that a committee formed from representatives of tenant and landlord associations, together with a representative of the Residential Tenancies Branch, should go through,

review the current act and together as a group write legislation that works for all of the groups.

What I mean by, that works, I mean legislation that is fair to all and is easy to administer.

I am going to give you one example, and I would say this is one of many that is in the act. There is a section dealing with personal goods abandoned by a tenant. That is covered in sections 106 and 107 in the act. From my experience, the only time this happens is when a tenant skips out, and none of our responsible tenants ever do this.

What we are required to do is take inventory at this time. We are required to report this inventory to the Residential Tenancy Branch, an officer will examine the goods and declare what can be done with them, that is, is it garbage, should it be sold or stored in a secure place for 90 days?

And what is the cost of something like this? Well, there is first of all the administrative time of both the landlord and the branch, and I am saying $30 an hour, I do not know. But that is probably about what they say.

The goods are left now in the rental unit. We cannot remove them until something has been decided, and this now is causing a loss of revenue if we cannot rent that vacant unit. Perhaps it is one month, maybe $500. Then we have to haul away these items if it is garbage, so generally you have to hire somebody to do that. I am just saying $50, that seems reasonable. Or, perhaps we have to store it. Now most of us do not have storage facilities to keep big items. Maybe that is $100 to a storage company. I do not even know what that would cost. But I am estimating that something such as abandoned goods cost between $600 and $1,000.

Who leaves these personal goods in their apartments? Well, it is never the good tenant, because a good tenant makes arrangements and says, I have to leave something, how can we work this out?

This is an example of legislation that has really no regard for the waste of time and dollars to anyone.

Who is actually paying this $600 to $1,000? Well, initially the landlord is paying for it, but this goes into his costs or his expenses and ultimately these costs are passed through to the good tenants in the form of a rent increase, perhaps even as much as a year later.

The branch absorbs the administrative costs and this is in turn borne by the taxpayer who, from my knowledge, is kind of tired of government spending.

I believe that a committee formed with the tenants, landlords and branch could draft legislation that would be just and efficient for all by simply understanding the other's position. It is this process that I see is absolutely essential in producing legislation which will be democratic, serves the tenants, serves the landlords and which would be seen as just by both groups involved. Thank you.

**The Acting Chairperson (Mr. McAlpine):** Ms. Jarema, there may be a few questions. Would you entertain some questions from the committee if there are?

**Ms. Jarema:** Yes, I will.

**Mrs. McIntosh:** Thank you very much for your presentation, and I thank you as well for coming out on short notice and for your patience in committee. I know that it is often a last minute thing for people coming to make presentations. Not always easy. I thank you for the points you have raised in this paper. I think it is a very interesting and good example that you have raised.

As I indicated to the earlier presenters, I so indicate to you that we have begun arrangements to strike an advisory committee of tenants and landlords and other components of the marketplace that would work together on an ongoing basis to provide advice and examples such as these—

**The Acting Chairperson (Mr. McAlpine):** Excuse me, we have technical difficulties here with the tape having stopped, so we are not on recording with Hansard at the moment. Could we recess for one minute? [agreed]

We can now proceed.

**Mrs. McIntosh:** As I was saying before we stopped to change tapes, we are in the process of putting together an advisory committee of tenants, landlords, property managers, people in the marketplace affected by our Residential Tenancies Act or interested in our Residential Tenancies Act. That will act as an advisory to the staff and to the minister to help us on an ongoing basis either for solving daily problems or making the system work more efficiently or to recommend legislative changes down the road if that is what they require.

So your point is well taken and timely, and I thank you very much for taking the time again to come out. Thank you.

**Ms. Jarema:** The process you are talking about sounds very good to me. That is what I would like to see. I would like to see that it has the power to make those changes. I, myself, would be happy to work in a group that was producing legislation that I thought was good for our whole industry on both sides.

**Mrs. McIntosh:** Thank you.

**The Acting Chairperson (Mr. McAlpine):** If there be no further questions, thank you very much for your presentation.

That concludes the presenters. I notice there is one presenter who was called and was not here earlier, No. 1, Julie Van De Spiegle. Is Julie Van De Spiegle present?

That now concludes the presenters for Bill 47. We will now go into presentations on Bill 49, The Summary Convictions Amendment and Consequential Amendments Act.

We will call the first presenter, Mr. John Ryan. Mr. Ryan, do you have a written presentation to present?

## Bill 49—The Summary Convictions Amendment and Consequential Amendments Act

**Mr. John Ryan (Private Citizen):** No, I just wanted to get something clarified on Bill 49, and this is why I am here. I would like to get something more definite as to what this bill means. This is why I am here.

**The Acting Chairperson (Mr. McAlpine):** Bill 49, do you have a presentation? This is an opportunity for you to make a presentation on Bill 49.

**Mr. Ryan:** I have no presentation. What is happening here is I would like to get something clarified with the Attorney General as to why—[interjection] Am I doing something wrong? [interjection] That is right.

* (1120)

**The Acting Chairperson (Mr. McAlpine):** Mr. Ryan, the public process is for you to make presentations, not necessarily to ask questions, but if the minister wishes to take a few short questions, or if you want to put the questions on the record?

**Mr. Ryan:** Yes, I do.

**The Acting Chairperson (Mr. McAlpine):** You may proceed, Mr. Ryan.

**Mr. Ryan:** Thank you. This is to the Attorney General, like I spoke with him just coming up the stairs. This bill here, first of all, the fine-option program has been in effect for over 10 years. Is that right, sir?

**Hon. James McCrae (Minister of Justice and Attorney General):** I understand since 1983.

**Mr. Ryan:** That is right. [interjection] I beg your pardon? I am sorry. I am not used to this. I am not a lawyer and I am just talking, as I say, right from the heart again.

**Mr. McCrae:** Join the club.

**Mr. Ryan:** I beg your pardon?

**Mr. McCrae:** Join the club of people who are not lawyers.

**Mr. Ryan:** Only lawyers know how to play the system, and this act you have here, the fine-option clause, was for people who could not pay fines and had hardships. But if you look, I have a paper here, a Free Press, and here, going back a whole year ago, is a lawyer with 99 tickets.

Now, you mean to tell me he could not pay his fines?

**Mr. McCrae:** I do not mean to tell you that. No.

**Mr. Ryan:** Now, where is the follow-up? What happened to this lawyer with the 99 tickets and $5,296 he owes us people, the honest people who pay their fines, the citizens of Winnipeg?

**Mr. McCrae:** Under a bill brought in this session by the Minister of Urban Affairs, the Honourable Jim Ernst, in future, people who default to that kind of extent on their parking tickets are going to have their cars towed away.

**Mr. Ryan:** But now you also have a clause in this here, where it says that there are other ways of dealing with people who do not pay their fines, such as taking their licences away.

If I was to go away for six months, and I loaned my car to you, and you ran up a bunch of tickets, could they take my licence away?

**Mr. McCrae:** That is an option that I believe is, and has been, under study by the Department of Highways and Transportation, as well as the Department of Justice. We are not yet in a position to move on that particular sanction, but, as I say,

the towing option is going to be there for the authorities.

**Mr. Ryan:** Mr. Attorney-General, I was here on June 25 when Mr. Ernst said, and I have the letter here from Mr. Driedger, it is 20 years that you have been playing this game of saying, the province has been saying that the—or rather the city has been saying it is the province's fault for not assisting, for 20 years, and you say you are not in a position even now to even deal with suspending licences.

You know why? If it goes in the computer, everybody will lose their licences who do not pay their fines. But this way, they had a fine option that they used for 10 years and they played a game, and I have this from the police that they did not work off their fines. They lost over $2 million on people not working off their fine options.

Now, if you call this a good system, and it took 10 years for a person like myself to have brought this to attention, and now they are even laughing at me in City Hall. They call this "Ryan's by-law." Now, I am a citizen and a taxpayer, and I do not think I deserve to be laughed at in this situation here. Here I have a ticket in my pocket, with a bill that is paid, and I want everybody else to be treated the same as me—no better, no worse.

This is 20 years and you people talk co-operation, that you are willing to work with political will to fix up these situations. This is not honest. Now, get this in the system here in the computers. If you have a ticket for speeding, you do not pay it, you do not get your licence. It does not matter what the cost is. We are losing millions of dollars here on tickets that people are not paying.

I was in the dentist chair last week. I cannot leave the chair, my mouth is open, and for four minutes I got a ticket. At 11:26, I got the ticket, and I came off the chair at 11:30. I have the ticket in my pocket, the receipt, if you wish to see it.

Now, that is all I want, is fair treatment. I do not want 20 years of waiting; I will not be here to see this. I want this government—if this act does not work with the province, with the city, the impounding, I want the province not to say it is costly. Put that in the computer and get these people paying, or they do not drive. It is a privilege to drive, and they can take your licence—every one of us—they can take our licence away. Now let us get this straightened out once and for all, and I am not letting this go.

I have this right from the mayor's office, from the chief of police; I have the letter here that they will co-operate fully with me right to the extent, and now they are all shying away. They will not even put a new update, a printout of what is owing.

Now, let us play this game right. Now, if there are any questions you can ask me, I am willing to answer.

**The Acting Chairperson (Mr. McAlpine):** Thank you, Mr. Ryan, for your presentation.

Are there are any questions of Mr. Ryan? No questions of the committee. Thank you very much for your presentation, Mr. Ryan.

**Mr. Ryan:** There is the interest that you people have. There are no questions to ask me. Twenty years I have—and this all started from Ticketgate.

**The Acting Chairperson (Mr. McAlpine):** Thank you very much for your presentation, Mr. Ryan.

I call now No. 2, Ellen Olfert and/or David Northcott. Do you have a written presentation to distribute?

