



Third Session - Thirty-Sixth Legislature

of the

Legislative Assembly of Manitoba

Standing Committee

on

Law Amendments

Chairperson
Mr. Mervin Tweed
Constituency of Turtle Mountain



MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Sixth Legislature

Member	Constituency	Political Affiliation
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BARRETT, Becky	Wellington	N.D.P.
CERILLI, Marianne	Radisson	N.D.P.
CHOMIAK, Dave	Kildonan	N.D.P.
CUMMINGS, Glen, Hon.	Ste. Rose	P.C.
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DERKACH, Leonard, Hon.	Roblin-Russell	P.C.
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ENNS, Harry, Hon.	Lakeside	P.C.
ERNST, Jim	Charleswood	P.C.
EVANS, Clif	Interlake	N.D.P.
EVANS, Leonard S.	Brandon East	N.D.P.
FILMON, Gary, Hon.	Tuxedo	P.C.
FINDLAY, Glen, Hon.	Springfield	P.C.
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GILLESHAMMER, Harold, Hon.	Minnedosa	P.C.
HELWER, Edward	Gimli	P.C.
HICKES, George	Point Douglas	N.D.P.
JENNISSEN, Gerard	Flin Flon	N.D.P.
KOWALSKI, Gary	The Maples	Ind.
LAMOUREUX, Kevin	Inkster	Lib.
LATHLIN, Oscar	The Pas	N.D.P.
LAURENDEAU, Marcel	St. Norbert	P.C.
MACKINTOSH, Gord	St. Johns	N.D.P.
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McALPINE, Gerry	Sturgeon Creek	P.C.
McCRAE, James, Hon.	Brandon West	P.C.
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NEWMAN, David, Hon.	Riel	P.C.
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PRAZNIK, Darren, Hon.	Lac du Bonnet	P.C.
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Vacant	Portage la Prairie	

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON LAW AMENDMENTS

Tuesday, June 10, 1997

TIME – 10 a.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Mervin Tweed (Turtle Mountain)

VICE-CHAIRPERSON – Mr. Peter Dyck (Pembina)

ATTENDANCE - 12 – QUORUM - 6

Members of the Committee present:

Hon. Messrs. McCrae, Newman, Radcliffe

Messrs. Ashton, Dyck, Helwer, Jennissen, Maloway, Mrs. Render, Messrs. Santos, Tweed, Kowalski

WITNESSES:

Ms. Lyn Charney, Private Citizen
 Ms. Florence Fabbro, Private Citizen
 Ms. Terry Sansom, Private Citizen
 Ms. Lorie Dwornick, Private Citizen

MATTERS UNDER DISCUSSION:

Bill 6–The Natural Gas Supply Repeal and Public Utilities Board Amendment Act
 Bill 8–The Real Property Amendment Act
 Bill 13–The Insurance Amendment Act
 Bill 23–The Manitoba Public Insurance Corporation Amendment Act
 Bill 24–The Personal Property Security Amendment and Various Acts Amendment Act
 Bill 26–The Corporations Amendment Act

Clerk Assistant (Ms. Shabnam Datta): Good morning. Will the Standing Committee on Law Amendments please come to order.

Before the committee can proceed with the business before it, it must proceed to elect a Chairperson. Are there any nominations?

Mr. Edward Helwer (Gimli): I would nominate Mr. Tweed as Chairperson, the member for Turtle Mountain.

Clerk Assistant: The member for Turtle Mountain has been nominated as Chair. Are there any other nominations? Mr. Tweed has been elected as Chair. So would you please take the Chair.

Mr. Chairperson: Good morning. Will the Standing Committee on Law Amendments please come to order.

This morning the committee will be considering six bills. The bills to be considered are No. 6, The Natural Gas Supply Repeal and Public Utilities Board Amendment Act; No. 8, The Real Property Amendment Act; No. 13, The Insurance Amendment Act; No. 23, The Manitoba Public Insurance Corporation Amendment Act; No. 24, The Personal Property Security Amendment and Various Acts Amendment Act; and No. 26, The Corporations Amendment Act.

To date we have had seven persons registered to speak to the bills this morning, and I will now read aloud the names of the persons who are preregistered: George Czmola, Lyn Charney, Florence Fabbro, Terry Sansom, Colleen Cameron, Lorie Dwornick, Catharina Pajak.

I have been informed that one or more of the presenters are from out of town. Is it the committee's wish to grant its consent for out-of-town presenters to be heard from first? Agreed? [agreed]

If there are any persons in attendance today who would like to speak to the bills referred for this morning and whose name does not appear on the list of presenters, please register with the Chamber Branch personnel at the table at the rear of the room, and your name will be added to the list.

In addition, I would like to remind the presenters wishing to hand out written copies of their brief to the committee that 15 copies are required. If assistance in making the required number of copies is needed, please contact either the Chamber Branch personnel or the Clerk Assistant and the copies will be made for you.

Mr. Helwer: Mr. Chairman, how do you want to deal with this this morning? Do you want to deal with some of the bills first or do we want to hear the presenters first?

Mr. Steve Ashton (Thompson): The normal procedure is to hear presenters and then deal with the bills.

Mr. Chairperson: Okay. We will deal with Bill 23 first, and does the committee wish to establish a time limit on presentations heard this morning?

An Honourable Member: No.

Mr. Chairperson: Okay. We shall now proceed with the hearing of presentations. Mr. George Czmola, would you please come forward and make your presentation to the committee.

The next question I will ask is how does the committee propose to deal with presenters who are not in attendance today but have their names called?

Hon. Mike Radcliffe (Minister of Consumer and Corporate Affairs): Mr. Chair, I would propose moving them to the bottom of the list and call them again at that point, and then if that person does not appear then discard them after a second call.

Mr. Chairperson: Is that agreeable to all committee members?

Mr. Ashton: Yes, I think we are usually fairly flexible, especially with a small committee. If someone does show up towards the end, and even if their name has been called—

Bill 23—The Manitoba Public Insurance Corporation Amendment Act

Mr. Chairperson: With that, then, I will ask Lyn Charney to please come forward and make your

presentation to the committee, and as you are coming forward, I will ask you if you have any written presentation.

Ms. Lyn Charney (Private Citizen): No, I do not.

Mr. Chairperson: Okay, then I will ask you to proceed.

Ms. Charney: Honourable members of the House, I beg your indulgence in the sense that I have not done this before. I had a brief prepared, but I decided just to speak, I guess, from the heart.

I am a person who has been through the Autopac system far, far too long, and I find it very, very wanting, and I am hoping that with the review committee there can be some changes made, changes that will help claimants go through the system much better than I have fared overall. I hope that the changes can be fairer to one and all.

My concern is that with the introduction of no-fault, people's rights to the courts were legislated away, as we all know, and in that process no-fault insurance was instituted. I think this opened the door for, at the very least, an unlevel playing field to arise insofar as much of the power is invested in the corporation, and very little of it remains with any of the claimants.

In my experience and in talking with many people, there is a mood that resides in the insurance provider that does not give claimants the benefit of the doubt. Gosh. I will not go on endlessly, so I will try and focus here.

* (1010)

Too many people are disintitiled to benefits, income replacement, and are confronted with an appeal process which is not user friendly. We have a politically appointed appeal panel, and 60 percent to 80 percent of the claimants are unsuccessful in navigating the system. There is no one to help people through it. There is no manual. and it is a hit-and-miss experience that many people find intimidating and very, very frightening. The fallout is substantial when people lose. It is people's lives, the lives of their families, that are profoundly affected.

Under the old system, you could, and I guess under the new system you can resort to lawyers to help you through the maze, but many people cannot afford lawyers, and this sets up a system where people are disintitiled or disenfranchised because they cannot afford a representative to speak for them or help them to organize their appeal. I think this is an area that needs to be addressed and rectified. It is my hope that efforts can be put forth in this area which will help us, help all of us, to advance. Under the no-fault, premiums are paid. There is an exchange for fee for service. Under the no-fault, it sort of comes down to no benefits. No-fault equals no benefits.

I would like to thank you for hearing me. It has been a privilege to speak in this House. The power rests within your abilities to make changes. I hope that you do. Thank you.

Mr. Chairperson: Thank you, Ms. Charney. Could I ask you just to remain at the front, if there are any questions of the committee members, if we could.

Mr. Steve Ashton (Thompson): I want to thank you, by the way. I know it is very difficult to come before this committee, being a formal body of the Legislature, but I think the courage you showed by coming today is the kind of courage that it is going to take to change some of the problems that you have identified. I just want to ask some specific questions on some ways in which we can improve the situation facing accident victims, because I have talked to many people, many accident victims, and there is a lot of frustration.

When you consider the fact that in 1993 more than \$190 million was paid out in injury claims and that last year \$103 million was paid out, even if you net out the legal fees that were supposed to be saved by no-fault, it is clear that there is less money going to accident victims, and this is creating a lot of, I know, frustration, a lot of concerns about the way people's cases are being dealt with. I am wondering if you feel it would be helped, at least as a start, if there was an advocate available for people similar to what is in place with Workers Compensation so that accident victims do not have to carry the entire burden themselves and, in the case of the appeal commission, do not have to go in front of an appeal commission, where Autopac, as was confirmed in this committee a few weeks ago, routinely

uses lawyers itself. So you are up in a situation where you are up against Autopac with lawyers and its experts with nobody on your side. Do you think it would help if there was an advocate put in place?

Ms. Charney: Yes, I certainly do, from the point of view that people are expected overnight, if not sooner, to become lawyers and able to defend themselves and go through an act that has many, many subsections. Many people I have talked to are intimidated, overwhelmed and, at that time, they are also terminated from benefits so, you know, you are trying to heal, you are trying to deal with an economic loss, you are denied benefits that would enable you to seek ongoing treatments that could facilitate your state of well-being. You are placed under a tremendous load of stress.

A claimant adviser would certainly be beneficial in my opinion.

Mr. Ashton: Well, I just want to go a little bit further too because, when the original no-fault bill came in, there were 35 amendments moved by the NDP at the time. Many of them dealt with fundamental issues of how cases would be dealt with. For example, we moved an amendment that wanted to make it clear that the benefit of the doubt would go to the claimant, not to Autopac. That was defeated, by the way. We moved an amendment that would prevent Autopac from accessing information that was not directly relevant to the case. That was defeated. There were a whole series of those kinds of issues, and I am wondering if you feel those kinds of changes to the legislation might help improve the situation for accident victims, giving them a better chance in dealing with the system and making sure that—and we have had people go public saying that they had been basically under surveillance at social events. I remember talking to somebody that had a van parked out at their house on a regular basis, people spying on her, related to an Autopac case. I am wondering if you feel that needs to be addressed too, this sort of imbalance in the way the system is right now towards claimants.

Ms. Charney: I think the whole thing has to be looked at in the cold light of day, quite frankly, because there is an imbalance. Not only are people not having the resources but, seemingly, Autopac has endless resources, endless resources to do many things. I have

heard from people that they are either faulted with having a pre-existing, which gives grounds for termination of benefits. There is no common ground as it is today. It is either one extreme or the other at the expense of the claimants.

Mr. Ashton: I also want to ask a question too about the kind of information people are given by Autopac, because another thing that has come up in my discussions with people is the fact that there is a lot of confusion about no-fault at Autopac. There is a lack of information even about the appeal process in many cases, and I am wondering if you have had any experience with that, where people get different versions of how, you know, the benefits were supposed to be put in place. Have you run into that, or have you talked to others who have had that sort of difficulty?

Ms. Charney: On a personal note, I was involved in an accident under the PIP system and was sort of in a vacuum for a great period of time with no contact originated by my adjuster. I think anything that was promoted or put forth was on my initiative. I have talked to other people, and there is a tremendous amount of confusion amongst adjusters even in how individual claimants are dealt with.

Some of them seem to have no difficulties. Others seem to have great deals of difficulty, and just the whole thing of: How do you institute an appeal? The dates seem to keep changing. People do not know on what grounds they should be appealing or not appealing. It is very, very bad.

Mr. Ashton: Once again, that would be helped if you had somebody on your side who was an advocate, not working for Autopac, but someone who was there who knew the system and could give you advice in dealing with Autopac. I mean, would that help, do you think, in dealing with that particular problem?

Ms. Charney: I think an advocate would be at the very least fundamental. When I look at what is happening, I am sort of appalled, frankly, that there is this disparity between the claimants' rights and the Autopac power. What are people dealing with actually? They have a little policy booklet which they find is null and void when it comes to particular situations, because what is printed in the policy book is not reflected, because they

consult the act, and it goes into subsections and subsections, and people are overwhelmed, intimidated and give up.