**Ms. Ellen Olfert (Winnipeg Harvest Inc.):** It is being circulated.

**The Acting Chairperson (Mr. McAlpine):** Okay. It will be distributed and you may proceed when you wish.

**Ms. Olfert:** The person who is behind me is plugging his meter so he does not get a ticket. He will be right back.

Committee members, I am appearing before you today to present the concerns of Winnipeg Harvest about the proposed Bill 49, The Summary Convictions Amendment and Consequential Amendments Act, with respect to its impact upon the community services performed by persons choosing to work off the fine conviction by doing community service hours. With me in attendance is Rene Jamieson, our volunteer co-ordinator, who works daily at endeavouring to bring together a volunteer workforce to maintain Winnipeg Harvest's ability to provide food for people in need.

In Hansard of June 25, 1993, it was noted that the objective of this legislation is to remove parking tickets and traffic fines from the Attorney General's department's fine-option program, and that the second objective is to remove incarceration as the penalty for failing to pay such fines incurred for parking and traffic violations. While we applaud the second objective of this legislation, agreeing with

the premise that incarceration is too severe a penalty for the crime, we have some concerns with respect to the legislation because it removes a very valuable percentage of our volunteer force.

Over the last fiscal year, that is April 1, 1992, to March 31, 1993, people who have come to perform community service at Winnipeg Harvest have provided 5,742.25 hours of work for us. The total number of volunteer hours for that time was 66,526.75. Therefore, the community service hours contributed through the fine-option program to Winnipeg Harvest amounts to 9 percent of the total number of volunteer hours, not an insignificant amount. Tabulating the person-hours worked, as if those hours were paid for at a five dollar wage, amounts to $28,711, payroll amount, also not an insignificant amount when the organization is a registered charity.

* (1130)

Based on these figures, if one calculates a net worth to the 500 work centres which receive the valuable community services in terms of money saved to those nonprofit organizations, that amounts to more of a monetary saving than the $453,000 to be saved by ceasing to pay the $40 per work assignment. In terms of the services provided to the community by these volunteers at various nonprofit organizations, it would seem that the government could be saving itself money in the long run by retaining the fine-option program for community service.

(Mr. Chairperson in the Chair)

For those of you who may not be aware of what Winnipeg Harvest does, Winnipeg Harvest is a surplus food distribution warehouse. We distribute surplus, gleaned food received through donations to various agencies which distribute that food to people who for one reason or another have not enough resources to feed themselves or their families. Over 40 percent of those people receiving food from Winnipeg Harvest are children.

Winnipeg Harvest receives and/or gleans many kinds of food donations. We receive produce and bread and pastry and other perishable food items, as well as receiving nonperishable foods. We are distributing over 40 tonnes of food per month.

To meet the demand for food assistance requires a great amount of labour just to provide for day-to-day operations. It is important that you know that over 95 percent of our labour force is made up of volunteers. Without our volunteer base, Winnipeg Harvest could not exist. That is why a 9 percent deletion from our volunteer base gives us concern.

It is very important to note as well that a large number of the volunteers whom we receive through the fine-option program stay with Winnipeg Harvest after having served their community service hours. This factor is also important to the operation of any organization, because it provides for consistency and commitment.

Because of the kind of operation that we are, where we deal with people constantly, helping people who are in crisis, we all have to work hard together. Providing food support and service to people and doing what we can to help others is rewarding and satisfying. It can also be stressful. However, being involved in helping others tends to bring people together, because we work for a common goal, and it is that sense of helping and belonging that is a large part of the reason these volunteers continue to volunteer their time with us. We respect and honour their commitment, be it during the time they are working off their fines through community service hours or when they return as ordinary volunteers.

It is very difficult to place a monetary worth on the community service that fine option provides. The volunteers whom we receive through this program come from all walks of life with a myriad of life experiences. They bring those gifts to us and we use them.

Perhaps the person serving the fine-option hours has grown up and still lives in poverty, having had few opportunities by which to access either higher education or employment opportunities. We have seen many such volunteers receiving work experiences and skills at Winnipeg Harvest. They finish their community service hours with more self-esteem and pride than when they arrive. For some, this is the first work experience they have received.

Perhaps the person working off their fine-option hours has fortunately never known need or poverty. Many of these volunteers come in with expectations and opinions regarding people who require help from Winnipeg Harvest. By working shoulder to shoulder with a variety of people we have at Winnipeg Harvest, these people often find that many of their opinions have to be revisited.

Many of our fine-option volunteers end up forming fast friendships, and a large percentage retain their commitment to Winnipeg Harvest. If they are employed elsewhere, they suggest that we call them back when we need them.

It is hard to measure commitment to others, pride in one's self and a sense of belonging in a monetary way. To us at Winnipeg Harvest, that commitment and its returns are invaluable.

We recognize and appreciate the difficult position that the government is in, in terms of endeavouring to find ways to decrease government spending. During these difficult times, we must all pull together to do what we can. However, we urge you to give this concern we have your consideration. Yes, it may require looking at intangible rewards as opposed to readily accessible tangible results. However, it is our contention that if the community services option and the fine-option program is removed, the community itself will be a loser.

Thank you for your consideration. If you have any questions, we will do our best to answer them.

**Mr. Chairperson:** Thank you very much, Ms. Olfert, for your presentation.

**Ms. Becky Barrett (Wellington):** I also thank you for a very clear, lucid and brief summary of the impact that Bill 49 will have on your organization.

I will make a comment and then a question. I was particularly interested in the fact that 9 percent of your volunteer hours come from the fine-option program and the potential cost savings of even minimum wage having to be paid for that service provision. The second thing I thought was excellent was the information you shared with us about the perhaps less tangible rewards that not only Winnipeg Harvest, but the volunteers who are working off their fine option at Winnipeg Harvest have, particularly the way you separated the two kinds of rewards that volunteers have. I thought that was very well stated.

You stated earlier that 9 percent of your volunteer hours come from fine option. The minister's comments state that 55 percent of the fine-option program will be eliminated through the implementation of Bill 49. Even at either a 9 percent or say 4.5 percent cut in your volunteer force with the fine-option elimination, what do you anticipate the service effect to Winnipeg Harvest will be?

**Ms. Olfert:** I will let Rene Jamieson, our volunteer co-ordinator, answer that question.

**Ms. Rene Jamieson (Winnipeg Harvest Inc.):** Let me first clarify your question, Ms. Barrett. You were asking if the component of fine-option people coming to Winnipeg Harvest to work off parking or highway traffic violations was eliminated or not available to us. I did a little quick calculation last night, because it was not until late yesterday afternoon we knew we were coming here, and I went through my files.

Of the 35 people who have completed fine option since we moved over to Winnipeg Avenue, which is a new area for us, on February 1, 10 have elected to remain as members of the volunteer team of Winnipeg Harvest. I am not terribly good at math, but that runs around, I should imagine, about 42 percent. It is our experience that over the years, it has been a 40 percent retention of folks who have stayed with us after their fines have been paid off.

If we lose the opportunity, half of those people even, it presents a quandary for us. I do not know how many of you are involved in volunteer organizations, but at this time of the year in particular, volunteers are not generally available. It is an extremely difficult time. There is, too, a shrinking volunteer pool. We are not the only people who use volunteers, but we all find ourselves dealing with the same group of people who are willing to volunteer. To remove the fine-option people from our pool of volunteers available to us could make it very, very difficult for us to do the work we do.

The work we do—there is a greater demand being placed on Winnipeg Harvest day after day after day. I think we are averaging something like 50 calls a day or more, depending on the time of the month. We need people to bring it in and ship it out. That is the primary focus of our work. Self-esteem is wonderful, but that is a side benefit. It would very much hurt us if we did not have those folks available.

**Ms. Barrett:** Thank you. You actually answered a question I had not asked but one I am very glad you did provide the answer to, which is the retention rate.

It seems to me there are potentially two points in time at which you will lose volunteers. One is that if you lose all or a portion of your fine-option people at the front end, you lose those volunteer hours at the

front end. Then you also have that much less of a pool to call on for retention when they come off the program. I think that is an important cost I had not been aware of, so I appreciate that.

* (1140)

I do not have any other questions. I think the committee knows, and I am hoping that Winnipeg Harvest and other organizations know our position on this bill, that it is a dreadful piece of legislation that should never have been introduced in the first place.

We would hope that presentations such as yours will give the minister cause to withdraw it for which we would thank him very much and appreciate very much your presentation this morning.

**Ms. Jamieson:** May I make one more point?

**Mr. Chairperson:** Certainly.

**Ms. Jamieson:** Just one more quick point. Mr. Ryan had raised the point about lawyers who own $5,000 worth of something. The majority of the people who come to us to work off fine option are the people whom Ellen mentioned who do not have the financial means to pay a fine, whatever it is.

We have people come in to work off the eight hours that a $40 ticket would result in because they do not have the 40 bucks to pay the ticket. It is very, very important that this stream be open to people who just do not have the financial resources to pay fines. It could create real hardship, terrible hardship, for people who are already in privation.

**Mr. McCrae:** Thank you for coming today. I have a question for Ms. Jamieson who referred to 35 fine-option people who came to your Winnipeg Avenue location.

Can you tell me if you know how many of those 35 were fine option relating to traffic or parking offences?

**Ms. Jamieson:** I did not check that percentage, but just thinking off the top of my head about who those people were, the majority of them were parking tickets.

**Mr. McCrae:** Okay, thank you. Just a semantic issue referring to fine-option people as volunteers. I fully recognize that many of them do become volunteers, but they come to you in the first place because they broke the law and were ordered to do so, either that or pay their fine or go to jail. That is the way it works.

**Ms. Jamieson:** We recognize that, but we also recognize that at Winnipeg Harvest, we treat everybody equally, and we do not make distinctions about who is there to pay a fine and who is not. We believe in the equality of human beings. Thank you.