* (1020)

Mr. Ashton: Well, I know even the statistics bear that out, the number of people who have given up on their cases, and I can only imagine what it must be like to go through having to deal with not only the impact of the injury itself from an automobile accident but then having to deal with a system that is confusing, which does not provide any support to claimants, does not allow you to go to court anymore, and I am not saying that was necessarily a bad thing in the sense that the whole idea of that was to make sure that claimants benefited under no-fault.

I just want to ask you: Do you feel that has happened? Do you feel that the original idea about no-fault has worked to the benefit of claimants like the government said it would and that theoretically it should, or do you feel that they have used it as an excuse to cut back on injury claims and, in doing so, are deliberately affecting the ability of people injured in automobile accidents to claim the insurance they paid for. You mentioned that earlier, but it always strikes me that when we are talking about people who are accident victims, every person is an accident victim in one way, shape or form. Generally, it is also someone that is a customer of Autopac and keeps Autopac in operation. Do you feel that is the situation? Has no-fault worked the way it is supposed to or have they used it as a means to cut back on benefits, thereby affecting claimants?

Ms. Charney: It is a big question; it is a very big question. I guess I am someone who seeks justice. I think that is why I am here today, and that is why I think I hang in because many people tell me I am wasting my time or it is not worth the effort or no one listens and nobody cares. Autopac is perceived by many as a governmental cash cow, and seemingly a lot of the money does not trickle down to the claimants.

I do not know what the answer is. I believe that there is a hope at least that people could go to trial and find justice, a hope at least. Today people are disintitiled and very much left to fend for themselves. You enter

into a contract. There is a fee for service here. It is premiums; it is not a handout. Where are the benefits to the claimants? Where is the people's compensation for pain and suffering? Ninety percent of something is still only 90 percent.

I talk to elderly people; they do not quite understand it. They contributed to this country. They do not quite understand at all what is happening. Students do not understand it; minors do not understand it. My question is: Where are the benefits that are supposed to be coming to the individuals that are affected in auto accidents? For myself, the liability of numerous accidents rests with other people. It is a great irony to me. It is a great tragedy to our family, but I still seek justice.

Mr. Ashton: Well, in fact, I want to show you that what you are seeking in terms of justice is something we are going to be fighting for. I am going to be moving some specific amendments that I know we have had a chance to discuss with a lot of people impacted like you have been and also with the organization representing Autopac victims. I think you said it better than anyone could. The real bottom line here is to make sure that the system has some real justice in it. Until we start getting an advocate in place, evening the scales between victims and Autopac itself, and starting to get some real recognition of what it is like for people to have to fight the system and try and make it easier for people to have someone on their side, I do not think we will have justice.

I commend you, by the way. I know it has been very difficult on you personally from our previous conversations, but I also want to commend you for speaking for a lot of other people. I know I have talked to a lot of people who did not want to give a formal presentation because of the stress they have been under. I know it was enough stress for yourself, but today you speak for a lot of those people as well, so thank you very much.

Mr. Chairperson: Ms. Charney, we have another question.

Mr. Conrad Santos (Broadway): If the claimant is poor, cannot afford a lawyer, in any event does it make

any difference whether you can go to the court or not? He will still be poor.

Ms. Charney: I think poverty is something that affects many of us. My concern is that people cannot afford to go to a lawyer. I do not think that to go to an appeal by yourself—like 68 percent of the people are not making it, 68 percent of the people. How do you educate yourself? I do not know if I am addressing that.

Mr. Santos: I think what you are seeking, Ms. Charney, which is justice or fairness, can be addressed if we had a model which is patterned after the criminal law. There would be a presumption in favour of the claimant because this is the individual pitted against the bureaucracy, against the government, against the state, against the agency of the government. By definition, there is already unequal status there, so the presumption should be in favour of the claimant. That has to be offset, and all information, all procedural criteria, for claims and for appeals should be in plain, simple language, be available to both parties.

Another improvement probably is that any information not available to any of the parties cannot be resorted to in the settlement, whether in the original claim or in the appeal. Then there will be fairness. There is no need to identify justice in going to resort to long, drawn-out legal procedural costs, lots and lots of money, and it will not be good for the government or the system. It is good for lawyers, yes, but not for the claimants or the government. Thank you.

Ms. Charney: I beg to differ with that analysis, because what are we talking about? We are talking about people's lives, their ability to navigate in the marketplace here. How do you get to justice? How do you get to fairness? How can you do that as a single person, when, seemingly, the cards are stacked against you? How is information floated through Autopac channels, information that has no bounds, seemingly? People are under surveillance. People's medical records, employers—I mean, everybody seemingly can be approached.

Hon. David Newman (Minister of Energy and Mines): I am somewhat sympathetic to your dilemma, and I am just wondering if you have—the dilemma, I mean, is you should be able to get

independent, objective, well-informed advice in your interest and the public interest.

I am just wondering if you know whether or not the Legal Aid system does provide lawyers for people who do need assistance but cannot afford objective, independent legal advice with respect to the kinds of interactions with Autopac, MPIC that you have had and people you know have had.

Ms. Charney: I do not know if offhand people are accessing Legal Aid. I do know that I approached the Public Interest Law section of Legal Aid and spoke with a Mr. Byron Williams. At that time, I identified that people going through the appeal process have no manual, they have no blueprint, they have no guide through a maze of systems and I wondered if there could be law students or monies made available to help claimants. That was my extent of pursuing that.

* (1030)

Mr. Newman: Another very good point and, frankly, that is the kind of thing that a body like the Community Legal Education Association of Manitoba, if that is a need identified, often will address. So will the legal profession. I mean, the Law Society of Manitoba has often come out with educational booklets about making a will, and if this is an area again that has been overlooked, I urge you to bring it the attention—this issue. Frankly, I will. I am going to speak to the Law Society. I am going to speak to Legal Aid, and I am going to speak to the Community Legal Aid Association, because sometimes the solutions do not lie within government, but they do lie within agencies that keep Crown corporations on their toes and make sure they do serve in the public interest. That is why we have, I believe, a legal system which we can be very proud of, but we have to understand it and utilize it appropriately. I mean, I would contend that they will do a more objective and better job than advocates employed by government in these kinds of situations if they fulfill themselves to the maximum in relation to their roles.

Ms. Charney: Thank you very much, because the study of law is very specified, is it not? Thank you.

Mr. Chairperson: Seeing that there are no other questions, I will thank you for your presentation today. Thank you.

As previously agreed and not followed by the Chair, but we are going to entertain the out-of-town presenter now, so I will ask Colleen Cameron to come forward, please.

Colleen Cameron, not being here, I will ask them to call in the hall.

Floor Comment: There is no one in the hallway, Sir.

Mr. Chairperson: Thank you. We will move Ms. Cameron to the bottom of the list. She will be called again. I would now call Florence Fabbro. As you are coming forward, I will ask if you have any copies for distribution.

Ms. Florence Fabbro (Private Citizen): Yes, I do.

Mr. Chairperson: Okay. Is that the correct pronunciation, Fabbro?

Ms. Fabbro: Yes, that is correct.

Mr. Chairperson: Thank you. Please proceed.

Ms. Fabbro: I would like to address the members of the MPIC. I am just going to tell you my own story. What has happened in my case—which has left me feeling very uneasy, and I do not have a good feeling about our present Autopac type of procedure—I was involved in a car accident on November 7, 1995. I was a passenger, and I received a cracked sternum and neck injuries.

I cannot collect loss of wages, earnings because I was not working at the time of the accident. Consequently, I could not even look for a job for some time after that. I went to the Pan Am pain clinic for some eight months. I am not a young person, as you can see, and it has certainly changed my life. I am sick and tired of the runaround and the abuse that MPIC has given me. I feel there is no assurance in the so-called insurance that I am paying for. This system has to be changed, and we should have an advocate for the injured parties, I feel. Someone to speak for us, someone who understands.

The increase in the earnings MPIC are bragging about comes from the backs of injured. That is the way I see it.

Mr. Chairperson: We thank you for your presentation. Does the committee—

Mr. Ashton: I want to focus on a couple of things you said, particularly the last part, because from your perspective of having been an accident victim—I mean, last year Autopac made a surplus of over \$40 million. I mentioned to the previous presenter, you know, since 1993 they have cut \$90 million, this government, through its policies, \$90 million out of money for injury payments. Even if you get into all the arguments about saving on legal fees, I think the maximum estimate at the time was about 35 percent went to legal costs. So, if you calculate that, perhaps in 1993, \$130 million went to claimants. Well, it is down to barely a hundred. Do you think it is fair that what they are essentially doing, when you see a surplus of more than \$40 million—I mean, that is the difference, that is how much they have cut back on accident victims—do you think that is a fair system when to a large extent accident victims are paying the price for the surplus that Autopac ran last year?

Ms. Fabbro: Exactly. I think it is very unfair and very unjust. I do not know why I am paying insurance. I think I will quit driving a car. What do I need it for? That is how I look at it. I almost did not pay my insurance this year. I thought, what do I need to feed this people for? They are not doing anything for me.

Mr. Ashton: I want to focus on something else, too, because you were a passenger in a vehicle.

Ms. Fabbro: Yes, I was.

Mr. Ashton: Essentially, you know, I believe that there should be coverage under all circumstances. You know, I believe in no-fault in a truer sense of the word. One thing that I find interesting is when I have raised issues on behalf of accident victims, there have been some who attempt to sort of put it into, you know, kind of almost like an us and them. It is almost like there are the ratepayers, people who pay for the insurance, and then there are the victims.

As was pointed out earlier, the victims, in most cases the ratepayers, there have been some people that have been injured who—you know, passengers who have not paid insurance and whatnot, but it is still very much in that circumstance. What is also interesting, too, is a lot of people do not realize just how it could be them tomorrow, through no fault of their own. I am wondering if you can explain what happened in the accident?

You were a passenger in the vehicle so you had absolutely no control over the vehicle, I take it. Was it another vehicle hit the vehicle? What kind of accident occurred?

Ms. Fabbro: What had happened was the car that I was a passenger in had approached a stop sign, had sneaked out a bit and had looked to the right, but had not checked clear enough to the left. When he pulled out, an oncoming car from the left hit. I was the one that got the impact. The driver was free of any injury, but I got the impact. I immediately felt my chest and I could hardly breathe. Then I was taken to the hospital by ambulance and found that I had a cracked sternum, so that is what had happened.

This is quite funny, too. That same person was still allowed to drive. I mean, I realize we have a no-fault insurance but I think, at the very least, he was fined, which was more money in the pocket of MPIC, but he did not have to go for a driver's test or anything else. I think that was really rather odd and strange to my way of thinking. After all, he was at fault.

Mr. Ashton: So, essentially, there was no impact to the driver. No real—I mean, apart from a minor fine, but you have been dealing with this on an ongoing basis, what? For a year and a half now, I believe?

Ms. Fabbro: That is correct.

Mr. Ashton: I wonder if you can give committee members some sense of what it has been like to go through this, because one thing that strikes me as—you know, I have never been involved in an accident where I have been an accident victim, but I know people in my family who have. I have a brother that was involved in two collisions, had severe back problems. I know the impact it had on his life, both in dealing

with the medical consequences and also his lifestyle. I am wondering if you can give people some sense—in this committee—I mean, I do not know if there are members of the committee who may have been through this, but I somehow—I doubt a certain majority have not, what it has been like, what impact this accident has had on you personally and the kinds of difficulties you have had in dealing with MPIC.

Ms. Fabbro: Firstly, I found it rather amusing. I had a job to go to the following day after that accident, and the obvious employer said that he had not really promised me the job. He only said that I could come in and try. I said, I would never accept a job under those terms. Never. Not with my experience. So there was definitely a job there that I could have started, but he chose not to fight with MPIC and just said that no, there was not. That was No. 1.

The other thing is they totally washed their hands because I was not working. They said because I am not working, you are rather an odd case. I do not know what slot we would put you in. That sort of thing. So we cannot pay you when you were not working because how could we possibly arrive at what you are used to earning. Which I thought was—you know, there should be an avenue where at least someone should be paid minimum if nothing else. I got tired of arguing with them.

I was very pleased that I found the group, because I always feel that there is more clout in numbers rather than trying to fight something alone. I am probably not as bad off as a lot of injured people, but I feel that there is an injustice here. Like the former group person before me, I feel that justice has to be served, so I will continue to fight. I hope that we can come to some fairness for people that are injured. That is how I feel.

* (1040)

Mr. Ashton: By the way, I want to mention, I referenced earlier the 35 amendments that were introduced by the NDP at the time to try to make it a better system. A lot of the amendments dealt with people in the exact same circumstances that you are in, because we pointed to the fact that one of the areas of the system that is very unfair is people who are not employed, whether it be students, seniors or the

unemployed. So, in essence, what happens under the system is if you are employed, it covers your income loss in that sense, but if you are unemployed, it is almost as if you are a nonentity, your life is worth less.

I realize that is difficult when you are into these insurance principles of income loss, but what really frustrates me is when I see people who suffer personally not just in an income sense but in terms of lifestyle. When I say lifestyle, I run into so many people I have talked to who say there are all sorts of things you take for granted you cannot do any more, certainly for the period of time you are recovering, and that can be fairly extensive. I have talked to people who have said it is never the same again.

I am wondering if you feel there should not be some review then, not only of the way the system works, for example, having an advocate, but in terms of some of the benefits that are paid out under the system to ensure that people like yourself do get some improved coverage over what is currently in place.

Ms. Fabbro: Like I said to them in the past, I am not looking for a million dollars. I just want a little bit of fairness and to reimburse me for the monies that I could have earned, because there are many, many things that I do, so it is just not one avenue that I can earn a living from. So that is really all that I was after, and I think that it is rather ridiculous that they have not come to some kind of settlement with me because my claim would be really very minimal. But I am not going to let go of it. I am like the little dog that has grabbed onto the trousers, and I do not intend to let go until I see some fairness and justice. That is it.

Mr. Ashton: Well, I can assure you, we are not going to let go either. This is something that was absolutely predictable several years ago. It is clear to my mind. You just look at the reality. They are running a surplus, and acts and benefits have been cut dramatically. That is an injustice in and as of itself, so I want to thank you for coming forward, and I want to assure you that we are going to keep up the fight. In fact, I will be moving some amendments later on. If the government does not support those, we will introduce a bill. If it does not do that, we will keep fighting until we can get some fairness back in the system and keep fighting from your end.

Mr. Chairperson: Are there any other questions of the presenter?

Hon. Mike Radcliffe (Minister of Consumer and Corporate Affairs): Ms. Fabbro, you say at the time of your accident you were unemployed. Is that correct?

Ms. Fabbro: Yes.

Mr. Radcliffe: So the compensatable loss that you are looking for from Autopac then is the diminishment that you suffered because you were not able to continue with your job search, or you feel that you would have been employed. [interjection] Oh, I beg your pardon. I missed that point.

Ms. Fabbro: I had a job offer. Remember my saying that?

Mr. Radcliffe: I am sorry, I missed that, Ms. Fabbro. You had a job offer on the table at the time of the accident. Thank you.

Mr. Santos: Obviously, you cannot compensate somebody who has no monetary loss at the moment, because it is contrary to any sense of materialistic notion of what is lost in a monetary, economic sense, unless there is something in there. But certainly there is some loss of what you may call the amenities, enjoyment of life, loss of opportunities to make an income, as you did suffer. At least, at that minimal level, the law should recognize that loss, even if in a purely materialistic sense you cannot translate it into a dollar amount, but I certainly can empathize with you. I think that our system should recognize that, otherwise, we will be generating this hostile attitude of citizens against government and all agencies of government, and there will be difficulty for people who are placed in public positions to find the community interest where everybody can enjoy. How do you answer the question then that you do not have any income and therefore you—[interjection] I am not saying anything. I am just asking a question.

Ms. Fabbro: They can base it on what I have earned in the past. That would be simply enough, because I have worked. I have worked all these years. You know, I am 63 years old, and I have always worked. I have worked for 47 years. I just was not working at

that particular time, which happens quite often in what I do. Does that answer your question?

Mr. Santos: I am not asking the question.

Ms. Fabbro: Does that answer your comment?

Mr. Santos: I am not making any comment except for the fact that I recognize a loss which is nonmonetary in nature, the loss of your enjoyment of opportunity to make a living.

Ms. Fabbro: I do not care where the money comes from or what you want to title it. I do not really care, just pay me. Pay me and keep me quiet.

Mr. Chairperson: Seeing that there are no more questions of the presenter, I thank you today for coming in and making your presentation to this committee.

Ms. Fabbro: I thank you for your time.

Mr. Chairperson: I would now like to call Terry Sansom to please come forward and make your presentation to the committee. While you are coming forward, I will ask you if you have any copies for distribution. If it is more convenient for you to sit at the end of the table on mike 11 or 17, that is certainly no problem, I presume, with the committee. If I could ask you to pull that mike up close to you just for better recording.

Ms. Terry Sansom (Private Citizen): Is that good?

Mr. Chairperson: Yes, that is perfect. I will ask you to please proceed.

Ms. Sansom: Bill 23 sounds good on paper. Anything that can and will eliminate the bureaucracy that MPIC has built around itself is beneficial not only to the corporation but to the taxpayers as well. The problem is, however, that MPIC does not seem to understand the word “compliance” when it comes to applying not only their own legislation but also provincial government policies.

I had worked for the federal government for 18 years before I had a motor vehicle accident in August 1994, so I am well aware of how legislation and policies

work. For example, the federal government policy is to allow three banking days for the clients to cash their cheques. The provincial government policy is two banking days, which sounds good to me considering that I have yet to receive my cheque on time, sometimes as late as five days after the date due. It amazes me that I have been trying for over a month to get a response from the Premier's Office as to why this corporation is allowed to be in noncompliance of a policy. Even though I have never worked for a federal government department that was not in compliance with both their own legislation and any applicable federal government policies, I would not wish to be working for them when the omission was discovered, as I am positive that there would be a lot of explaining and corrections made to ensure compliance.

The noncompliance of that policy is nothing compared to the noncompliance of MPIC's own legislation. It took MPIC seven months to start regularly paying me the income replacement, and even then they underpaid me by \$150 every two weeks for over a year. As an insulin-dependent diabetic for over 30 years and the expense of the blood-testing strips necessary not only for my health but also my recovery from the motor vehicle accident, these delays in compliance have now resulted in my injuries being classified as permanent.

* (1050)

Also, when a person with a disease such as diabetes tells an MPIC adjuster that putting strong tape on a complication can lead to infections, which can lead to gangrene, which can lead to amputation, the adjuster is in no position to tell the person not to be so overdramatic; do it or you are getting cut off. All that was required was a phone call to the diabetic specialist, as was requested. This would have prevented the four infections I had on my leg in three months, which led to this lovely hole in my leg. I will pass that around so everybody can see it. Section 160(f) of the MPIC Act states that a client can be cut off who "without valid reason, prevents or delays recovery by his or her activities." I was not the one preventing or delaying recovery; MPIC did. Why were they allowed to disregard their own legislation which resulted in my injuries being permanent and my not being able to go back to work? I have said it before and I will say it

again: I would much rather be working for the federal government than having to deal with MPIC any day.

Also, why is Manitoba Health providing me with home care twice a week when MPIC has this legislated right in their own act? MPIC has never provided anything like that for me. If Mr. McCrae wishes to get a glimpse of what his new department costs his old department annually, just take a look at my file, Sir. It may astound you.

These are just a few examples of the noncompliance that I have personally experienced in my dealings with MPIC, and, sadly, this seems to be just the tip of the iceberg. Therefore, what seems to be essential and is missing from this bill is the establishment of an advisory office similar to the one for Workers Compensation which is totally separate from MPIC.

Thank you.

Mr. Chairperson: Thank you, Ms. Sansom, and obviously some questions.

Mr. Ashton: I wanted to ask a number of questions about the circumstances you faced but also your perspective having worked for the federal government. As I was preparing for the committee this morning, I was reminded of a commitment the Premier (Mr. Filmon) made in the election. He said he wants government to run more like a business in promising to introduce customer-service surveys assessing performance and customer satisfaction. I am wondering if you feel there has been any effort that you have seen in this case to be concerned about any customer satisfaction in any of your dealings with Autopac.

Ms. Sansom: Well, it is like I told the previous minister, Mr. Cummings. You know, I keep looking around for a little dog so I can pick it up and say, okay, Toto, let's click our heels and go back to Canada, because in the federal government we were taught that our clients have the right to know. With MPIC, I have had five different adjusters ask the same question five times and gotten five different responses.

Mr. Ashton: So you have run into the same problem we were talking about earlier where you were getting

different versions, different stories from different people at Autopac in regard to your case.

Ms. Sansom: Yes, as a matter of fact, when I was first in the accident, I was working a term position with the federal government. I was working at the time, and my term was coming to an end. They would not extend the term of someone who cannot work, so I explained that to the adjuster. I said, is there any problem, anything you need from me, you know, because that is usually the way I would deal with a federal government department. He said, oh, no, no problem, we are going to pay you. He kept that up, lying to me for a whole month, and then I finally had to phone the minister's office to find out, oh, no, we are not going to pay you because you would not have been working anyway, at which time I proceeded to get letters from every single place that contacted me about working. I was quite fortunate in the aspect that people contact me when they know that I am available. I had a letter from the CNIB, one from National Defence, one from the Public Service Commission of Canada and one from Immigration Canada, with the Immigration Canada one being a definite job offer.

I said to the adjuster at the time, you know, if you are going to disallow this, I want you to quote me the section of the act that you are basing this opinion on. He quoted me, I believe it was, Section 82. It said something in there about continuing employment, and then it said: or to hold an employment that he or she would have held had the accident not occurred.

Now, I worked at Labour Canada for 11 years. That was pretty straightforward to me. It meant, if the accident had not happened, would I have had a job. I had four letters from people contacting me. I think I would have had my choice of jobs.

I phoned the head of labour standards in Ottawa who is also a lawyer. I asked him for an interpretation, and he confirmed that for me. It took Autopac another three and a half months to finally come to the conclusion that I would have been working. In the meantime, I am saying to them, well, okay, fine, if I was not working, I would be on, so you should be paying my unemployment then. Like, I should be getting something. The adjuster said, well, no, you were working at the time of the accident. Well, fine

then, pay me like I am working. Well, no, you would not have been working. You kept going around and around.

Mr. Ashton: I cannot believe that in the 1990s, when a lot of people are working in term positions—I know my wife works contract and term all the time—that they did not take that into account. You had to spend, what, you said three and a half months trying to establish any level of income replacement, even after you had worked continuously in that kind of employment situation? They did not want to recognize that initially?

Ms. Sansom: No, they did not. They said, you know, like, I would not have been working at the time. They said that none of these prospective employers offered me employment prior to the accident. I looked back up at the legislation and I reread that, and it said nothing about that. Then, when I was talking to the adjuster, he said, well, you know, like, you could have a friend that works at these places that says there is a job. I say, for crying out loud, the CNIB and three federal government departments are going to stick their name on their letterhead and lie for me? I do not think so.

Mr. Ashton: I am just wondering what you feel about this system, because going back to '93-94, when the government brought in no-fault, the concept was based on trying to get it out of the courts, I think which everybody agreed with in the sense of not having money go to legal fees and court costs. Do you think that was the original intent that was communicated to people at the time, that somehow you have to, in your case, spend three and a half months to prove that you had a loss of income when you have been working, like you said, what, eighteen years I believe? Do you think that was the original intent of the act?

Ms. Sansom: I do not believe—well, I certainly hope it was not the intent, but that is what is happening out there. There are a lot of people that I have talked to that are in similar situations. They are having to fight just to even get the bare minimum of things. Like I say, with all MPICs delays, now my injuries have become permanent. That should never have happened.

Mr. Ashton: I want to focus in on the whole process that is in place. I know a lot of people have been talking about advocates and the rest. You worked in

the federal government, as you said. One thing that absolutely astonished me was the fact that many of the people I have talked to who are accident victims said on a regular basis they were unable to access information about the appeal process, about their rights under the appeal process, in fact, unable to access even accurate information about their rights, period, let alone in terms of an appeal, but what they are entitled to and what they are not entitled to.

I am wondering if you can give some comparison as to how the federal government works, because the reason I mentioned this earlier, about customer satisfaction and the rest of it, to my mind there should be a clear direction from government that people should be treated as customers. Accident victims should be treated as customers. They should be treated as people who have rights. There should be responsibilities that Autopac has to advise people of those rights, even if it means that Autopac may end up with more appeals and may have to pay out more in accident payments. Their role is to be fair.

I am wondering if you could give me some indication of how the federal government works, if it has a better system in place, and what you would recommend to the minister who is sitting here and the government on how they can improve things at Autopac?

Ms. Sansom: In the federal government, the clients have the right to know. You can phone up any federal government department and say to them, okay, what happens with my Canada pension, how does unemployment insurance work? They have the responsibility to tell you exactly. Whether or not you qualify is based on your own situation. Okay? What I have experienced with MPIC is that they give you a big runaround because they do not want to have to pay you.

When I had spoken to the minister's office in 1994—that was Mr. Cummings's office—I was told that an adjuster's job was to act in the best interests of the corporation. My mouth just dropped, because we are told in the federal government, be it if we are a clerk-typist or the director, that our job is to administer an act. Now there is a big difference between those two statements. If the federal government took the policy that at Revenue Canada their job is to act in the best interest of Revenue Canada, you can forget about ever

getting any kind of refund or deduction or anything else. UI, you would never be able to collect from UI. They would make it so impossible. Canada Pension, forget it.