**Mr. McCrae:** So do I.

**Mr. Chairperson:** If there are no further questions for the presenters, I thank you very much for your presentation this morning.

Number 3, Rick Penner, Habitat Re-store. Mr. Penner, do you have a written presentation? I guess it is being distributed right now. You may begin when you are ready, thank you.

**Mr. Rick Penner (Habitat Re-store):** My name is Rick Penner. I am making a submission on behalf of the Habitat Re-store which is a division of Winnipeg Habitat for Humanity.

As a nonprofit, volunteer-based organization operating in the province of Manitoba, we are very concerned about the proposed changes to the fine-option program. For those of you who do not know what the Re-store does, we are a building material thrift store. We collect donations of used and surplus building materials and resell them, thus keeping them out of the landfill. There is an environmental angle. We also raise money for Habitat for Humanity.

In the two years of our existence, we have met with a significant amount of success. We have grown and expanded. We have collected over 1,500 tonnes of used and surplus building materials that, as I say, would have ended up in the landfill. We have provided significant financial and material support to Habitat for Humanity for their home building projects. In fact, as many of you know, Jimmy Carter is here this week. In fact, he is going to be here this evening to get the Order of the Buffalo Hunt award.

The house he is working on, half of the money for that house was raised by the Re-store, and our ability to do that and our success in generating that amount of money is largely due to the community support we have had. It is an enormous amount of work handling building materials—like 1,500 tonnes, you can imagine. It is a lot of doors and windows. Moving that around takes an enormous amount of people power. The fine-option program has provided a significant component. They have been very integral to our effectiveness as an

organization in collecting that material and distributing it.

The traffic violations and parking tickets constitute about 80 percent of the fine-option people whom we have at the store. As I say, there is an average of two or three fine-option people there on any given day, and with all of the work that needs to be done for us to maintain the successful sort of operation that we have—and more and more, it is important to get more people involved. So it is very important to us that we not lose those people.

As well, for the sort of person we need at the store, given that it is a retail environment, the people who have parking tickets or who have been caught for speeding are potentially more appropriate for our environment than someone who has a property offence or something more violent.

The purpose, I understand, for these changes is as a cost-cutting measure for the government. I am not sure that it will end up actually saving the government any money, given that the very valuable services that nonprofit organizations perform here in Manitoba. Harvest, ourselves, there are a lot of others that use the fine-option program. The shortfall that they would have in their ability to do their work given the lack of access to fine-option program, somebody would have to make up that shortfall, given the standards that we have in our community and the very good work that needs to be done, that these nonprofit organizations are currently doing.

I think there is a direct connection between the amount of work that is being done by nonprofits; and, if they were not doing it, there would be some additional cost to the government in providing those services. Potentially, it is a very cheap and affordable economic way for the government to get these community services provided to the community through that fine-option program.

In conclusion, we urge the government not to adopt these changes. It would not be good for the community; it would not be good for low-income people who receive fines that they are not able to pay. Again, in my own personal experience, what we have had down at the store, there are a significant component of people who just cannot afford to pay them, and that is why they are in the program. They also, because they are not working, have the time to do it through the fine-option program. It would not be good for nonprofit organizations, and I really am not sure that it would in the long run save the government any money.

Thank you very much.

**Mr. Chairperson:** Thank you very much, Mr. Penner, for your presentation.

**Ms. Barrett:** Thank you for an excellent presentation that certainly seems to me to raise and answer potentially some of the major questions that we have with this piece of legislation.

I was interested that 80 percent of your fine-option workers—and I would imagine two or three a day is a fairly significant percentage of the people who do work either for salary or as volunteers or as fine option; that is a fairly high percentage of the people who are at the Re-store any particular day—are traffic violations.

I also think that your point about the appropriateness of using people who are working off traffic or speeding violations as opposed to people who are working off criminal offences in a service like the Re-store or other community organizations where the appropriateness of someone working off a criminal conviction is probably not in the best interests of the community. I thought that was a very important point.

I would like to say, concerning your comment about the government having to provide support in some other way for the nonprofit organizations, that part of me says yes, part of me says, not necessarily so. I think it is a good point that there will be costs to the government that they are not taking into account. We had identified some administrative costs, and I think your point is another good cost.

But what I am concerned about, and I think perhaps I would like your comment on this, is what will happen if the government says we are not going to pick up the slack or we do not identify with you that there is a shortfall in service provision? What would happen, do you think, to the service that you provide out of using the people who are in the fine-option program? Should the government not provide additional resources to help you cover that?

**Mr. Penner:** Specific to the Re-Store, we would be less able to do the environmental work that we do in terms of providing opportunities to reduce the construction waste that is currently going to landfill. We would be less able to raise the amount of

money and operate as cost effectively as we are, raise money toward Habitat's house building projects. Just in general, I think there are many community benefits to our operation. Providing opportunities for low-income people to affordable building materials is an important one—a general sort of reduction in our ability to provide what I think are very important benefits to the community.

* (1150)

**Ms. Barrett:** I do not have any other questions because I think you have stated your position very eloquently and it fits completely with our position as well.

I did want to make one final comment both to you and to the presenter from Winnipeg Harvest and that is to thank you both for coming out at very short notice, for taking time out of what in both of your situations are very busy times and most particularly this week for all people involved in Habitat for Humanity.

I think, frankly, that if we have only two presenters on the impact of Bill 49, we could not have chosen two more representative organizations and more visible organizations in the community than Winnipeg Harvest and the Re-Store part of Habitat for Humanity.

So on behalf of us all, I would like to say thank you very much for your eloquent presentations.

**Mr. Brian Pallister (Portage la Prairie):** Thanks for your presentation. What percentage of your volunteers come from fine option?

**Mr. Penner:** If it were two or three a day, that would be about 5 or 10 percent.

**Mr. Pallister:** Five or 10 percent. When did the Habitat Re-Store start?

**Mr. Penner:** Two years ago, a little more.

**Mr. Pallister:** So 90, 95 percent of the volunteers that you use now are not from fine option, they are from other sources.

**Mr. Penner:** That is right.

**Mr. Pallister:** What other sources? Could you give me sort of a—generally how do you go about getting the support of volunteers?

**Mr. Penner:** We work with schools. During the summer months, we get schools training programs, different people involved with new Canadians when they come. We provide a training opportunity for them and just a general sort of alert to the community that we need people. There are a lot of people out there who are willing to give their time and skills to something that they support.

**Mr. Pallister:** So as sort of a compensatory approach to this bill, you would have to step up your recruitment of volunteers in these other areas that you already are active in recruiting and look for other areas as well. Is that fair to say?

**Mr. Penner:** That is right and our staffing levels are already tight. As the presentation from Harvest mentioned, summer is a very difficult time to get volunteers, and for us that is our busiest time. So again the importance of the fine-option component of our labour pool is significant, especially right now.

**Mr. Chairperson:** If there are no other questions for the presenter, thank you very much for your presentation this morning, Mr. Penner.

That completes public presentations on Bill 49. We will now move to public presentations on Bill 52, The Manitoba Foundation Act.

Number one, Dan Kraayeveld, Winnipeg Foundation. Good morning, Mr. Kraayeveld. Your written presentation is being distributed. You may begin when you are ready.

## Bill 52—The Manitoba Foundation Act

**Mr. Dan Kraayeveld (Executive Director, Winnipeg Foundation):** Great. I wonder, Mr. Chairperson, would it be appropriate or acceptable for Mr. Cohen, the second speaker, to join me to make a joint presentation.

**Mr. Chairperson:** If that is the will of the committee, certainly. Are you making a joint presentation then?

**Mr. Kraayeveld:** Yes, what I was going to suggest I do is I would introduce the topic of community foundations, introduce myself and my organization, and Mr. Cohen would introduce his organization. Then I would return to the written brief and then Mr. Cohen would supplement that brief once I am through. Is that acceptable?

**Mr. Chairperson:** That is fine. You may proceed.

**Mr. Kraayeveld:** Mr. Chairperson, ministers, MLAs, my name is Dan Kraayeveld. I am Executive Director of The Winnipeg Foundation. I am also a member of the board of directors of the Community Foundations of Canada.

A community foundation—I am sure if you are not familiar with it I will just delve into that very briefly—exists and facilitates the pooling of individual charitable gifts into an endowment fund to benefit a specific geographic area.

The Winnipeg Foundation, by special act of the Manitoba Legislature, was formed to benefit the city of Winnipeg, and we do so through our mission by funding charitable, educational and cultural organizations that benefit the people of Winnipeg.

Now, Mr. Cohen will introduce himself.

**Mr. David Cohen (Executive Director, Jewish Foundation of Manitoba):** My name is David Cohen. I am the Executive Director of the Jewish Foundation of Manitoba. For your information, we have a capital base of some $14 million which has been contributed almost exclusively from Manitoba residents. As Dan has described, we are an endowment fund. The income from those funds is used primarily for educational and social benefits within the province of Manitoba with the exception of designated funds where the donor has the right to direct the income where ever he or she sees fit.

We are a community endowment fund in the same fashion as the Winnipeg Foundation, and we operate under the same parameters as the Winnipeg Foundation and other community foundations operate in Canada.

**Mr. Kraayeveld:** Great, now I will return to the submission you have before you. I do understand the purpose of the proposed Manitoba Foundation Act and that is to overcome an anomaly in The Income Tax Act where normally charitable donations earn tax credits on the lesser of the donation and 20 percent of net income, although there is a five year carry forward that is the initial calculation.

Gifts to the province are not subject to the 20 percent of net income rule and may be deducted 100 percent against income in the year the gift is made.

So we have a situation where donors to universities, colleges, museums and hospitals covered by this act could make their donations, not directly to the university where it is subject to the 20 percent of net income rule but rather to the Manitoba Foundation and thereby facilitate the deduction of the gift against all income.