Whether or not people qualify for certain things under an act depends on their situation, but they have the right to know what their rights are. I have just found it absolutely unbelievable that in the provincial government it seems to be so hush-hush. Like, in some cases, it has taken me a year, a year and a half to get what was entitled to me. There was something that was supposed to be paid to me during the first six months of the accident, and I just got it last year—like a year and a half later. This is something that I had been asking about, because that was for my health benefits.

* (1100)

Mr. Ashton: Well, I am amazed that someone from the minister's office would suggest that that is the role that adjusters would play. I mean, this is a public utility, this is our insurance company. I might expect that in some of the private companies driven by sort of the profit bottom line.

What is your reaction to that? How did you feel when you were basically told that, when you are dealing with somebody at Autopac, they are there to defend the interests of the corporation, which I assume is shown by the \$43-million surplus, the major cut in payments to accident victims, when in fact I think anybody who looks at the idea of insurance, especially publicly owned insurance, should recognize that Autopac is there for everyone. It is there to give a balance for you on both sides and if, in some cases, it means not cutting people off to benefits they are entitled to and it means that Autopac runs less of a surplus, maybe that is what it is there for in the first place. I wonder how you felt when the minister's office was saying something that—I mean, that surprises me, quite frankly, that they would even say that to you even in a private conversation. What was your reaction when you heard that?

Ms. Sansom: I was so shocked my mouth just dropped. I said excuse me, because I thought I could not have heard that right, and he repeated it. I could not believe it, and I thought to myself, well, now, I am

supposed to put my trust in the adjuster to tell me what my rights are, to give me what my benefits are but yet, on the other hand, he is supposed to be acting in the best interests of the corporation, he is not supposed to be acting in my best interest. Who do I have? Nobody. That is why I think it is essential that we have that advisory office.

Mr. Ashton: Well, indeed, I try and put the sort of analogy into a court situation where, to my mind, if you do not have somebody on your side—in this case, with the adjuster, you are dealing with somebody essentially the judge in this case, and if the judge's role is to do what is best for one side, the Crown, I would not want to be a defendant or, in the case of civil action where you have somebody suing, if the judge has already made up their mind they are there to protect the interests of those who are being sued, I find it absolutely incredible. I cannot believe that anyone would say that, and I think maybe it speaks volumes for what the real purpose of the bill that was brought in in 1993-94 was, not to build a better system but to basically end up with a system that was going to cut the amount of money that was paid out in injury benefits so that the government then would not have to raise rates or, in this case, could run a surplus too.

I just want to focus in on this again too, because I know there were some interesting suggestions about the kind of system that needs to be put in place, and you mentioned about the advocate's office. I am wondering do you feel that some outside body or a booklet or some kind of information—I think, by the way, may be useful. I thought it was a useful suggestion from the member for Riel (Mr. Newman). Do you think that would be sufficient, or do you need someone who can go to bat for you in front of the appeal commission or with adjusters that knows the system equally as well as the adjusters and the rest? Do you think that is the way to go? Is that going to address the imbalance that you are concerned about?

Ms. Sansom: I do not think a simple booklet is going to do it because Autopac does have booklets that they give out, but the booklets mean nothing. They mean absolutely nothing when you are dealing with an adjuster, because they can turn it around and they can say, oh, yeah, but your situation is different. Well,

then, what am I supposed to do? You know. They always try to make it seem like your case is so unusual.

Mr. Ashton: I could ask many more questions, but I know there are other presenters and other committee members. What I want to do is particularly thank you for your perspective, having worked in a system where people are entitled to their rights. They are entitled to information, and they are entitled to an appeal process or that is built into the system. I am wondering, just to finish off here, if you see any difficulty for Autopac to do the same thing, other than the fact that they may have to pay out more money, largely because there are people, I believe, who should be entitled to benefits who are not getting them. Do you see any difficulty in changing the way Autopac deals with people, to have a similar sort of system in place to what has been in place within the federal government for many years?

Ms. Sansom: Well, I think at this stage of the game, and I have had five different adjusters. I can tell you that, from what I can see, it is going to be very difficult to change the way these people have been doing things for so long. Therefore I feel it is essential to have that advisory office because then you have a neutral person telling you, okay, what your rights are. You know, it would be nice to think that Autopac could, all of a sudden, change and become user friendly, but I have never seen a system where—like, even in the criminal justice system, you are presumed innocent until you are proven guilty, but not with Autopac.

I mean, I could not believe when the adjuster told me, well, we think you are trying to defraud us. I looked at him, and I said, what? I have worked for seven different federal government departments; I have been security cleared by five, including National Defence and Revenue Canada. I have got 18 years' pensionable service in with them. I would like to go back and work for them again, and he thinks I want to throw that all away to try to defraud him. Like, I do not think so. I would have been more than happy to have gone back working for the federal government.

Mr. Ashton: Just one more comment, by the way, just to address what you were talking about. One of the amendments that was rejected in 1993-94, which I will

be moving again, is on benefit of the doubt. It strikes me as an absolute paradox here that when you had a court system before, essentially under the tort system you have the balance being the deciding factor. When the Workers Compensation system was established, there is a specific provision in The Workers Compensation Act that gives benefit of the doubt to the claimants to reflect the kind of balance that is in place in the tort system.

I just wanted to indicate that is one of the things we are going to be trying to do in this particular case, because, you know, I am really concerned that there is this situation now, and I have talked to many people who are ending up—it is very similar to what has been happening in Workers Comp, even despite that clause, where you see time and time again the benefit of the doubt being in the favour of either Workers Compensation or Autopac and not the claimant, and you end up with this situation that they can run a surplus, I believe, at the expense of a lot of accident victims. So we are hoping to bring in some sort of change, in addition to the advocate's office that you talked about, that will make the system a little bit more evenly balanced when it comes down to actual decisions.

Ms. Sansom: Yes, well, I was very fortunate because I never even had to deal with Workers Comp, because as a federal government employee, there is a federal government employees compensation act. My dealings with the provincial government before were very minimal. I am just amazed.

Mr. Newman: Thank you for your presentation. In my other life as a lawyer representing people who felt aggrieved by the way they were treated by bureaucracies, whether they be government or nongovernment and feeling that they were not able to get justice, they were not able to get representation, the very interesting thing that has developed in no-fault is not unlike what developed in Workers Compensation over time. My challenge would be to the legal profession because the legal profession has done a lot of complaining about no-fault, the whole principle of it.

* (1110)

One could say there is a lot of self-interest potentially there, and even the official opposition probably would

not support the return, would not support the return to the old way. But what has happened, I believe, is that the legal profession has not filled the gap. They are fighting an old battle that has been lost and a battle that no one at this table probably supports. No one wants to return to the old days. What is being pointed out is the sense that you want to have objective and informed and highly competent advocacy to represent your interests when you have a sense that you are aggrieved, that your concerns are not being addressed. As a lawyer, now not entitled to practise because I have an inactive status since I have been here in cabinet, but I would challenge the legal profession to start filling that gap. That is their role. They are the profession that is there to represent aggrieved individual human beings in this province against the powerful and against even Crown corporations and government. To the extent that they are not doing that adequately, they should be.

I pointed out to an earlier presenter that the Law Society has, through educational officers in the society, produced materials that are useful, and that is one thing, and Community Legal Education Association, funded in part by interest on trust accounts, which we have permitted them as governments to use as financing, come up with these kinds of publications. Legal Aid has a role to play. But lawyers themselves, for hire, whether they do it pro bono, in cases of need, I believe have an obligation to represent people like you and to be informed about MPIC. Through you, I believe that they should be the ones that hear this. They should be there to represent you, and to the extent they are falling down, I would not be very proud.

I thank you for bringing this up. It is something I think that can always be anticipated as new systems evolve, and you have to have effective and appropriate advocacy. I will not support worker advocacy, that is, employees within the system, because that is not as good in terms of role as the legal profession independently and without fear or favour should be performing.

Ms. Sansom: What you are asking is that the legal profession make up for what the Manitoba government has taken away. It should really be the Manitoba government's responsibility to put something in its place, not the legal profession. The Manitoba

government made it so that accident victims, unless they are rich and can afford it themselves, then they can have legal representation. You people have not got rid of your lawyers, have you? No. You have all your lawyers. You have all your adjusters who are supposedly trained on legislation. Now most accident victims have never even seen a piece of legislation. Like, I am more fortunate, I have seen it, seen legislation and worked with it and understand it a little bit, but most accident victims have not, so they are left out in the cold. It is the Manitoba government that took that away, and I find it surprising that you are saying it is the legal profession's responsibility.

Mr. Newman: I just wondered, did you make any effort to secure any legal representation with respect to your concerns?

Ms. Sansom: I could not afford it. It took me seven months to start getting regularly paid. I could not afford the strips necessary to test my blood sugars, which resulted in me having a massive heart attack at the age of 39. I think, if I would have had extra money, it would have gone into that.

Mr. Newman: I would encourage you, in future or in this situation, to seek the guidance of the legal profession and indicate your circumstances. In my experience with the legal profession, there are many people out there—and I used to be one—who would always take on cases, sometimes for nothing, if it was something that was needed in the public interest, and I know there are people there who do that kind of thing. So I urge you to consider that.

Ms. Sansom: Well, right now everything—you know, they are paying me what they are supposed to be paying me, but at the beginning I did not know where to turn to. I had phoned lawyers up, and they were saying, well, we do not have anything to do with it. I did not know what the old Autopac system was, and here the adjuster is telling me, well, you cannot get a lawyer, you cannot get a lawyer, and I went, okay, I thought, well, I do not need one, do I? You bet I did, because a lawyer would have prevented that hole being put in my leg. He would have said to the adjuster, you either make that phone call or you wait until we get the information.

Mr. Santos: I am appalled by the adjuster's attitude when you said you have diabetes, an infection, you know, a diabetic's wound will not heal and he said, either you do it or you are getting cut off. How did you actually feel when he said that?

Ms. Sansom: I felt I had to go and hope that nothing happened. I had absolutely no choice because I felt that if they had cut me off—I mean, I was not able to work so my only recourse was to go to welfare. Now, if I went to welfare and welfare phoned MPIC up and MPIC said, well, she refused treatment or she is delaying treatment, they would have said to me, well, no wonder they cut you off. Right? I had to go and hope that nothing was going to happen.

Mr. Santos: And since something happened, can you attribute that to the action of the Autopac representative?

Ms. Sansom: Definitely. I showed my leg when it first started to rip, I showed my leg to a registered nurse who specializes in diabetes education, and she contacted the diabetic specialist who, in turn, they wrote a letter stating that this could happen because the skin was ripping. So, yes, it was definitely—and I have had this complication for 18 years, and I was never stupid enough to put tape on it, never. That is something you just do not do.

Mr. Santos: If your complications and the aggravation of your injury is caused by their attitude and their directions, do you think it is only fair that they should also compensate for such aggravation?

Ms. Sansom: Yes, I feel they should. However, when I spoke to a lawyer I was told the only time I could do anything was if I lost my leg. My leg would have had to have been amputated for me to be able to do anything about it.

Mr. Santos: I would like to focus now on the citizen's right to know. If there is such a citizen's right to know in the province of Manitoba, do you think the government bureaucracy would display such kind of attitude, that you do it or you are cut off?

Ms. Sansom: Could you repeat that, please?

Mr. Santos: If they have to adhere to the citizen's right to know, which should be obvious if we are in a democratic system, nobody should have a monopoly of information not available to the citizen, including agencies of government, because they are supposed to be servants of the public, servants of the people and, therefore, anything available to them in terms of information should also be available to the citizens. In fact, the ignorance of the public as to procedures and their rights is this inequality of information on both sides.

My question is: If there is such a right to know on the part of the citizen, would the government bureaucracy be, including Crown corporations, so arrogant in their attitude in handling claims and complaints of citizens?

Ms. Sansom: I would hope not, but I think it is going to take an awful lot of changing on the part of the provincial government. I know—and I mean I am not saying the federal government is perfect because, believe me, it is not, but even when I started working for them—and it was 1976—we were taught then that the client was important. We did not talk down to clients. We listened to them. We respected them. That was from 1976, so I am surprised in this day and age that clients are getting treated this way.

* (1120)

Mr. Santos: If we add to the right to know the presumption in favour of the citizen, the presumption in favour of their integrity, of the legitimacy of their claim, the presumption in favour of the legitimacy of their rights, even in the absence of an advocate's office, would that be helpful to the citizen in restoring a just and balanced system?

Ms. Sansom: I think at this point most accident victims would not trust their adjuster as far as they can throw them. I have never met one that I have trusted completely. To all of a sudden think that, oh, yes, your adjuster is going to be a super nice guy, I do not think it is going to work. That is why, to me, it is essential that a separate advisory office be set up to deal with the accident victim's concerns and to explain to them exactly what their rights are.

Like I say, whether or not a client is entitled to something depends on what their own particular situation is, but every client has the right to know what their rights are.

Mr. Santos: So it is only an advocate's office, neutral in position, that can provide that kind of trust on the part of the general public, in your opinion?

Ms. Sansom: I would say at this point, yes. There has just been too much mistrust and everything demonstrated by MPIC that at this point I just cannot imagine anybody feeling too comfortable having MPIC being the ones telling them, because that is what we have had to do for the past three years, is listen to these adjusters and what these adjusters have been saying. It has not been working.

Mr. Santos: In the United States there is a branch of law practice called public interest. There are students in Harvard Law School, for example, who work for nothing in order to serve the citizen, and this is called a public interest law practice. Would you trust a law student who would serve you, with charging no fee in the interest of their gaining some kind of experience in dealing with government bureaucracy?

Mr. Chairperson: Just before I ask you to respond, Ms. Sansom, I would just like to advise committee members that we are dealing with the presentation, and I think we are getting a little bit away from it asking hypothetical questions. I will allow you to answer it, but I just ask that we stay closer to the presentation.

Ms. Sansom: I would say, would you trust going to see a gynecologist if you had a brain tumour? You are asking me the same type of question.

Mr. Newman: Just very quickly, from what you have said, you never went to the Ombudsman to deal with your complaints against the adjuster?

Ms. Sansom: No, I went to the federal government, and I got good interpretations from them, and it only took me five minutes, so I do not know why it took MPIC so long.

Mr. Chairperson: Any more questions for the presenter? Seeing none, I will thank you for your

presentation today, taking the time to come down. I will now call Lorie Dwornick, and as you are coming forward, I will ask if you have any presentation or anything for handing out? Okay, none. I will ask you to proceed.

Ms. Lorie Dwornick (Private Citizen): Thank you. Honourable members, I just wrote a few little notes here briefly, try to keep it as short as I can. Basically, before the accident I was a very hard-working person. I had a lot of ambition. I worked a very physical job as a switchman for the railway. I had been there for 14 years prior to my accident. I taught aerobics, and I was a bodybuilder for 15 years. I had no limitations. I made a lot of money. Anything I wanted to do, I did. I travelled a lot. I went on ski trips. I maintained two properties. I had rental property as well. I painted everything. Nothing stopped me. I was very fit. I also never took any sick days.

When the accident happened, I was the passenger in a car. The person that hit us had in excess of 20 demerits, and from my knowledge, what I have found out, if you have speeding tickets, once you accumulate six demerits you lose your licence. Now this guy had 20 or more, so that means he had had several accidents. I also know, after the accident where I was hurt, he had many accidents since that time.

Now I had a very hard time moving the next day. I had to get a massage therapist to come to my house to work on me so I would be able enough to go to the chiropractor and get a treatment. Initially, I missed four days of work and I said, I am not going to have an injury, I cannot deal with this, I have too many things to do, so I remained off work for four days. I went back to work, and I just said I am going to ignore it, it will go away. This cannot happen. I have five weeks to work. I am on vacation for two weeks. If I can just handle working for this five weeks, I will relax on my holidays. I will not go anywhere. I will not go skiing or anything, nothing physical, just relax, and I will be back to normal after that time.

As it turned out, I did not make it to my vacation. I took over-the-counter drugs. They were not helping. I had to go to a doctor finally and get some really strong painkillers, and it just got to the point where it was unbearable. I went to a walk-in clinic. I was not the

kind of person that was sick or had to go to the doctor very often, and this was really, really hard for me to handle. I do not know exactly, I did not know a lot about injuries at the time, but I thought: Why am I not healing? This is months and months later.

I also did not know anything about my policy, and I was advised to get a lawyer immediately, which I did, and it took six months before I got any kind of payment, and I never got any kind of wage replacement or anything. It was considered as an advance on my settlement, and we had to fight and go back and forth bickering. About every ten weeks or so, I would get a little bit of an advance, and it was really tough to deal with.

I thought I had done nothing wrong. This guy with 20 demerits, he goes and hits me and he walks away, no problem, nothing happens to him except he pays another \$100 for his licence. My life has been shattered. My accident happened in May of 1992, so I am still under the tort system. That means I have a lawyer, but it does not mean that I am getting any better treatment, and some people I have heard today saying that if we had the legal system still around, we would get treated better, and it does not always happen that way. I have gone through three legal firms, and there are a lot of closed doors, a lot of red tape, a lot of stalling, and we do not really get anywhere. The most important thing is that a lot of people, myself included—I am denied treatment. I have been cut off therapy since 1993, and what I do now is I have been fortunate enough to find some caregivers that will treat me and wait until my settlement to get payment. So, in that respect, I am lucky, but then, on the other hand, I am not able to get probably the best treatment that there is, because I am only limited to the people who are kind enough to treat me without payment at this time.

So, you know, I am doing my best to recover. Obviously, the policy says you are entitled to this, that and the other thing. I should be getting it. That is what I paid my premiums for, and the money would definitely help. I had lots of things. At the time of the accident, I had two vehicles. Now I had to sell one. I am driving an 18-year-old rust bucket. I am lucky that my dad can do a lot of work on it to keep it moving, because I have had to sell all kinds of things. It is really horrible to have had a lifestyle that I could do almost

anything I wanted to do, and now everything is just taken away. I have sold a lot of my property, my equipment, my sports stuff, my furniture from downstairs, anything that is not a necessity. I do not have any enjoyment of life. I do not have a social life.

You know, when you think of some people, if you have ever had the flu for a few days and you think you just do not feel up to doing anything, I feel 10 times worse than having the flu, but it never goes away. It is there 24 hours a day, and I just do not feel up to things. There are a lot of people that believe, well, you are injured and you cannot work, therefore you are just lying around watching soap operas all day and, you know, people are catering to you and feeding you and doing your housework and stuff. That does not happen. It takes all my energy just to try and—I cannot keep up with my housework. My house used to be very organized and nice and clean, and now it is a pigpen. I cannot handle it. My mom comes over and does dishes for me and different things. It is so heartbreaking to have to have other people come, and the only time—your friends and stuff do not want to see you anymore, because you are not the person you used to be. You do not have the ability to do anything that you could in the past, and when they do come over, they do your housework and they clean for you, and it is not a good feeling. It shrinks you down to almost nothing.

* (1130)

As far as Autopac, really, I believe I have been treated wrongly and harassed, and I keep hitting brick walls. They lied to me several times. I was forced into a work-hardening program, and it made me worse. I kept telling them, I am getting worse and worse. The people who were involved there said that they had never had any injuries, and they did not understand—but do not worry about the pain; as long as you can do the stuff, the pain will go away.

Well, that never happened. They treat you as if you do not have any understanding of your own body. I mean, I have lived in my body 37 years. I should know how it responds and how things are happening, but they do not give you that benefit. It is, like, just because—we are sitting behind our desk, and we are going to tell you what is best for you and what is not. You are treated

like you do not have a brain and like you are just totally disclosed from your body completely. It is really not fair. I have had several doctors, several specialists tell me that the work-hardening program did in fact make my condition worse. I am doing everything I can to get better. That is my bottom line. I want to get better. I want to return to work.

I did my job because I loved it. I worked overtime because I loved it. If I did not, I would not be there. I would spend as little time as possible. As I said, I never took any sick days. I think the way that my lifestyle was prior to the accident should have some type of bearing on whether or not I want to get better. My life was everything physical. I enjoyed everything. There is no way that anybody in their right mind would want to be bogged down with this and be injured and be limited in every single way. You know, finances, it is really, really hard.

I have also lost out on a couple of promotions at work. My job was as a switchman, and most of the time I worked as a foreman, which meant I was in charge of the crew. Because of seniority—I was there for 14 years prior to the accident; with my seniority I would have been a yardmaster now. I also would have been a locomotive engineer, and that is something I missed out on because I am not there.

My job is waiting for me. It is just a matter of recovering. I am doing everything that I know that is humanly possible, and I am hitting all kinds of roadblocks all over the place. I think that, without a doubt, I have lost a lot more than I will ever gain. Even if I was to get the entire \$43 million right now, what is that going to do for me if I have to suffer and have this kind of life? If I have the money, it is not going to just make the pain disappear and the suffering. It is not going to just say, well, you know, I can go and vacation and enjoy myself and whatever else.

I think the most important thing is that I should get my wage replacement. I mean, everything that is in the policy, I did not write it, but I paid for it. MPIC should be responsible for what they told me I was entitled to. The main thing is, get the injuries out of the way and get me better so I can get back to productive life. Thank you.

Mr. Chairperson: Thank you, Ms. Dwornick, for your presentation.

Mr. Ashton: I want to thank you for giving sort of a personal perspective of what it is like, because I think what is missed a lot of times when we are dealing with these decisions is—you know, yes, they are legal technicalities in a lot of ways, but the bottom line is the impact on people that is in place when you have a system, when you have a way of operating a system. I think that perspective is important.

I also particularly want to focus in on your perspective as someone who is under the old tort system, because when I have suggested that there needs to be changes, I know I have been—well, I would not say accused, maybe that is too strong a word, but it has been suggested by the minister that somehow I am saying I want to return to the old system as it was, that we were better off going through the court system. I find it interesting. What has your experience been under the old system? Were there difficulties with that system that you have run into? Do you think it was a fairer system than the existing system, or was it, if anything, full of as many problems, if not more, than the current system?

Ms. Dwornick: Yes, I do not have any experience with the new system, but I would say the old system is far from being perfect. There are a lot of roadblocks. I have gone through several law firms, and there is still—it seems that in some ways Autopac thinks that they are above the law, that they have given themselves authority over my life, over other people's lives. They kind of dictate what goes on. Even though I have lawyers that are right on top of everything, it is just stall after stall.

I have gone for several examinations for discovery, and it is really horrible. They interrogate you. I probably would be better off, I think, if I had been a mass murderer. I would have more rights. They drag things in from 20 years ago that have nothing to do with the accident. They just put you through questions and questions. I think they believe that they will just break you down, and you will just say, this is enough, I cannot take it, and run away and disappear, but definitely both systems, I would say, have a lot to be desired.

Mr. Ashton: I thank you for your perspective on that, because that is what we have been saying all the way along. For example, when the government brought in no-fault, they promised to improve the system to make it a fairer system. What we have seen is they have done a lot of things, but one of the major things happening is people are actually getting less now in the way of benefits than they got before, dramatically less. We do not agree with that. So what we are trying to do is improve the no-fault system, make it a fairer system. There have been a lot of suggestions today from those who have gone through that, but I want to focus in on something you mentioned, too, because in one of the other amendments that we want to see in the act, was another amendment that was rejected a few years ago, and that was a section in the act they put in, it gives Autopac the ability to have any other related matter requested by the corporation.

We have very real concerns about focusing in on what is relevant. I mean, no one is saying that Autopac should not be able to focus in on relevant medical records or relevant work history or the rest of it, but what I am very concerned about is the power that you give to Autopac when you allow them to essentially go on fishing expeditions. You mention about them raising questions about something that happened 20 years ago. How did that make you feel having to sit there and deal with something that, to my mind, and I do not want to get into details of the circumstances, I am sure you do not want to necessarily be getting into it publicly, but is that a fair system when they can virtually go fishing for anything to try and detract from your claim, including something that was from 20 years ago?

Ms. Dwornick: I do not believe that it is fair. It is something that is—you know, little minuscule things that really—one example is, they have received all my medical files from every doctor I have seen and going back to 1976 and asking me things like, oh, you saw Dr. A for a sore throat in 1976; you cut your eye in 1991, whatever. These things are not really important dates or instances in my life that I am going to remember. I mean, he has the medical file there. If it is in there and it says I had a sore throat on that day, I obviously did. Why bother going through all this and bringing it up and asking me if I remember it? It is pointless.

Another thing I forgot to say when I was speaking earlier is that when I was getting my advances, I was totally cut off in 1994, after I finished the work-hardening program, and they said it was because I did not return to work even though I had specialists who told me afterwards that there was no way that I could handle it.

My employer was really, really good. They let me work out in the gym without paying for it. I had experience as a fitness instructor. They put me through what they call a functional capacity test which cost the company a thousand dollars, and they said I was not employable. So my company, they are co-operating, too, trying to get me better, and I just still keep getting doors slammed in my face.

Mr. Ashton: Well, I am extremely concerned about them asking those kinds of medical questions, and there is a whole other issue that is developing now with medical records.

If you have been watching the news the last little while, there is a whole new system the government is going to be bringing in to put all medical records on file, and one of the things we have always said is access to medical information, it sounds like a good idea and has some positive aspects to it, but how far do you go back? In this case, I find it amazing that they would asking for something from more than 20 years ago that would have no relevance whatsoever.