Certainly the facilitation of large gifts—and I am sure the intent is to facilitate the $1 million gifts—to these institutions for their operating and capital needs is supportable.

However, Bill 52, I submit, is drafted too broadly and could in fact be detrimental to Manitoba's community foundations, and more importantly, the educational, cultural, health and social service organizations that the foundations fund, including, I might add, the two presenters on the previous bill.

Sections 7 and 9 of the bill in particular cause us concern. Those sections contemplate not only the flow through of gifts that it is intended to facilitate as I understand it, but also contemplates undesignated gifts and also authorizes the Manitoba Foundation to retain gifts in an endowment fund.

Community foundations already exist to accumulate endowment funds to benefit their communities and to deal with undesignated funds.

With the Winnipeg Foundation, as Canada's oldest community foundation, and as you have heard from, there is also existing in Manitoba, the Jewish Foundation of Manitoba, Francophone and community foundations throughout Manitoba, including those serving Killarney, Virden, and Brandon.

Gifts to community foundations are subject to the 20 percent of net income rule. This bill introduces an income-tax bias to direct gifts away from community foundations. In addition, the creation of another grant-making entity, with its associated staffing and administrative costs, is a needless duplication.

I would urge the minister to amend Bill 52 to restrict the operation of the Manitoba Foundation to designated flow-through gifts. This could perhaps be accomplished by establishing sole-purpose foundations for each designated institution.

Thank you. Mr. Cohen? [interjection] Nothing to add?

I think to expand on that last point. If there were separate foundations for each institution, such as the University of Manitoba Crown agency foundation, then clearly anyone donating to that particular foundation intends to benefit that particular institution. By leaving it broad with one Manitoba foundation for a number, for universities and hospitals and museums, there is the potential for people to look at that and give an undesignated gift.

* (1200)

That is just clearly steering an undesignated gift away from a community foundation, which serves a broader community. Now, why would people do that? I suppose if you are talking about large gifts, income tax does have an impact on people's decision making, not always, but sometimes. My 14 years in the income tax field before I came to the foundation did lead me to meet certain people who do make decisions solely on the basis of income tax considerations.

So, if you are thinking of leaving a million dollars to a community foundation, and you go to your accountant, and your accountant says: You know, it is nice that you want to do that for the Winnipeg Foundation, but the gift is limited in deduction. If you give it to the Manitoba Foundation, you probably save a couple of hundred thousand dollars in income tax. I think that might get people's attention.

But clearly to create another undesignated community foundation, I do not think, is warranted, especially based on income tax considerations alone.

**Mr. Cohen:** If I could just make a comment. On page 1, it talks about the word "institution" meaning an educational institution. Well, by coincidence, I am in a discussion with a donor, who is a former Manitoban who lives outside the province of Manitoba, who has a very strong feeling towards an, quote, "educational institution" in Manitoba.

If this was played out, as Dan has just described, it would be in his or her best interest and the family's interest to look at something like this, because it could be a potentially substantial gift. I do not think it is the intent, at least I hope it is not the intent, of this bill to put us at a disadvantage, because I believe the kinds of things that we are doing are of benefit to the citizens of Manitoba.

**Mr. Chairperson:** Thank you very much for your presentation this morning.

**Hon. Clayton Manness (Minister of Finance):** Let me say to Mr. Kraayeveld, thank you very much for not taking my advice and for staying here, because I was under the view about an hour ago that we might not be at Bill 52.

If we had our druthers, we would not bring this bill in. I mean, we are not here to attack the foundations that exist right now. As a matter of fact, I find it difficult in a sense to have to bring this bill in, but we have a cry from certain portions in the community that we are losing contributions because of actions taken elsewhere.

The government has no alternative but to listen to those, and I think you understand that. So, if it had not been for the action of other provincial governments within the land, certainly this bill would not be here. But to protect those givings and keep them within our province, we have no choice.

I hear your criticism. Let me say with respect to designated flow-through gifts, we are kind of on the horns of a dilemma here. We have the federal government saying: Look, we will let you use the existing legislation. Well, that is a gift to the province. As a matter of fact, we had to be very careful how we write this legislation, and the regulations that come forward, because if we begin to designate what we receive, well, then they will say that that is not a gift to the province; that is a gift to an institution named. You are going around the intent, so we had to be very, very careful in that respect. Yet, we have to anticipate that possibly there may be some people who wanted to make use of this but who do not really have a designation.

I do not anticipate, first of all, this vehicle being used very, very often. Secondly, if it is, I think most people will be able to give us some signal as to where it is they want the funds to go. We are reluctant to set up a number of different administration units because to do so just adds cost. All we are trying to do with this foundation is be a flow-through, have it as a flow-through mechanism.

Yes, we will hold the money for a portion of time just to recapture our administrative costs and then it will go out. So this will be nothing but flow-through. If we begin to break it down into sections then, indeed, we have additional administrative costs.

So I just want to react to your request for some greater clarity and to try and build in greater protection to your foundation, indeed other foundations within the province, because no intent whatsoever is meant in any fashion to try in any fashion to reduce the impact, the good impact you have on the community, indeed the contributions that are flowing towards your foundations. Thank you, Mr. Chairperson.

**Mr. Chairperson:** Do you wish to respond, Mr. Kraayeveld?

**Mr. Kraayeveld:** Yes, Mr. Minister, certainly I know what you are saying. We are not here to attack what the universities and the Manitoba museum and others want to accomplish and, yes, I imagine they are missing the odd gift. It is not that often. We do not, unless we are talking about our expatriates, have many people who want to give $5 million to a charity.

I am concerned about the broadness of the bill. I hear what you are saying on the intent. The intent is flow-through and, yes, you have to be careful in drafting the legislation or else the federal revenue people may see a sham and say, no, the gift was directly to a university, but I would suggest the way it is now is far too broad.

If one can look to the future and assume that all the players around this table are completely different and you happen to be the board of directors of the Manitoba foundation, reading Section 7 and 9, you can see quite clearly that you are empowered to hold as an endowment fund, not merely a flow-through, and you are empowered to receive undesignated gifts, so why not hire some staff and go start chasing those undesignated gifts, because this future board certainly has the power to do that.

What I am suggesting to you is, please consider ways to narrow the scope and certainly to reduce the number of undesignated gifts that might flow that way. A separate foundation for each institution would surely do that. You would not be giving to something called the University of Manitoba Crown agency foundation unless you meant to benefit that agency.

Now, in terms of duplicating administration costs, I do not foresee that there are a lot of administration costs if you tighten the wording so that the foundation that you are setting up cannot create an endowment fund and must flow through by the end of the year, or dispense, not flow through. The words would not be proper in the act.

But what kind of staffing would you need? Surely the board, with part-time secretarial assistance from the university or hospital, is directly benefiting from the existence of that foundation would cover off that cost. My concern is more for the future. You indicated yourself that some people might like to give an unrestricted or undesignated gift. I agree. That is why community foundations exist.

**Ms. Jean Friesen (Wolseley):** Thank you for coming to make a presentation today. Again, as I am sure you have heard in people speaking to every presenter, there is very short notice that is given to many presenters. I think everybody on the committee appreciates your appearing.

I wondered if I could ask you about not necessarily your experience but the experience of colleagues in other provinces where similar bills have been introduced. I am thinking particularly of Alberta and British Columbia, since those are the only two areas where I know the legislation. In both of those areas, I believe what you are suggesting has in fact been put in place. There are separate foundations in British Columbia for each university, in Alberta for particular sectors, the university sector, the Banff Centre is named specifically, and then college sectors.

Do you know if there has been an impact there upon community foundations such as yours, if indeed those exist in B.C. and Alberta?

**Mr. Kraayeveld:** I know I cannot speak to the Alberta experience, but I have had discussions with my counterpart at the Vancouver Foundation who indicates, no. With the separate foundation set up for specific universities there is no impact, vis-à-vis, on designated funds. His suspicion is that some people who have given directly through to UBC—and they have been a major beneficiary of that foundation—might have otherwise considered setting up an endowment at the Vancouver Foundation, but he cannot be certain.

What he did certainly when I was talking to him after the budget release which indicated you were looking at Crown agency foundations, he did caution me to keep it as tight as you can and as designated as you can, because if you get it broader, there will be competition. I take it he has had discussions out there. I am not privy to the particular instances.

Alberta, I am not sure what the situation is there.

* (1210)

**Ms. Friesen:** When I spoke on this in the House yesterday, one of the issues I raised was what seemed to me the most obvious kind of unallocated gift, somebody who wanted to leave their money to cancer research, for example. Now there are so many institutions, even within the context of this bill,

which might have a claim upon that. It might be the University of Manitoba. It might be the Health Sciences Centre, St. Boniface. It might be a technical college which has some new equipment or some new experiment that might be helpful. It seems to me that in that case the board of trustees here has very clear powers on the distribution, no strings attached to the distribution of that money. Is that how you read that bill? Do you have any comments upon the sections of this bill dealing with the appointment of trustees and the number of trustees and their powers?

**Mr. Cohen:** I think your first point is the critical one. As Dan identified a moment ago, you would be creating another community endowment fund which would therefore necessitate another structure to distribute to deal with the merits of each applicant for those funds, which again would be a duplication of what it is we are doing right now. I do not think that is the intent of the bill. If it is not the intent of the bill, then it should not be there.

**Ms. Friesen:** Thank you.

**Mr. Manness:** I just want to push this a little further.

When you talk about competition, how does this bill in any way allow greater competition if we were to even designate it, in other words to take away the broadness, because if all of a sudden—and it is one of the dilemmas we had. As a matter of fact, it is one of the reasons we almost did not bring the bill in, because we saw this tremendous demand for proliferation. That is going to be a real test of governments to come and to what extent they hold, under the regulations or indeed the powers they are giving them to, to hold back the demand for—I can make a case for the museum out in Morris or something wanting to be part of this.