* (1140)

I just wanted to focus on your other comment, too, just as a final question. You have talked about a situation with your employer, and one of the concerns that has come up with me from talking to accident victims is the need for a better approach to rehabilitation. By the way, there is a very similar parallel to what happened years ago with Workers Compensation, and I remember being part of a government that was criticized for trying to do something on rehabilitation, because for many years it had been assumed that once you are on Workers Comp, either you went back to work or they cut you off, and there was not much in between. There was no transition.

I am wondering if you do not think there is perhaps some role for accident victims themselves to provide advice on these types of issues, because the one thing that I found interesting talking to Colleen Cameron, for example, who is president of the Autopac Victims Association, she said, we have offered that; we have offered our advice to the minister, to Autopac, and it has been rejected.

I am wondering if you do not think that maybe some sort of an advisory committee could be set up from people like yourself, who have been through the system, on ways to improve the way the system operates.

I get back to what I mentioned to a previous presenter. I do not mean this in a political sense because I think this is what all parties would probably support, but in the election the Premier (Mr. Filmon) was talking about introducing customer service surveys to meet a goal of having more customer satisfaction. I am wondering if maybe there is not some way of getting accident victims involved, if they cannot do it themselves obviously as a government, maybe accident victims giving some assistance in making—I do not know if user friendly is really the term; I mean, it is kind of overused—Autopac a little bit less and hopefully a lot less intimidating and a lot more positive in its dealing with people and in trying to get them back to a normal life, which is basically what you are going through.

Ms. Dwornick: Yes, I think that a lot of the victims definitely can help, especially—you know, we do not have the energy. When your muscles are tight and sore all the time, that zaps all your energy out of you. You just do not feel good enough. Like I said, I cannot handle looking after my basic housework, never mind trying to do something else, but I do what I can because I am compassionate.

Now, there are people who have been in my situation who have recovered. I think those people would make the best advisors, if you want to call it that, because they have been there and they understand. I know that going through the system—and, you know, you have an injury, you go to a doctor, you see them for five minutes. You go to a certain specialist. They examine you really fast and whatever, and they write down

whatever their findings are. They will tell you to raise your arm. You lift your arm once, okay, she can lift her arm, but after you do these things repetitively, you get more sore.

In my case, I know that when I go through this whole exam, about half an hour or an hour after I leave, I start getting worse and worse, and the next day I cannot move, and they think, you know, right when they are looking at you that that is the way you are all the time. They do not have another follow-up a week later or a couple of days later to find out what kind of a difference that made on you. Now, nobody would want to stay like this. There are so many things to do. I mean, everybody likes to be active. You do not like to be limited in what you do.

But I also think, as far as treatment goes, that the people who have been injured would know better what kind of treatment helps and what does not help for a certain injury than to go to someone who is a therapist who has read innumerable books and is called an occupational therapist, whatever they are. Academic knowledge is not close to the same as experiencing it, so therefore when you go to somebody who has never been in pain and they tell you this is going to help you, and trust me, I know it is going to work. You will feel worse in the beginning, but you will get better. I have been there. I have done it. It does not happen that way. I think if they had people who were injured to listen to these new victims, that it would make a big difference.

Of course, everybody that I have run into, we are motivated; we want to get better. We want to get on with our lives. So I think we could help each other that way.

Mr. Chairperson: Are there any more questions?

Mr. Santos: Ms. Dwornick, I heard you say even if I got \$43 million, it would not make my pain go away. Were you suing them for \$43 million?

Ms. Dwornick: No, I am not. I just picked that number because that was the excess left here. I am just trying to make the point that I do not want a ton of money. That is not what my problem is. I am denied benefits which I should get for lost wages. I have not had anything since the beginning of '94, but I am just

saying that I need to go for my therapy. Like, I am cut off of that. I do not want anyone to get the impression that money is the only thing that I want here. I want what I am entitled to, but I want the treatments, as well.

Mr. Santos: I also heard you say that they want to run your personal life. What makes you say that? What kind of specific experiences, for example, can you recall that they want to run your personal life?

Ms. Dwornick: Okay, some examples I guess, you know, because you are denied certain things—when you are injured, people do not treat you the same way. Like, your friends do not come around. They do not want to be with you, because you cannot do anything anymore. It is not like, oh, let us go roller blading or let us go bike riding. You are just not the same person anymore, because everything ties into the injury, so you are not able to do what you did.

As far as, like, getting into your personal life, Autopac has asked for my bank statements going back to as far as the accident. They have my income tax forms, I am not sure how far but a couple of years before the accident; you know, all these things. They know what kind of a responsible person I was. They ask for these things, but it seems like I keep giving them everything they want, and they do not act upon it.

Mr. Santos: What made you say that the work-hardening program made the matter worse rather than improved your physical condition?

Ms. Dwornick: Because my pain just kept getting worse and worse, and I was having a harder time. I was taking more pain killers, and the specialist that I saw said that 90 percent of the people who go through there are not ready for it and do end up getting worse. Two doctors, in fact, told me that, and another therapist said that when the Bombers who are really fit, athletic, you know, when they go for their two-week Bomber camp to weed out who are the best of the best, that their two-week program is easier than work-hardening, and I was in it for 10 weeks for four hours a day.

Mr. Santos: I want to close by saying I admire your former life, the active physical life, and I must empathize with you by losing that enjoyment of life and the amenities of life.

Mr. Newman: I thank you for sharing your personal challenges, and I think society does not often enough appreciate how people like you, who have enjoyed the full capacities of a functioning human being and then have lost a great deal of that and now cannot attempt to do what you did before, except with a great deal of pain. I do not think that that is appreciated often enough, and we often reflect on how we feel when we do suffer an injury, people like you are, minute by minute, hour by hour, day by day, week after week, suffering. What really impresses me is with your courage and with your historic full involvement as a total holistic kind of human being, enjoying health to its fullest, you are going to be able to maximize your competencies, limited as they are, and to find support systems, the right kinds of individuals to help you maximize what you are. Your attitude demonstrates that, and I congratulate you for that attitude.

The problem with litigation always is that you are trying to get at the truth, and one side is trying to protect the interests of the people that pay premiums, and your side is trying to get the maximum amount of justice for you so you can maximize your lifestyle. It sounds like you are in good hands, the process is moving along, and I hope when it is all over that you do achieve the capacity to fulfill yourself to the absolute maximum. I have the confidence you will.

Mr. Chairperson: Are there any other questions of Ms. Dwornick?

Ms. Dwornick: I would just like to comment. I thank you for your comments, and I am very motivated to get better. I have had several doctors' notes saying that they have never seen anybody as willing and going out everywhere and trying to find a way to get better, but I want to also let you know that it is not only my athletic ability and my, what would you call it, recreational activities that are suffering but just basic things, like, I cannot cut my grass anymore. I cannot shovel the snow. Things that I love doing, you know. Things get neglected; my vehicle is rusting out. I cannot wash it that often, maybe a few times a year, like I used to wash it once a week or every second week, things like that. I do not do gardening anymore, like, you are limited on what you do. Whatever there was, if there was some kind of, I do not know, something that I was guaranteed, if I was told go and take a bungee jump off

this window here and that will cure you, I would do something like that. I do not know what the answer is, but I am searching, and I definitely want to do it. I want to get back to being a productive person.

Mr. Chairperson: Thank you very much for your presentation.

Ms. Dwornick: Thank you, all.

* (1150)

Mr. Chairperson: I will now call Catharina Pajak. Catharina Pajak? All right, as previously agreed upon, we will go back through the order again, and if the presenters are not here, we will proceed. George Czmola. Is George Czmola here? Seeing that he is not here, we will strike Mr. Czmola from the list. Colleen Cameron. Is Colleen Cameron here? Seeing not, we will remove Colleen Cameron from the list. Catharina Pajak. Seeing she is not here, we will remove Catharina from the list. That concludes the list of presenters that we have here today.

Now I would ask the committee how they would like to proceed. Before I do, I would like to thank the presenters for their presentations today and for staying. I think it was enlightening for us all. I will ask the committee to suggest in what order we would like to consider these bills, and also I would like a direction from the committee as to when the committee will rise.

Floor Comment: As soon as we have done the work.

Mr. Chairperson: As soon as we are—anybody?

Mr. Ashton: We may be able to deal with the bills, but I suggest we set a target no later than 12:30.

Mr. Chairperson: Agreed? [agreed]

Mr. Edward Helwer (Gimli): I suggest we start at Bill 6 and go through the bills in numerical order, if that is how we want to do it.

Mr. Chairperson: Is that agreeable to everybody on the committee? Start with the lowest number and continue up. [agreed]

Bill 6—The Natural Gas Supply Repeal and Public Utilities Board Amendment Act

Mr. Chairperson: So we will start with Bill 6. I would ask the minister, does he have an opening statement?

Hon. David Newman (Minister of Energy and Mines): Very briefly, Mr. Chair, the purpose of this particular bill is to repeal a piece of legislation which has never been used, was introduced at a time when circumstances were different. The reasons for its introduction back in 1987 are no longer matters of concern warranting or justifying the existence of the legislation, nor does it appear that ever in the future will there be a need for this kind of legislation, certainly not in the foreseeable future. So it is simply removing what is now redundant legislation and repealing it. Thank you.

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

Mr. Jim Maloway (Elmwood): Mr. Chairman, as I said at second reading, I see this move by the government as basically an ideological move to repeal legislation we thought was good legislation that was brought in by the previous government in 1987. I think that it is nothing more than an ideological statement on their part, and I would leave it at that.

Mr. Chairperson: We thank Mr. Maloway for his opening statements. During the consideration of a bill, the preamble and the title are postponed until all other clauses have been considered in their proper order.

Shall Clause 1 pass?

Mr. Newman: I have a minor correction, what is a typographical error in Section 1, produced by the Justice department attorney.

Mr. Chairperson: I ask you to read the amendment into the record, please.

Mr. Newman: I move

THAT section 1 of the Bill be amended by striking out “c. N65” and substituting “c.65”.

[French version]

Il est proposé de modifier l'article 1 par substitution, à “chapitre N65”, de “chapitre 65”.

Motion presented.

Mr. Chairperson: Is there any debate or question on the amendment? Amendment—pass; Clause 1 as amended—pass; Clauses 2, 3, 4(1), 4(2), 5, 6, 7 and 8—pass; Clauses 9, 10 and 11—pass; preamble—pass; title—pass.

Voice Vote

Mr. Chairperson: Shall the bill as amended be reported? All those in favour, say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, nay.

Some Honourable Members: Nay.

Mr. Chairperson: It is my opinion that the Yeas have it.

Mr. Steve Ashton (Thompson): On division.

Mr. Chairperson: On division.

It has been brought to my attention that there is a second amendment. Is there leave of the committee to consider this amendment? There has been a second amendment that was—it is a numbering situation, and I am asking for leave of the committee to bring this amendment forward. [interjection] We do not need it apparently, so the bill shall be reported as amended and on division.

Bill 8—The Real Property Amendment Act

Mr. Chairperson: We are now moving to Bill 8. Does the minister responsible have an opening statement?

Hon. Mike Radcliffe (Minister of Consumer and Corporate Affairs): Mr. Chair, I have made a

statement in the House, and I think I will pass at this point in time. I have said everything that is appropriate.

Mr. Chairperson: The opposition critic, Mr. Maloway.

Mr. Jim Maloway (Elmwood): Mr. Chairman, I, too, have spoken on second reading, so I will pass.

Mr. Chairperson: We thank both for their brief statements. During the consideration of a bill, the preamble and title are postponed until all other clauses have been considered in their proper order.

Clause 1—pass; Clause 2—pass; Clause 3—pass; Clause 4—pass; Clause 5—pass; Clause 6—pass; preamble—pass; title—pass. Bill be reported.

Bill 13—The Insurance Amendment Act

Mr. Chairperson: We are now moving to No. 13. Again, I would ask if the minister has an opening statement.

Hon. Mike Radcliffe (Minister of Consumer and Corporate Affairs): Mr. Chair, I would pass on this as well. I have made my remarks and I think put everything on the record required.

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

Mr. Jim Maloway (Elmwood): Mr. Chairman, I, too, have spoken on second reading on this in the House.

* (1200)

Mr. Chairperson: We thank you again for your briefness. During the consideration of a bill, the preamble and the title are postponed until all other clauses have been considered in their proper order.

Clause 1—pass; Clause 2—pass; Clause 2(2)—pass; Clause 3—pass; Clause 4—pass; preamble—pass; title—pass. Bill be reported.

Moving right along, do we want to by-pass 23 and go to 24, as we have the minister still in the chair?

Mr. Steve Ashton (Thompson): I am just wondering, is the MPIC minister going to be returning?