Ultimately, maybe government of the day will allow for that. Maybe that is your concern. You cannot have a proliferation of these. To the extent that you name or you designate who will fall under this act, how does that increase the competition, given that individuals now can make contribution to all the existing foundations and/or if they just want a tax benefit can go to another province and right now give it.

I guess I have a hard time understanding totally the argument around competition, given the set of circumstances that we have to deal with right at this point in time.

**Mr. Cohen:** In reference to what I said a moment ago about this particular family, they are former Manitobans. In the act it refers to educational institution. It does not define educational institution. It does not name one. Therefore, it could mean any institution in Manitoba, in my interpretation of that. If that is the case, it could be St. Paul's College, it could be Joseph Wolinsky Collegiate, it could be St. Mary's Academy. They are educational institutions are they not? Therefore, they could make a gift through the Manitoba Foundation and direct it accordingly, unless I misunderstand that. That seems to be the way it could be done. Therefore, there would be an immediate tax benefit to the donor which otherwise we would not be in a position to offer.

**Mr. Kraayeveld:** If I could speak to that, I do not think the bill is quite as broad as David was mentioning.

Here are the two concerns. Where is the possible competition? If in fact this bill was written to clearly designate only the universities by name, the hospitals by name and the Manitoba museum, and in fact each one had a separate foundation, then it would be very clear that a donor who writes a cheque to that University of Manitoba Crown agency means to benefit the University of Manitoba. That is no problem.

We are not taking exception with that at all. What we are taking exception to is the fact that in the act you have left it broad enough that one foundation can accept undesignated gifts for education. Then the board of that foundation can decide who to give it to within this list, but also they can decide to keep it as an endowment. Once you have a broadly designated gift, education, once you have an endowment fund, it is exactly the function of a community foundation that you are taking on.

Are we afraid of competition? Not if it is on a level playing field. But when you offer a potential donor a 100 percent write-off versus a 20 percent write-off over five years, you have tilted the playing field. I think tax considerations, while not everyone is driven solely by tax considerations, it is a factor.

**Mr. Manness:** Mr. Chairperson, what Mr. Kraayeveld is saying then is that Section 6, the purposes of the foundation do not give him the comfort level of comfort that this foundation indeed will flow the funds through. He is claiming that there might be an unscrupulous government sometime in

the future that may want to build endowments and use this because of the tax benefits to build an endowment for whatever purpose. Is that the concern?

**Mr. Kraayeveld:** Yes, that in essence is the concern. I am not worried about an unscrupulous government. I would not put it in those particular terms. If the powers are there I am saying in Section 7 and 9 they can be used, and people 20 years from now are not going to remember the original intent or potentially will not go back and look at Hansard and say, whoa, the intent was we were not going to do that. So it has left it so broadly open that that is a definite possibility. That is the concern.

**Mr. Manness:** Mr. Chairperson, I will just complete my remarks by saying that the difficulty with, at this point, trying to designate in the legislation who it is that is eligible is, of course, that it shuts the door without legislative amendment some time in the future, closes the door to other noteworthy groups that the government of the day may want, by regulation, to add to a list of potential beneficiaries of this legislation.

**Mr. Chairperson:** If there are no other questions or comments for the presenters, I thank you very much for your presentation this morning.

That completes public presentations on Bill 52. Given the fact that the minister is in the chair, is it the will of the committee to go to clause-by-clause consideration of Bill 52?

**Mr. Doug Martindale (Burrows):** Mr. Chairperson, I wonder if the government could indicate in what order they will be doing the bills clause by clause.

**Mr. Chairperson:** That decision is up to the committee, Mr. Martindale.

**Ms. Barrett:** I would recommend that we go clause by clause in the order that we heard presentations, because there is an amendment to Bill 35, and I do not believe there are any amendments to any of the other three bills that we heard public presentations on.

**Mr. Manness:** Mr. Chairperson, I have no problem with that as long as we continue to work to whatever time is needed to complete. I mean, there is not necessarily a 12:30—

**Mr. Chairperson:** Is it agreed then that we will proceed in numerical order? That is agreed? [agreed]

We will now move to consideration then of Bill 35, clause by clause.

## Bill 35—The Fisheries Amendment Act
(continued)

**Hon. Harry Enns (Minister of Natural Resources):** Mr. Chairperson, this is a bill that is important to the commercial fisheries, but I want to indicate that it is not the intent of the Fisheries Branch to bring about in any substantial way the expansion of individual quotas. There is some recognition of quotas where they exist, and, for the moment, that is principally the Lake Winnipeg fisheries and to some extent on the Lake Winnipegosis fisheries. All the other fisheries have lake quotas, overall poundage quotas. As the member for Flin Flon (Mr. Storie) is aware, the biologists will put an overall poundage quota on a lake, and when that overall lake production is reached, then the fishing ceases on that lake.

Should there be a desire, and it is driven by local fishermen's association, to move toward individual lake quotas, then this kind of legislation would apply to it. It enhances the integrity of the quota. It makes it somewhat easier. It provides the moneylenders and its agencies, the economic development corporation—it used to be the Manitoba Agricultural Credit Corporation that used to have the fishermen's loans.

I just wanted to make that case because it was suggested at second reading of the bill that this was primarily being enacted to facilitate and, indeed, to encourage the sale of quotas. That comes and takes place where a quota system is installed. I understand the member for Flin Flon has some reservations about them, and I am prepared to deal with them when we reach that section of the act.

Thank you, Mr. Chairperson.

**Mr. Chairperson:** Does the critic for the official opposition have an opening statement?

* (1220)

**Mr. Jerry Storie (Flin Flon):** Mr. Chairperson, I appreciate the minister's comments very much. I hope that the amendments that I am proposing—although my main concern is with communities in northern Manitoba that may be affected by some future action because the government is given power by regulation to determine which areas and under which

circumstances quota would be sold, this would be some assurance for northern fishermen that their interests will be protected by consultation and through another process.

It is also true that by using the definition of Northern Affairs areas, that we will also affect the sale of quota on Lake Winnipeg by virtue of the fact that the eastern shore where there are some small communities and bands would be protected by virtue of this legislation. That is the intention, recognizing that there are quota holders already. I see it as a supporting amendment that simply protects what the minister has indicated he would wish to protect.

**Mr. Chairperson:** Does the critic for the second opposition have an opening statement? No.

If there are no other statements, we will then move into clause-by-clause consideration. As is general procedure, the consideration of the Title and Preamble are postponed until all the clauses have been considered in their proper order.

Clauses 1 to 3 inclusive—pass.

Shall Clause 4 pass?

**Ms. Becky Barrett (Wellington):** Mr. Chairperson, I would like to move on behalf of Mr. Storie in both official languages,

THAT the proposed section 33, as set out in section 4 of the Bill, be amended

(a) in subsection (1), by adding in the part preceding clause (a), "and after such consultations with fishermen affected as the Lieutenant Governor in Council considers appropriate" after "commercial purposes"; and

(b) by adding the following after subsection (2):

**Transfer of individual quota entitlements**
**33(3)** A regulation made under subsection (1) shall provide that a fisherman is not entitled to transfer or dispose of his or her individual quota entitlement in respect of an area in Northern Manitoba as defined in The Northern Affairs Act unless the fisherman has publicly offered the individual quota entitlement to other persons who hold, or who are eligible to hold, an individual quota entitlement in that area.

**Transitional**
**33(4)** A fisherman who becomes the first holder of an individual quota entitlement under the regulations made under subsection (1) shall not be entitled to transfer or dispose of that individual quota entitlement until one year after the day he or she first becomes the holder of that entitlement.

**[French version]**

Il est proposé que l'article 33, énoncé à l'article 4 du projet de loi, soit amendé:

a) dans le passage précédant l'alinéa (1)a), par substitution, à "Le", de "Après avoir procédé aux consultations qu'il juge indiquées auprès des pêcheurs visés, le";

b) par adjonction, après le paragraphe (2), de ce qui suit:

**Transfert des contingents individuels**
**33(3)** Les règlements pris en vertu du paragraphe (1) prévoient que les pêcheurs ne peuvent transférer ou aliéner leur contingent individuel visant une zone du Nord au sens de la Loi sur les Affaires du Nord à moins d'avoir offert publiquement le contingent à d'autres personnes titulaires d'un contingent individuel pour cette zone ou qui sont admissibles à un tel contingent.

**Dispositions transitoires**
**33(4)** Le pêcheur qui devient le premier titulaire d'un contingent individuel conformément aux règlements pris en vertu du paragraphe (1) ne peut le transférer ou l'aliéner au cours de la première année où il en est titulaire.

**Motion presented.**

**Mr. Chairperson:** Is there any discussion?

**Mr. Storie:** Mr. Chairperson, Ms. Barrett moved that on my behalf because I am not a member of the committee, and I understand that is the procedure.

Just by way of explanation, there are three aspects to this amendment. The first one is requiring some consultation which I think would have happened in all probability in any regard. The second one deals with the area where a fisherman would not be able to sell his title without notice to the community. The third, Section 33(4) deals with a one-year moratorium.

The idea of a moratorium is simply to give communities a chance to organize their financial affairs, either individuals or as groups, so that they would be in a position to purchase quota that was being sold in their area. The reason I raise that is because in many cases the fishermen who currently fish in northern Manitoba and the fishermen's associations and the co-ops and the community economic development corporations

that exist in those communities have limited financial means. If a fisherman in the area were to sell a large quota, we could be talking about significant dollars, potentially hundreds of thousands of dollars, and the communities have to be in a position where they can realistically expect to be able to purchase that quota to maintain control of the resource in their own area. So that is the explanation, Mr. Chairperson.