Mr. Chairperson: It is my understanding that he will. Okay, let us move to 24, if that is agreed upon by committee.

An Honourable Member: Yes.

Bill 24—The Personal Property Security Amendment and Various Acts Amendment Act

Mr. Chairperson: Okay. We are doing Bill 24. Does the minister have an opening statement?

Hon. Mike Radcliffe (Minister of Consumer and Corporate Affairs): Mr. Chair, I think I will abide by my custom of the previous bills and pass on this as well.

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

Mr. Jim Maloway (Elmwood): Mr. Chairman, I will follow the custom but also say that this was a very interesting bill in the sense that it has to be a first in my experience here in that it amends an unproclaimed act, an act that still has not been proclaimed by this Legislature.

Mr. Chairperson: Clauses 1 and 2—pass; Clauses 3, 4, 5, 6(1), 6(2), 7 and 8(1)—pass; Clauses 8(2), 9, 10(1), 10(2), 11, 12(1), 12(2) and 13—pass; Clauses 14, 15(1), 15(2) and 15(3)—pass; Clauses 15(4), 15(5), 16, 17, 18 and 19—pass; Clauses 20, 21(1), 21(2), 21(3)—pass; Clauses 22, 23(1), 23(2), 23(3) and 24(1)—pass; Clauses 24(2), 25, 26, 27 and 28—pass; Clauses 29(1), 29(2), 29(3), 29(4) and 29(5)—pass; Clauses 30(1), 30(2), 30(3) and 30(4)—pass; Clauses 30(5), 30(6), 31(1), 31(2), 31(3), 32(1), 32(2) and 32(3)—pass; Clauses 32(4), 33, 34(1), 34(2), 34(3), 34(4) and 35—pass; preamble—pass; title—pass. Bill be reported.

Bill 26—The Corporations Amendment Act

Mr. Chairperson: Okay, we are going to move on to Bill 26. Does the minister responsible have an opening statement?

Hon. Mike Radcliffe (Minister of Consumer and Corporate Affairs): Yes, I would have one particular small amendment that I would like to introduce at this point in time.

Mr. Chairperson: Excuse me, Mr. Minister. We will do that as we get to the—

Mr. Radcliffe: Excellent. Then I would defer any further remarks.

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

Mr. Jim Maloway (Elmwood): I addressed this bill in the House, so I will dispense with any further comments at this time.

Mr. Chairperson: During the consideration of a bill, the preamble and the title are postponed until all other clauses have been considered in their proper order.

Clauses 1 and 2—pass; Clauses 3 and 4—pass; Clauses 5(1), 5(2) and 6—pass; Clauses 7(1), 7(2), 7(3) and 8—pass; Clauses 9(1), 9(2), 9(3), 10 and 11—pass; Clause 12—pass; Clauses 13, 14 and 15—pass; Clause 16, 17, and 18—pass; Clause 19—pass; Clauses 20(1), 20(2), 21 and 22(1)—pass; Clauses 22(2), 22(3), 22(4) and 22(5)—pass. Clause 23.

* (1210)

Mr. Radcliffe: Mr. Chair, with regard to Clause 23, I would move an amendment on 349.2(4), which is a part of Clause 23, and the amendment that I would move is

THAT subsection 349.2(4) be amended by striking out “subsection 248(3)” and substituting “subsection (5)”.

[French version]

Il est proposé que le paragraphe 349.2(4) soit amendé par substitution, à “248(3)”, de “(5)”.

Mr. Chairperson: Any debate on the amendment?

Mr. Radcliffe: The actual wording of the amendment would be

THAT the proposed subsection 349.2(4), as set out in section 23 of the Bill, be amended by striking out “subsection 248(3)” and substituting “subsection (5)”.

[French version]

Il est proposé que le paragraphe 349.2(4), figurant à l'article 23 du projet de loi, soit amendé par substitution, à “248(3)”, de “(5)”.

Mr. Chairperson: It has been moved by Mr. Radcliffe that the proposed subsection 349.2(4), as set out in section 23 of the bill, be amended by striking out subsection 248(3) and substituting subsection (5).

Any debate, questions? I am just waiting for the copies to come in. Now that everyone is receiving the amendment, I will ask, shall the amendment pass?

Amendment—pass; Clause as amended—pass; Clauses 24 and 25—pass; Clause 26(1)—pass; Clause 26(2)—pass; Clauses 26(3), 27, 28(1) and 28(2)—pass; Clauses 28(3), 28(4), 28(5) and 29—pass; Clauses 30 and 31—pass; Clauses 32, 33, 34(1) and 34(2)—pass; Clauses 34(3), 34(4), 35—pass; Clauses 36, 37, 38, 39(1), 39(2) and 40—pass; Preamble—pass; Title—pass. Bill as amended be reported.

Bill 23—The Manitoba Public Insurance Corporation Amendment Act

Mr. Chairperson: I will now call forward a new minister, and I would ask if the minister responsible for Bill 23 has an opening statement.

Hon. James McCrae (Minister charged with the administration of The Manitoba Public Insurance Corporation): I appreciate the presentations that have been made here today, and I remind members of the committee as we address the bill itself that the bill is simply as set out in my comments at second reading of the bill. With that in mind, perhaps we can proceed.

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

Mr. Steve Ashton (Thompson): Yes, Mr. Chairperson, I most definitely do. This bill deals with the Manitoba Public Insurance Corporation Act. We

believe that Manitobans, and particularly accident victims, can no longer wait for even the most elementary level of justice in the adjudication of their claims, something that we believe is not in place right now.

I want to say to the government that I thought the presentations this morning were very useful to the government, I believe, in getting across the point that some of us have been trying to get across for quite some time and that is that there is an injustice. I want to give credit, for example, going back to 1993, during the debates on the no-fault system that was introduced at the time to the critic for our caucus at that time, Len Evans, the member for Brandon East who introduced 35 amendments most of which were rejected out of hand by the government at that point in time.

I reference the presentations this morning because I believe if you check back in 1993, you will see that many of the concerns that were expressed, many of the frustrations that are being expressed this morning, could have been avoided if those amendments had been passed, a particular number of critical amendments, but you know we are not prepared to wait any longer, Mr. Chairperson, for justice for Autopac victims.

What we are going to be asking in this particular case is that the government accept three amendments that will deal with some of the more significant problems with the system. I want to stress that these are not the only amendments that we would like to see to the act. These are not amendments that deal with the benefit portions, and I think some of the presenters this morning pointed to some of the difficulties that are in place with interpretation of the income replacement situation facing those who are not employed at a particular point in time—seniors, students, et cetera. We raised that by the way in 1993. None of those were surprises to us. We predicted this at the time. The member for Brandon East (Mr. Leonard Evans) and the member for Elmwood (Mr. Maloway) I know were very involved in that case.

What we want to deal with today are some of the justice issues, bringing justice into the system, and I will deal with first of all the ability of the corporation to obtain matters which are not directly relevant, we believe, to the case in point. We heard a situation of

the last presenter and realized this was under the old tort system, but being asked questions about medical records dating back 20 years was something that was not relevant. We do not believe that it should be in the public interest for Autopac to have the ability under the act to basically go on fishing expeditions to try and fish out evidence. We believe that there has to be a narrow focus. We believe that is fundamental to justice.

I want to indicate, too, that we plan—and by the way this same memo was brought in at that time. We want to deal also with the question of the benefit of the doubt. Well, in 1993, July 20 to be exact, an amendment was brought in to establish a benefit of doubt going to the claimant, and I want stress to the committee who recommended that. I know the member for Riel (Mr. Newman) will be very interested in this, because it was recommended by Legal Aid Manitoba in their presentation to the committee. Legal Aid Manitoba recommended that a benefit of the doubt clause be put into the act. The government said no at the time.

I referenced this morning with some of the people here—and by the way the presenters today are, I believe, speaking not only for themselves but many other Manitobans, because I have talked to many Manitobans who have had similar circumstances, many of whom did not feel that they could come before this committee, who felt intimidated by this process, who said very similar sorts of things. If you have a benefit of the doubt clause, you establish far more of a balanced treatment of cases which I think is in keeping with what was theoretically in place under the tort system. If you net out extraneous factors like the ability to have legal counsel, et cetera, but go to the root of the tort system, civil law, I believe, that was in place, and when Legal Aid Manitoba recommends it, we should listen very carefully.

* (1220)

Finally, I will be introducing an amendment that each presenter this morning talked about, and that was the need for an advocate's office. I appreciate, by the way, some of the suggestions by the member for Riel (Mr. Newman) in terms of the potential involvement of the legal profession, but I hope the member for Riel will recognize that one of the difficulties the claimants face,

first of all, is that under the act that was passed by the then government, by moving into a no-fault system, you have essentially removed it from the courts. You essentially have many lawyers assuming, I suppose to a certain extent correctly, that there is no legal process certainly before the courts so they have no role to play.

I have talked to people who have tried to access legal advice in the same sort of vein that the member was suggesting, and lawyers are taking the position there is nothing that they can do because this is no longer something that is before the court. It is very similar to what has been the case with Workers Compensation for, well, close to a century now. Once you remove it from the courts, I believe lawyers are in a position to be able to provide advice that can be valuable, but many lawyers do not feel they have an appropriate role to play.

What we want to do—and I believe the presenters were very clear on this when they talked about an advocate, they want a publicly operated advocate's office. I am not saying there is not a role for education, a role that the member for Elmwood (Mr. Maloway) pointed to. I think it is a useful suggestion. I believe it could supplement what we are talking about.

But, you know, we have had a system that has been in place since the 1980s in government, and it is the Worker Advisor's office, and let me tell you what the situation was in Workers Compensation before that was put in place. It was very similar to what we heard today. Under the Workers Compensation bill, you could not go to court, so you could not access legal advice. Under the system, before Worker Advisor, you essentially had to deal with the Workers Compensation Board, and once again, you had the same sort of dynamics that people made presentations about today, and that is, Workers Compensation, not being in a position of acting in the best interest necessarily of the claimant but with a mandate, essentially, to operate in the best interests of the Workers Compensation Board.

Do you know what we did? By the way, I am proud that it was a New Democratic Party government that did it. What we did was we said, look, this does not make sense. It is not a fair system. What we established is an office that is independent of the Workers Compensation Board, and it is a system that

has worked well. By the way, whenever I am contacted on Workers Compensation, I refer people to the Worker Advisor's office, and if members of the Legislature are not doing that, I advise them to do that.

By the way, I want to stress that this is fundamentally different than what was in place previously, and I notice the member for Elmwood (Mr. Maloway) referenced the Ombudsman's office. The Ombudsman is not an advocate. The Ombudsman is not an advocate in the truest sense of the word. The Ombudsman can provide a degree of mediation, if you look at the actual role of the Ombudsman, they are not in the position—you go to the Ombudsman, the Ombudsman is not necessarily on your side, in your corner, and with the Worker Advisor—and, by the way, I would refer to anyone who was part of the recent recruitment of the Ombudsman, it is very clearly part of the mandate. It is very clearly part of legislation.

But what was done in Workers Compensation is what we need in Autopac. We need to make sure the claimants can go before the appeal commission and work through every step within Autopac and have somebody that is going to be there as their advocate, the role that a lawyer would play in the court system that was played before 1993, a role that we believe has to be played today. I say to members of the committee, one of the reasons we want this is because I have seen the psychological devastation of people having to deal not only with injuries, not only with impacts on their physical health but the stress that goes into having to fight a system with nobody in your corner.

I want to point to members of the committee that it was pointed out in this committee room less than a month ago that Autopac at the appeal commission level routinely uses lawyers. If anybody thinks that no-fault took the lawyers out of the picture, they are wrong. Autopac can use all the resources at its disposal, and it is a multimillion-dollar corporation. It has those resources.

What we are asking for is some balance. That balance has to be provided by someone who works independently, and the best model is the Worker Advisor's office, someone who has nothing to do with Workers Compensation in that case or with Autopac from what we are hoping to set up.

I want to say to the government, because I know the government may say, well, you know, this bill is of narrow scope. Mr. Chairperson, we moved these amendments in 1993 in a constructive way. We agreed with the principle of no-fault. We said at the time it was a flawed bill and would create problems, and we are not willing to wait another four years. Claimants are not willing to wait another four years, and any one of the Manitobans who could be hit by a car tomorrow and end up like the people we heard this morning, I believe, would want us to act now.

We cannot wait for this review that the government has underway. By the way, that was one of the few amendments that was passed by the government. It was initiated by the New Democratic Party. I want to say we cannot wait any longer. There are people right now who are suffering. I believe it is unacceptable in Autopac today. Autopac, last year, ran a surplus of \$43 million, and yet the last four years it has cut back on injury payments to victims of accidents by more than \$90 million. They have cut the number of people receiving claims in half, pretty well, and they have cut the benefits going to those individuals in half.