**Mr. Chairperson:** Thank you.

**Mr. Enns:** Mr. Chairperson and committee members, the opposition critic was courteous enough to provide me with advance notice of this proposed amendment, and I have had an opportunity to discuss this with the Director of Fisheries, Mr. Joe O'Connor, who was here earlier this morning, but did not quite know exactly when the bill would be called again.

I have no difficulty in accepting the amendment, Mr. Chairperson. It is an ongoing policy of the Fisheries Branch to the extent possible, not just by regulations or by orders, but by direct policy, to maintain the fisheries in the region, to service the region that the fishery is in, particularly in northern lakes.

We would be ill advised to allow accumulation of licence holders to occur anywhere in any of our fisheries who are, so to speak, nonresident or not from the area. What this amendment does is, it reinforces that opportunity that it gives to the local community. It strengthens their hand a little bit to ensure that that in fact takes place.

I have one reservation. It has been pointed out to me by staff that with respect to the moratorium there was a concern expressed by the department that we did not really see the need for the amendment to 33(4) as such, although it is put in a little different words here. In the event that fisheries in the North, our initial understanding was that you did not wish this to apply to the North, the potential quota designation, period, for a year in the North.

That is not what your amendment reads. Your amendment reads simply that there be a moratorium on any sale or any transfer of quota to the North. I do not have any problem with that, except that there could be exceptional circumstances, and I would ask that the minister or the members, under those circumstances, and I will check with staff on what kind of administrative requirements they would need in the case of a death, in the case of perhaps a terminal illness or somebody moving away, that that quota may wish to be transferred rather than remain dormant.

The issue would still be in place of that quota not being able to move out of the area for that year, and I think would be respectful of the intent of the mover of this amendment.

**Mr. Storie:** Just a clarification, I am not certain that my interpretation of what is here is the same as the minister's. I read this, this is the first time, this would sort of be after the bill is passed. Obviously, because it is not intended by regulation to affect Northern Affairs, that this would simply guarantee that the first time that the quota holder has the right to sell a quota that there would be that moratorium.

So it would affect only the first year after the cabinet or the regulations are in place. But I do understand that it would still—the minister's point could be well taken in the event that that should happen in the first year after a cabinet decision to include an area under the regulations of this act.

So there is a potential problem, but it may be only for the first year. Obviously, it is only the first time that an area is freed up, so to speak.

**Mr. Gerry McAlpine (Sturgeon Creek):** I guess what I am concerned about here, and I would ask the minister what this would do in terms of limiting the sale of a quota in a particular area. Somebody who wanted to sell their quota would have to have a moratorium. They would not be able to transfer that quota for one year. That is my interpretation of this, and I would ask the minister if that is correct and whether or not we want to do that in fact.

**Mr. Enns:** Yes, that is correct and, yes, that is precisely what we want to do. I do not want John Rockefeller owning all the quotas in northern Manitoba.

**Mr. McAlpine:** Well, that still does not satisfy my concern for somebody who legitimately wants to sell and wants to sell it to somebody in the area, but it is limiting—

**Mr. Storie:** Just as a point of explanation, fishermen in northern Manitoba cannot—there is no value that is legally attached to their quota. So at the present time they cannot do this anyway.

All I am saying is that the first time they actually, by regulation, the government allows someone to sell quota or they become entitled to the quota as a commercial entity that we give one year, all right,

just so that the communities can get ready. So it does not affect anybody currently other than perhaps some fishermen on Lake Winnipeg who have this, and then it gives the community a chance to respond.

* (1230)

**Mr. Brian Pallister (Portage la Prairie):** I would like the minister or perhaps Mr. Storie to clarify what the consequences would be for the family of the fisherman who died and was unable in the first year to sell his quota.

**Mr. Storie:** Obviously there are areas in the province where that would not be allowed anyway.

**Mr. Pallister:** What, dying?

**Mr. Storie:** No, they would not be able to sell the quota in northern Manitoba because they do not own the quota currently. So the only people it would affect are people who already have the right to sell quota and this would not apply to them. There certainly could conceivably be people who would be affected in the event that this passed and the government decided to extend or allow the sale of quota in other areas, there could be that problem for a year. Obviously it could have an impact. I do not think that is an undue risk to take to protect the interests of northern fishermen and northern communities to have control over their resources. It seems to me a highly unusual circumstance although obviously you can never rule it out

**Mr. Pallister:** Is it possible to amend to rule it out?

**Mr. Enns:** Mr. Chairperson, I think that is what I alluded to by "I will confer with Fisheries staff" is to see what possible administrative procedure they can put in place to respond to the very question that Mr. Pallister raises. In the main, we are talking about—unlikely the opportunity of this happening, but the unlikely can happen.

Let us be very clear about it, both my colleague from St. James and to Mr. Pallister, this is overt interference, if you like, or regulation, but done so in a very deliberate way. People sitting around this room, for instance, you are not eligible. My good friend from St. Boniface is not eligible to get a fishing licence on Lake Manitoba simply because he does not live on Lake Manitoba. His two brothers do and they probably have held fishing licences on Lake Manitoba. We protect the residents and this is why I accepted the amendment. There is even a greater cause to allow for some form of this kind of protected jurisdiction, if you like, in the northern fisheries where very often what few economic opportunities there are are related to commercial fishing and the likes of this.

I suggest that we move on and we can continue this discussion at the report stage of the bill, when the chairperson calls the report stage of the bill. I recommend the amendments to the committee.

**Mr. McAlpine:** Mr. Chairperson, let the record show that the reference the honourable minister made to his colleague being from St. James, I am the member for Sturgeon Creek and not the member for St. James.

**Mr. Enns:** I want to express my profound apologies to my colleague from St. James, who will never let me live this down. I want it clearly understood that on this fair day, July 22 of our Lord, the year 1993, I am profoundly sorry for having misrepresented the honourable member for Sturgeon Creek.

**Mr. Chairperson:** We have a fisheries bill before us and we could not remember Sturgeon Creek.

**Mr. Pallister:** A final point of clarification. Perhaps I could ask the member for Flin Flon (Mr. Storie) to elaborate a bit on this. The example that he gave of the need for preparedness as being the rationale for the amendment 33(4), the need for preparedness. I assume that means in terms of gathering financial resources, and what have you.

I do not understand why that need would not continue after one year. Can you explain?

**Mr. Storie:** Certainly it is possible that it would continue, but at this point the communities are not prepared because they do not expect individual quota to be sold. After the law takes effect, then communities obviously will be notified. Fishermen will be aware of their right and so the communities would then be prepared and should be prepared in perpetuity.

They would understand that individual fishermen in their community would be preparing to sell, because they require public notice in the area and they would, on a continuing basis, have the financial means and be prepared, hopefully, to make sure and protect the long-term interest.

**Mr. Chairperson:** If everyone is satisfied with the discussion, I will call the question.

Amendment—pass; Clause 4 as amended—pass; Clause 5—pass; Preamble—pass; Title—pass. Shall the bill as amended be reported?

[agreed] Is it the will of the committee that I report the bill as amended? [agreed]

That completes consideration of Bill 35.

We will now move to consideration of Bill 47.

## Bill 47—The Residential Tenancies Amendment Act (2)
(continued)

**Mr. Chairperson:** Does the minister or any members of the committee have an opening statement or comments?

**Mr. Doug Martindale (Burrows):** Mr. Chairperson, I would dearly love to spend three or four hours on clause by clause on this bill because I think it is a dreadful bill in terms of how it is going to affect tenants.

However, because there are numerous presenters on the taxicab amendments for seven o'clock tonight, I will try to expedite this as fast as possible and use my time for some opening remarks and not ask a whole lot of questions on clause by clause.

I think this minister has given a great gift to landlords, and according to her own speech, in the amount of $25 million in security deposits, and now the security deposit and trust provisions are gone or will be gone when this bill is proclaimed.

Landlords will have no restrictions on how they can spend that money and very little accountability. The money is supposed to be there when tenants move out, but there are very little safeguards that will protect tenants if the landlords do not have the money or drag their feet on returning it.

When I was on the Landlord and Tenant Review Committee, landlords of course opposed improving protection for tenants around security deposits. The fact that there were improvements in The Residential Tenancies Act was the result of compromise. I think that compromise has gone out the window with this bill. In fact, I think The Residential Tenancies Act, which all parties supported, was fair to both landlords and tenants. I think there was a balance of power and fairness, and I think that is gone. I think this bill tips that balance in favour of landlords.

I believe it is very significant that we are dealing with this bill now at the end of this session. In my speech on second reading, I mentioned a grace period of one year. In fact I was wrong at that time, because I thought it was some sort of informal understanding, but since then I have had a chance to read Part 15, Section 196(1) of The Residential Tenancies Act and refreshed my memory. It is actually a part of the act that the security deposits in trust provisions do not come into force until September 1, 1993.

I believe that one of the very significant reasons why we are dealing with this bill now is that landlords did not want to comply with the provisions of the act and lobbied this minister to change that before they had to put the money in the security deposit accounts.

I think the minister is changing a very significant piece of legislation with undue haste. The Residential Tenancies Act resulted from a very long process that began in 1985 and culminated with proclamation on September 1, 1992, a period of seven years. Now, less than 10 months after the act was proclaimed, we are seeing very significant and very lengthy amendments.

We had a very good presenter here this morning who encouraged the minister to have landlords and tenants provide her with advice. In fact, an advisory committee is part of Section 191(1) and 191(2) of The Residential Tenancies Act and the minister says she is in the process of setting up the advisory committee.

Well, this minister has had 10 months, has not done it, could have done it, could have had an advisory committee that she could have consulted of both landlords and tenants and civil servants in order to bring about amendments. I think that would have been a fair process.