I do not want to see Autopac end up like Workers Compensation where this government now runs around trumpeting a surplus that is there on the backs of injured workers. Autopac is a very valuable public tool, and what we want to make sure is it serves its mandate which is to provide insurance to Manitobans at a reasonable cost. We know that is the case. It is expensive, but we must understand that we must provide the insurance that people have paid. I think many Manitobans would be surprised, Mr. Chairperson, to know what these people who came to the committee today have been through.

I want to say to the minister, if you do not pass these amendments today and let us deal with them, you will be ensuring that there will be other Manitobans, thousands of Manitobans over the next period of time, who will run into the same difficulties, who in effect will not be getting the insurance they paid for, and that is, I believe, an injustice in and of itself. So I urge the committee to please deal with these three amendments. We can bring in many more at a later point in time, these three fundamental amendments. Let us bring the

justice that the presenters this morning asked for into the Autopac system.

Mr. Chairperson: Thank you for those opening comments. During the consideration of a bill, the preamble and the title are postponed until all other clauses have been considered in the proper order.

Clause 1—pass. Shall Clause 2 pass?

Mr. Ashton: I have an amendment, Mr. Chairperson, if I can start with the Benefit of doubt section. I move

THAT the following be added after section 1 of the Bill:

2 Section 150 is amended by renumbering it as subsection 150(1) and by adding the following as subsection 150(2):

Benefit of doubt to claimant

150(2) Where the evidence favouring the payment of compensation to a claimant is evenly balanced by evidence contrary to the claim, the compensation shall be paid to the claimant.

[French version]

Il est proposé d'amender le projet de loi par adjonction, après l'article 1, de ce qui suit:

2 L'article 150 est modifié par substitution, à son numéro actuel, du numéro de paragraphe 150(1), et par adjonction de ce qui suit:

Bénéfice du doute

150(2) *En cas de partage des preuves quant à la recevabilité de demande d'indemnisation, la Société accorde l'indemnité au demandeur.*

Mr. Chairperson: I have been advised that the amendment proposed by Mr. Ashton is out of order because it is beyond the scope of the bill and therefore cannot be considered by the committee.

Mr. Ashton: Mr. Chairperson, I am appealing to the government, as I did in my opening statements, by leave to deal with this matter. The government has the ability to do that. We are prepared to bring in these

types of amendments in a form of a private member's bill where the government fully well knows that very rarely passes in the Legislature. I want to ask the minister, will he not give leave to deal with this particular matter, which, by the way, was recommended by Legal Aid Manitoba in 1993, should have been brought in in the original bill. Will the minister not agree to give leave to have this matter considered now?

Mr. McCrae: The bill is about an administrative matter and I assume that is why you, Mr. Chairman, have ruled the amendment out of order. The honourable member seeks to do things that I think his intentions are very good and those of the presenters who came before the committee this morning are indeed very good, and that is one of the reasons, when the legislation was brought in, there was mandated a review of the whole PIPP system. Recently, the chair of that review has been named, and this is the time for these concerns to be brought to the attention of that review.

Certainly, one might have all kinds of sympathy with the ideas being brought forward by the honourable member in his amendments, but this bill is not about what the honourable member is talking about. This bill is as set out in my comments at second reading. I can set them out again. It is a very brief recital to describe what the bill is about and very clearly sets out why the amendment is out of order because it is beyond the scope of the bill.

As presently drafted, subsection 177(2) requires that MPI at the commencement of the government's fiscal year pay the estimated operating costs of the Automobile Injury Compensation Appeals Commission for the upcoming year into the Consolidated Fund. The estimated costs must first be approved by the Lieutenant Governor in Council, with the requisition for payment then coming from the Minister of Finance. This proposed bill would delete the requirement that the requisition for payment come from the Minister of Finance, the purpose being to avoid any unnecessary invoicing procedure involving the Department of Finance. The request for this amendment originated with that department.

* (1230)

So that very clearly tells you, Mr. Chairman, why you are so very right in observing and ruling that the amendment is out of order because it is out of scope. Whether I sympathize with the honourable member's point of view or not, and there are certainly issues here that should be placed in the right hands, the right hands are those of Sam Uskiw, who has been asked to conduct a review as mandated in the legislation of the no-fault system. Therefore, I cannot agree with the honourable member that we should just ignore the rules of this Legislature.

Mr. Chairperson: As the hour is now 12:30 p.m., what is the will of committee?

Mr. Ashton: Mr. Chairperson, I suggest we not see the clock.

Mr. Chairperson: Is that agreed? [agreed] Just before we move any further, I have to ask the committee if there is leave to consider this amendment. What is the will?

An Honourable Member: No, there is not, Mr. Chairman.

Mr. Chairperson: No. Okay.

Mr. Ashton: Perhaps to simplify this, I will challenge your ruling. I would like a recorded vote, on our hope that this would be dealt with.

Mr. Chairperson: The ruling of the Chair has been challenged. Shall the ruling of the Chair be sustained?

Voice Vote

Mr. Chairperson: 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, and the ruling of the Chair is sustained.

Formal Vote

Mr. Ashton: Request for a recorded vote.

Mr. Chairperson: A counted vote has been requested.

A COUNT-OUT VOTE was taken, the result being as follows: Yeas 6, Nays 4.

Mr. Chairperson: Yeas, six; Nays, four. The ruling of the Chair has been sustained.

* * *

Mr. Ashton: Mr. Chairperson, I have two further amendments that I would like to attempt to introduce.

I move

THAT the following be added after section 1 of the Bill:

2 Subsection 146(1) is amended by striking out "and on any other related matter requested by the corporation".

[French version]

Il est proposé d'amender le projet de loi par adjonction, après l'article 1, de ce qui suit:

2 Le paragraphe 146(1) est modifié par suppression de "et sur toute autre affaire connexe précisée par la Société".

Mr. Chairperson: I have been advised that the amendment proposed by Mr. Ashton is out of order because it is beyond the scope of the bill and therefore cannot be considered by the committee.

Mr. Ashton: Mr. Chairperson, we are in a similar situation as we were in the previous amendment, and I recognize the dilemma that it places you in. I want to stress again this was moved in 1993 on the main portion of the bill. It is in keeping with the practice and legal circumstances within Workers Compensation, and I find it regrettable that we are in the situation again where, without this type of amendment in the bill, we will end up with circumstances similar to what was outlined before, and that is the ability for Autopac to go well beyond the scope of dealing with the narrow focus of the claim that is involved.

I want to stress that, by moving to a no-fault system, we gave a great deal of power to Autopac—a great deal of power. It moved it out of the court structure. We believe that there was an imbalance by doing that, and what we are trying to do is get that balance back into the system. It will not be in place if you continue to give Autopac this kind of power.

So I regret that it has been ruled out of order. I would appeal to the minister. I do not intend to belabour this point. I have one more amendment I would like to introduce, but I would ask the minister for his comments on this particular amendment.

Mr. McCrae: With due respect again to the honourable member and what it is he is trying to achieve, Mr. Chairman, I tend to agree with the ruling of the Chair about the admissibility of this amendment and perhaps just say that the comments I made with respect to the last amendment, I would simply—perhaps honourable members could deem them to be repeated in this case.

Mr. Chairperson: Is there leave of the committee to consider the amendment?

An Honourable Member: No.

Mr. Ashton: A further amendment, Mr. Chairperson. I move

THAT the following be added after Section 1 of the Bill:

2 The following is added after section 151, as part of Division 7:

Claimant advocates

151.1(1) Claimant advocates and other persons necessary to enable claimant advocates to carry out their duties effectively shall be appointed or employed in accordance with *The Civil Service Act*.

Role of claimant advocates

151.1(2) Claimant advocates may provide claimants with information, advice and assistance including

- (a) assisting a claimant in a review under section 170 or an appeal to the commission, including making

representations on behalf of the claimant in the review or appeal;

(b) advising claimants as to the interpretation and administration of this Act and any regulation made under this Act, and of the effect and meaning of decisions made under this Act; and

(c) performing such other duties and functions as the minister may require.

Independent Role

151.1(3) Claimant advocates are to carry out their duties under this section independently of the corporation.

[French version]

Il est proposé d'amender le projet de loi par adjonction, après l'article 1, de ce qui suit:

2 Il est ajouté, après l'article 151, à la section 7, ce qui suit:

Représentants des demandeurs

151.1(1) *Sont nommés ou employés conformément à la Loi sur la fonction publique des représentants des demandeurs ainsi que les autres employés dont les représentants des demandeurs ont besoin pour s'acquitter efficacement de leurs fonctions.*

Fonctions des représentants des demandeurs

151.1(2) *Les représentants peuvent fournir des renseignements, des conseils et de l'aide aux demandeurs qu'ils représentent et notamment:*

a) les aider, y compris les représenter, dans le cadre d'une révision entreprise en vertu de l'article 170 ou d'un appel interjeté devant la Commission;

b) les conseiller en matière d'interprétation et d'application de la présente loi et de ses règlements et en ce qui concerne l'effet et la portée des décisions rendues sous son régime;

c) accomplir toutes les autres fonctions que le ministre peut prescrire.

Indépendance

151.1(3) *Les représentants s'acquittent des fonctions que leur confère le présent article indépendamment de la Société.*

Mr. Chairperson: I have been advised that the amendment proposed by Mr. Ashton is out of order because it is beyond the scope of the bill and therefore cannot be considered by the committee.

Mr. Ashton: Mr. Chairperson, I want to ask the minister again if there would be leave to deal with this, and I want to just briefly point out that this is virtually identical to the program that is in place at Workers Compensation which costs us less than \$1 million a year, that has been a very successful program in providing justice in a system that is very similar to Autopac in that it is removed from the courts, has been for decades. It allows people to have that advice and assistance. What I really want to stress as well too is that this not only allows claimants to have an advocate that works for them before the appeal commission which by the way is part of this particular legislation that we are dealing with today but also will allow them to receive advice on the act.

What I found really striking is a constant theme for many of the people who presented today and many other people I have talked to who said there is a lot of confusion a lot of times. People do not know the rights that they have under the act. They do not know the circumstances they are dealing with; they are not lawyers, they are not advocates and it puts an incredible stress and burden on them. I would say of the three amendments we are moving today, this one, if there is one that the minister could agree to with whatever modifications, and I am prepared to discuss with anyone, in a positive sense other types of structures. I notice the member for Elmwood (Mr. Maloway) made some suggestions earlier. But there has to be an advocate in place that people can access that will work on their behalf or else there will not be a just system and you will allow Autopac once again to hold all the cards. They do it currently. They can have lawyers and experts present at the appeal commission. They have people going to bat for them, but claimants have to go in there without the access to expert advice.

I want to stress again that one of the great advantages of the workers advocate's office is that it is provided at

no cost to the claimant in the case of Workers Compensation. It can be done in the same case, because you have to remember, these people we are talking about are people who by definition have been injured, in many cases are off work, in many cases have their income interrupted, in many cases are fighting to get it reinstated. We have heard people wait for months if not years to have claims dealt with. The only way you can have a just system in an equivalent sense is what you have, say, in a court situation where Legal Aid provides that advice at cost to those who cannot afford it. In this case, I believe, it can be provided, so I would appeal to the minister. I do not criticize you, Mr. Chairperson, I understand the position you are in. I would appeal to the minister and ask the minister if he would not give leave to have this matter dealt with at this point in time at least so we can get this matter on track.

* (1240)

I appreciate the Uskiw review, but quite frankly these people cannot wait any longer for justice. We heard that this morning. We have got to do something and I think this is a very minor way of doing it. It is not going to cost a great deal of money, but it will give a real sense of fairness back to people. Virtually everybody I have talked to says that is all we want. All they are asking for is fairness and justice, and I think this is the most important step we can make.

Mr. McCrae: I suggest again this amendment is out of scope of the bill. I do understand that the Bar Association, perhaps the Law Society will be making their views known as well to the Uskiw commission reviewing the personal injury protection plan. Again, I think I can apply similar comments as I made earlier to this particular amendment.

Mr. Chairperson: Is it the will of the committee to consider the amendment?

Some Honourable Members: No.

Voice Vote

Mr. Ashton: Mr. Chairperson, I would therefore challenge your ruling.

Mr. Chairperson: The ruling of the Chair has been challenged. Shall the ruling of the Chair be sustained? 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 and the ruling of the Chair is sustained.

Formal Vote

Mr. Ashton: I request a recorded vote.

A COUNT-OUT VOTE was taken, the result being as follows: Yeas 6, Nays 4.

* * *

Mr. Chairperson: Clause 2—pass; Clause 3—pass; preamble—pass; title—pass. Bill be reported.

The hour now being 12:30, committee rise.

COMMITTEE ROSE AT: 12:43 p.m.