* (1240)

As the presenter pointed out, there needed to be consultation with landlords and tenants. I know the minister is probably going to put on the record that she has consulted thousands of tenants, as she told me in the Chamber one day, in addition to landlords. But I know that there are no organized tenants' groups that I know of other than the housing coalition which now includes landlords as well as other individuals, and I think there has been almost a total lack of consultation with tenants' groups.

If the minister says she has consulted individual tenants, it is probably tenants that have been involved either by phoning her or the branch.

So we have very serious concerns about this bill, and we will be voting against sections of it and voting against the bill in its totality.

There are just a couple of issues that I would like to touch on briefly that are very significant. The first is the removal of security deposits in trust provisions. This section has been totally gutted. It looks like it has been rewritten, but it says that the landlord may provide the director with a bond, a financial instrument or other security for payment. This is really window-dressing. Landlords are not going to do that if they do not have to. Why would they take the trouble? Why would they bother to even do that?

There are numerous things as well which are gifts to landlords, particularly in terms of the time required to return security deposits. Where in the past it was 14 days, now that has been increased to 28 days. Who suggested that? I am absolutely sure that landlords suggested that. I doubt very much if any tenant ever suggested that. In fact, we heard a presentation this morning that suggested it be increased to 90 days. Absolutely ridiculous.

**Hon. Linda McIntosh (Minister of Consumer and Corporate Affairs):** And did I?

**Mr. Martindale:** No, this minister has not done that.

Tenants have to have the money up-front when they sign a lease. There is no reason why landlords should not be required to return the monies immediately unless there is a dispute. Fourteen days was certainly adequate, now it is being increased to 28 days, and many other provisions that definitely affect tenants are being increased in terms of the time periods by which the landlord and the department must respond.

I regret that we do not have time to spend a lot of time on clause by clause. I would like to ask detailed questions, but in the interests of getting finished with this and hearing public presenters who are waiting on another bill at seven o'clock tonight, we will deal with it with much more haste than I would like. Thank you.

**Mr. Chairperson:** Thank you.

**Mrs. McIntosh:** Thank you very much, Mr. Chairperson. We do not have to deal with it with haste if you do not want to, but I would like to respond because I do not accept any of the accusations or allegations that have just been put on the record by the member for Burrows.

The member for Burrows professes to be pro-tenant. I suspect that he is much more than pro-tenant. I expect that he is not just pro-tenant, but he is anti-landlord. I am pro both. That is quite a big distinction. The member for Burrows repeatedly has said things in the Chamber and he has done it just now. I should not have extended the 28 days because, why? It helps landlords. It does not hurt tenants, but it helps landlords so it should not be done.

Repeatedly, if you go back through Hansard, and you might like to do that to examine your own conscience—I say this directly to the member for Burrows—examine your comments that you have made and ensure to yourself that you are not just pro-tenant, but that you also are pro the other side of the marketplace. I am for both. I am for a balanced marketplace. I have to indicate that I will not accept those comments on the record unchallenged because they are inaccurate and untrue.

The member for Burrows said I could not have possibly consulted with tenants because there are no organized tenants groups. He said that repeatedly over and over and over. He purports though to know the tenants' position. How then does he know the tenants' position if there are no tenants groups with whom anyone can consult? He purports to know the tenants' opinions because he goes door to door at apartment blocks. I, too, go door to door at apartment blocks. I have many, many, many, many rental units in my constituency and I go door to door. I talk to tenants when they open the door and so I get their opinions just in exactly the same way he does, exactly the same way. How then can he have their opinions and I not?

As well, I have access to another group of tenants that I do not believe he has access to, although he is most welcome to access them if he wishes. We have a whole group of tenants and tenant advocates that we have appointed to sit on the housing court. They deal with thousands of tenants' concerns, not just tenants who do not have concerns which you get when you go door to door because I have many tenants who tell me they have no concerns when I go door to door, these tenant advocates and representatives specifically deal with tenants' concerns and they have feedback. They have communication with people

who are appointed and hired to deal specifically with their concerns.

So I say that, Mr. Chairperson, we are in the process of putting together a tenant advisory committee which I hope will be an ongoing group with whom we can get specific opinions. I also indicate to you that I indicated when this bill came in and I held to my commitment and the member knew that at the time that I would take the first six months to see how the act was being implemented, to see how it was working and that if I found there were areas that needed improvement I would come forward with recommendations which I am now doing.

One final comment, the member says that everything I have done in here has been done for landlords. If that is the case, then I ask the member why it was the only presenters we had this morning were landlords complaining bitterly that I had not done the things they had asked me to do. Perhaps, he can ponder that question. [interjection] We sure can unless he wants to stay tonight. You can come tonight if you want and I will stay here till two in the morning.

**Mr. Chairperson:** Order, please. Does the critic for the second opposition party have an opening statement? [interjection] Thank you. If there are no further questions or comments, we will move to clause-by-clause consideration of the bill.

May I ask the committee if there are any proposed amendments or shall we consider the clauses in their entirety? [interjection] Shall Clauses 1 to 6 inclusive pass? Those clauses are accordingly passed.

Shall Clause 7 pass?

**Mrs. McIntosh:** Mr. Chairperson, this is a technical amendment, 7(2). I think it is being distributed to the members. It is a subsection that should have been included in the bill because it relates to notices of increases that affects new tenants. The way it is worded right now, it just simply is not possible for it to be workable with regard to new tenants. This section was supposed to have been in there to clarify what you do in the case of a tenant who is new. So it makes reference to both subsections (1) and (2).

**Mr. Chairperson:** Would you like to make that motion, please?

**Mrs. McIntosh:** I move

THAT section 7 of the Bill be renumbered as subsection 7(1) and the following be added after subsection 7(1):

7(2) Subsection 25(3) is amended by striking out "subsection (1)" and substituting "subsection (1) or (2)".

**[French version]**

Il est proposé que l'article 7 du projet de loi soit amendé par substitution, à son actuel numéro, du numéro de paragraphe 7(1) et par adjonction de ce qui suit:

7(2) Le paragraphe 25(3) est modifé par adjonction, après "(1)", de "ou (2)".

**Motion presented.**

**Mr. Martindale:** Mr. Chairperson, just for clarification, are we on page 3, notice to new tenant? Is that where this change comes in?

**Mrs. McIntosh:** Yes.

**Mr. Chairperson:** Amendment—pass; Clause 7 as amended—pass.

Shall Clauses 8 to 66 inclusive pass?

**An Honourable Member:** No.

**Mr. Chairperson:** Are you requesting a recorded vote?

**Mr. Martindale:** Mr. Chairperson, I would like a recorded vote on Section 8(2).

**Mr. Chairperson:** Very well, I shall ask the committee then, shall Clause 8 pass?

**An Honourable Member:** No.

**An Honourable Member:** Yes.

**Mr. Chairperson:** All those in favour of passage of Clause 8, please say yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** Those opposed, say nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** In my opinion, the Yeas have it.

**Mr. Martindale:** Recorded vote, Mr Chairperson.

**Mr. Chairperson:** A recorded vote has been requested.

**A COUNTED VOTE** was taken, the result being as follows: Yeas 5, Nays 2.

* (1250)

**Mr. Chairperson:** The clause is accordingly passed by a count of five to two.

Shall Clauses 9 to 66—

**Mr. Martindale:** No, I would like a recorded vote on Section 32(2), please. Sorry, that is the number of the section in the act. It is Section 12 in this bill.

**Mr. Chairperson:** Clauses 9 to 11 inclusive—pass.

Shall Clause 12 pass?

**An Honourable Member:** No.

**Mr. Chairperson:** All those in favour of the passage of Clause 12, please say yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** All those opposed, please say nay.

**An Honourable Member:** Nay.

**Mr. Chairperson:** In my opinion, the Yeas have it. A recorded vote has been requested.

**A COUNTED VOTE** was taken, the result being as follows: Yeas 6, Nay 2.

**Mr. Chairperson:** Clause 12 is accordingly passed by a vote of six to two.

Clauses 13 to 57 inclusive—pass.

Shall Clause 58 pass?

**Mrs. McIntosh:** Mr. Chairperson, I have just a second amendment. This is the only other amendment I have and, again, it is a clarification. I will move it. I think it is being passed around. It is a clarification change to avoid any impression that might have inadvertently been left that the director himself is the one who advances money to the receiver-manager.

I move

THAT the proposed subsection 183.1, as set out in section 58 of the Bill, be amended by striking out "making an advance" and substituting "an advance is made".

**[French version]**

Il est proposé que l'article 183.1, énoncé à l'article 58 du projet de loi, soit amendé par substitution, à "après qu'il a consenti à un séquestre-gérant une avance", de "après qu'une avance a été consentie à un séquestre-gérant".

**Motion agreed to.**

**Mr. Chairperson:** Clause 58 as amended—pass; Clauses 59 to 66 inclusive—pass; Preamble—pass; Title—pass.

Is it the will of the committee that I report the bill as amended?

**Mr. Martindale:** Are we coming to the vote on the bill itself? Is that next?

**Mr. Chairperson:** That is the end of it. If you want to register your protest, do so now. Do you want a recorded vote?

**Mr. Martindale:** Yes, Mr. Chairperson.

**Mr. Chairperson:** Is it the will of the committee that I report the bill as amended? All those in favour, please say yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** All those opposed, please say nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** In my opinion, the Yeas have it.

A recorded vote as been requested.

**A COUNTED VOTE** was taken, the result being as follows: Yeas 6, Nays 2.

**Mr. Chairperson:** That is passed by a vote of six to two.

That completes consideration of Bill 47.

Is it the will of the committee to continue with consideration of Bill 49? [agreed]

## Bill 49—The Summary Convictions Amendment and Consequential Amendments Act
(continued)

**Mr. Chairperson:** Do any of the committee members have an opening statement or comments on Bill 49?

**Ms. Becky Barrett (Wellington):** Mr. Chairperson, very briefly, I think it has been made clear to anyone who has heard my comments on second reading and our comments in committee today that we are unalterably opposed to this piece of legislation and would wish it to be withdrawn. To that end, I just wish to notify the committee that I will be asking for a recorded vote on every clause, but I will not take any more time to delineate our concerns at this point. Thank you.

**Mr. Chairperson:** Seeing no other statements we will move into consideration of the clauses. Is it acceptable to go in blocks of clauses?

**Ms. Barrett:** Absolutely.

**Mr. Chairperson:** Shall Clauses 1 to 9 pass? All those in favour of the passage of Clauses 1 to 9, please indicate by saying yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** All opposed, say nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** In my opinion, the Yeas have it.

**A COUNTED VOTE** was taken, the result being as follows: Yeas 5, Nays 3.

**Mr. Chairperson:** Clauses 1 to 9 inclusive pass by a vote of 5 Yeas and 3 Nays.

Shall the Preamble pass?

**Some Honourable Members:** No.

**A COUNTED VOTE** was taken, the result being as follows: Yeas 5, Nays 3.

**Mr. Chairperson:** The Preamble will be reported on a vote of five to three.

Shall the Title be passed?

**Some Honourable Members:** No.

**A COUNTED VOTE** was taken, the result being as follows: Yeas 5, Nays 3.

**Mr. Chairperson:** The Title shall be passed by a recorded vote of five Yeas and three Nays.

Shall the bill be reported?

**Some Honourable Members:** No.

**A COUNTED VOTE** was taken, the result being as follows: Yeas 5, Nays 3.

**Mr. Chairperson:** The bill shall be reported on a vote of five Yeas and three Nays.

Is it the will of the committee that I report the bill?

**Some Honourable Members:** No.

**A COUNTED VOTE** was taken, the result being as follows: Yeas 5, Nays 3.

**Mr. Chairperson:** The bill shall be reported on a vote of five Yeas and three Nays.

That completes consideration of Bill 49.

Is it the will of the committee to consider Bill 52? [agreed]

## Bill 52—The Manitoba Foundation Act
(continued)

**Mr. Chairperson:** We will now consider clause by clause Bill 52, The Manitoba Foundation Act.

**Ms. Jean Friesen (Wolseley):** Mr. Chairperson, it is certainly my desire to deal with this as expeditiously as possible, but when I spoke on this yesterday in the House I did specifically raise a series of questions for the minister and said that I looked forward to discussing this with him in committee. I did give advance notice of that.

One of those has been discussed in connection with the community foundations which came here today. The other specific questions that I asked and put on the record yesterday and hoped that we could discuss today dealt with the differences between this and the heritage act, not The Heritage Resources Act, but the heritage act, which also provides for donations to the Crown.

A second area I was concerned about and that has been raised with me has been the impact of this upon the individual hospital's own trust funds and their own—not trust funds, on their own foundations. I also would like to discuss with the minister some of the issues surrounding consultation. It does seem to have come as quite a surprise to some agencies, for example the Winnipeg Foundation. We have not heard from the rural community foundations, and I wondered what process of discussion was considered there.

Similarly, some of the hospitals—as I said, I did not have the opportunity to speak to all of them. Certainly, some of the hospitals seem totally unaware of this bill. It is a very important fundraising and community charity area in the community, so I do have some concerns there.

I have one very brief amendment which I would be happy to give you now. How do you want to proceed?

* (1300)

**Hon. James McCrae (Minister of Justice and Attorney General):** Mr. Chairperson, it had been my understanding that, like the other bill, this bill would not be the subject of discussions. The honourable member is now stating that it ought to be, and the Minister of Finance (Mr. Manness) will be here momentarily to deal with the honourable member's questions.

**Mr. Chairperson:** Is it the will of the committee that we recess for a couple of minutes until the Minister of Finance arrives? [agreed]

The committee recessed at 1:01 p.m.

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## After Recess

The committee resumed at 1:05 p.m.

**Mr. Chairperson:** Ms. Friesen, would you like to pose your questions again?

**Ms. Friesen:** Mr. Chairperson, I had indicated to the minister yesterday in the House that I would have a number of questions on this bill. One of them is the difference between this and the heritage act. I am concerned. This has become an omnibus bill, but it has only become an onmibus bill for certain types of institutions. I wondered why it was felt necessary to add museums to this one when there was already a heritage act?

I do not mean The Heritage Resources Act, but a heritage act which did in fact allow donations of property, real estate, et cetera, to the Crown.

**Hon. Clayton Manness (Minister of Finance):** We are a little bit confused as to the full understanding, and we are trying to search it right now, as to what powers are under The Heritage Manitoba Act.

Let me say to you that one of the strong supporters of this bill was the Museum of Man and Nature. When you are making these decisions, something has to be of the higher order, and the higher order here was to try and, more or less, provide first of all an opportunity for those few peoples in our community who had the means who wanted a better income tax benefit. That set everything else into motion and possibly by the time you come all the way down, there may be some overlap, there may be some conflict as between some of our acts. We will try and explore them more deeply.

**Ms. Friesen:** I would be prepared to have a written letter on that, and I should draw to the minister's attention that I also asked this same question in the Culture, Heritage Estimates as well, but there were no lawyers present. There was a deputy minister present and the interpretation I got, I think, would be useful to the Museum of Man and Nature who I know does support this act. There must have been some problems with the earlier act and that is what I am concerned about. Does this one supersede it? Are we looking at two parallel but different kinds of approaches so I would like to have some interpretation of that. I think it would be helpful.

I am concerned about the consultations in reference to this particular act. I have found that certainly not all hospitals were consulted. It came as a complete surprise to some hospitals. As I indicated before the minister came, this was to be an act which will have significant implications for the hospitals charitable foundations. There are some concerns there and I wondered what the minister's response would be.

**Mr. Manness:** Mr. Chairperson, firstly, with respect to the first question, we certainly will commit to give in writing a viewpoint as to whether or not there is redundancy overlap with respect to two of our acts to the member, and we may also go to her and try to get a better understanding of her question.

With respect to an indication, particularly of the hospitals, I must be very candid here. The main driving force behind this was the university community. They sensed that they were losing support in some fashion and therefore made representation to government over the past year. Secondly, we sensed it would only be a matter of time that the hospital foundations would also want to be designated by regulation to give even greater opportunity for individuals in the community to make bequeaths to the hospitals outside of the regular foundations, the 20 percent rule. It is our full expectation that in due course the hospitals also will be a part of those groups so designated.

**Ms. Friesen:** My question was about consultation.

**Mr. Manness:** Once government in principle decided to do this, I mean, that was a budgetary move and that was spelled out in the budget. This is the result of those labours. I mean somebody has to take the lead or the consultation. Yes, I guess we could be criticized for not calling all of those special groups in society who raise funds for good causes, but we had a sense of where we were going and we decided to act on our own.

**Ms. Friesen:** I think the announcement in the budget was for educational institutions. Did it also include hospitals?

**Mr. Manness:** It said other institutions, as I recall.

**Ms. Friesen:** Okay. We have had some concerns raised today by the Winnipeg Foundation, but I am sure, as the minister is aware, there are also foundations in Killarney, Minnedosa, Brandon and there are family foundations which would be less affected by this, but certainly those other community foundations, and again I am concerned about the consultation and the same implications for them as have been brought to us by the Winnipeg Foundation.

* (1310)

**Mr. Manness:** Mr. Chairperson, well, that is a fair comment. I sense that this bill was very supportive

of all of their activitles. This was not competitive to. In my view, this bill was very supportive of the existing work of all the foundations that are now in existence. I saw no conflict. So I guess I did not see quite the need for going out to all of the groups in the larger community who through the building of endowments provide services. To me, this bill is purely supportive of their activities.

**Ms. Friesen:** The other questions I have raised have to do with trustees. Perhaps before I propose the amendment on that, I could ask the minister for the reasons. There may be particular reasons within Revenue Canada regulations for using the word "may." In Section 8(3) the board may include two trustees each in respect of. I wondered if the minister could suggest to us why that would be "may" rather than "shall."

**Mr. Manness:** The member makes a good point. The dilemma that we had in making it obligatory as compared to permissive is simply—because what happens if no museum institutions want to be part of this or no hospital institutions, then under the act we are forced to name representatives even though there would be no designations by way of regulation under the act. That is the reason.

**Ms. Friesen:** But the Museum of Man and Nature is already designated in the act as are a number of educational institutions pursuant to the universities and the act that is mentioned in the first section. So it would be the hospitals then that would be a problem.

**Mr. Manness:** In the first instance, the member is right, but what happens if you have six educational institutions and only one museum and there is a balance of two and two? So that is the dilemma that we had and that is why we did not make it obligatory.

**Ms. Friesen:** I raise this because it is of course different from the Alberta situation which to some extent this bill is patterned after and to some extent makes some significant changes.

**Mr. Chairperson:** Are there any more further questions or comments on the bill? We will then move to clause-by-clause consideration.

Clauses 1 to 7 inclusive—pass.

Is it the will of the committee to by-pass consideration of Clause 8 at the moment? [agreed]

Clauses 9 to 18 inclusive—pass; Preamble—pass; Title—pass.

**Mr. Manness:** May I suggest that the committee rise and that we consider this as the first item of business in one of the committees meeting tonight at seven o'clock, and I will plan that accordingly and make an announcement in the House.

**Mr. Chairperson:** Is that agreed? [agreed] For the information of the committee, we will reconvene this evening at seven o'clock in reconsideration of Bill 52, and then move into further public hearings on Bill 24.

Committee rise.

**COMMITTEE ROSE AT:** 1:19 p.m.