Second Session - Thirty-Ninth Legislature

of the

Legislative Assembly of Manitoba

Standing Committee
on
Social and Economic Development

Chairperson
Ms. Erna Braun
Constituency of Rossmere

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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Ninth Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA

THE STANDING COMMITTEE ON SOCIAL AND ECONOMIC DEVELOPMENT

Tuesday, May 27, 2008

TIME – 4 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Ms. Erna Braun (Rossmere)

VICE-CHAIRPERSON – Mr. Rob Altemeyer (Wolseley)

ATTENDANCE –11 QUORUM – 6

Members of the Committee present:
Hon. Mr. Lemieux, Hon. Mses. Melnick, Oswald, Hon. Messrs. Robinson, Rondeau

Mr. Altemeyer, Ms. Braun, Messrs. Derkach, Pedersen, Mrs. Stefanson, Mrs. Taillieu

Substitutions:
Mrs. Rowat for Mrs. Stefanson at 6:06 p.m.

APPEARING

Mr. Ron Schuler, MLA for Springfield
Hon. Andrew Swan, MLA for Minto
Mr. Cliff Cullen, MLA for Turtle Mountain
Mr. Cliff Graydon, MLA for Emerson
Mr. David Faurschou, MLA for Portage la Prairie
Mr. Larry Maguire, MLA for Arthur-Virden
Hon. Steve Ashton, MLA for Thompson
Hon. Jon Gerrard, MLA for River Heights

WITNESSES:

Bill 15–The Climate Change and Emissions Reductions Act

Mr. Harvey Stevens, Resource Conservation Manitoba
Mr. Curtis Hull, Climate Change Connection

Bill 19–The Liquor Control Amendment Act

Mr. Fred Curry, Private Citizen

Bill 21–The Advisory Council on Workforce Development Act

Mr. John Doyle, Manitoba Federation of Labour

Bill 27–The Shellmouth Dam and Other Water Control Works Management and Compensation Act

Mr. Antoine Hacault, Private Citizen

Bill 31–The Freedom of Information and Protection of Privacy Amendment Act

Mr. Blake Taylor, Private Citizen
Ms. Mimi Raglan, Private Citizen
Mr. Brian Bowman, Private Citizen
Ms. Elizabeth Fleming, Private Citizen
Mr. Colin Craig, Canadian Taxpayers Federation
Ms. Gloria Desorcy, Manitoba Branch of the Consumers Association of Canada

Bill 32–The Personal Health Information Amendment Act

Mr. Blake Taylor, Private Citizen
Ms. Mimi Raglan, Private Citizen
Mr. Charles Cruden, Private Citizen
Ms. Laurie Thompson, Manitoba Institute for Patient Safety

WRITTEN SUBMISSIONS:

Bill 15–The Climate Change and Emissions Reductions Act

Mr. Gordon Forman, National Association of Antique Automobile Clubs of CDA Corporation

Bill 31–The Freedom of Information and Protection of Privacy Amendment Act

Ms. Valerie Price, Manitoba Association for Rights and Liberties

Bill 13–The Highway Traffic Amendment Act (Damage to Infrastructure)

Mr. Geoff Sine, Manitoba Trucking Association

Bill 36–The Municipal Assessment Amendment Act

Mr. Ron Bell, Association of Manitoba Municipalities

MATTERS UNDER CONSIDERATION:

Bill 10–The Legislative Library Act

Bill 13–The Highway Traffic Amendment Act (Damage to Infrastructure)

Bill 15–The Climate Change and Emissions Reductions Act

Bill 16–The Child Care Safety Charter (Community Child Care Standards Act Amended)

Bill 19–The Liquor Control Amendment Act

Bill 21–The Advisory Council on Workforce Development Act

Bill 22–The Worker Recruitment and Protection Act

Bill 23–The International Labour Cooperation Agreements Implementation Act

Bill 27–The Shellmouth Dam and Other Water Control Works Management and Compensation Act (Water Resources Administration Act Amended)

Bill 31–The Freedom of Information and Protection of Privacy Amendment Act

Bill 32–The Personal Health Information Amendment Act

Bill 33–The Salvation Army Grace General Hospital Incorporation Amendment Act

Bill 34–The Child and Family Services Amendment and Child and Family Services Authorities Amendment Act (Safety of Children)

Bill 36–The Municipal Assessment Amendment Act

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Madam Chairperson: Good afternoon. Will the Standing Committee on Social and Economic Development please come to order.

This meeting has been called to consider the following bills: Bill 10, The Legislative Library Act; Bill 13, The Highway Traffic Amendment Act (Damage to Infrastructure); Bill 15, The Climate Change and Emissions Reductions Act; Bill 16, The Child Care Safety Charter (Community Child Care Standards Act Amended); Bill 19, The Liquor Control Amendment Act; Bill 21, The Advisory Council on Workforce Development Act; Bill 22, The Worker Recruitment and Protection Act; Bill 23, The International Labour Cooperation Agreements Implementation Act; Bill 27, The Shellmouth Dam and Other Water Control Works Management and Compensation Act (Water Resources Administration Act Amended); Bill 31, The Freedom of Information and Protection of Privacy Amendment Act; Bill 32, The Personal Health Information Amendment Act; Bill 33, The Salvation Army Grace General Hospital Incorporation Amendment Act; Bill 34, The Child and Family Services Amendment and Child and Family Services Authorities Amendment Act (Safety of Children); Bill 36, The Municipal Assessment Amendment Act.

Mr. Ron Schuler (Springfield): Thank you very much, Madam Chairperson. It's the normal way of running committees that individuals can sign up until midnight of the third day, yet we understand that individuals are being told that they will only be able to sign up until it's 5 o'clock. So that would be that anyone who wants to present would have to sign up by 5 p.m. tomorrow, whereas the rules state normally that it would be until midnight. Seeing as the committees are sitting tomorrow until midnight, it would make sense that individuals could sign up until midnight tomorrow.

Could I just have clarification on that?

Madam Chairperson: As I'm aware, the Clerk's office is still accepting presenters to these bills.

Mr. Schuler: That was not the question. I was asking, is that, will they still be accepting presenters until midnight tomorrow?

Madam Chairperson: Correct. Rule 92(7) states after midnight on the third evening that a standing committee or special committee needs to consider a bill, no presenter can be registered to make a presentation.

Mr. Schuler: Could that, then, please be clarified with the Clerk's office that phone calls will be received until midnight tomorrow?

Madam Chairperson: Yes, it will be.

Hon. Andrew Swan (Minister of Competitiveness, Training and Trade): If I could just also seek clarification.

There is a very good chance that, if things go smoothly tonight, we will, indeed, complete the presentations. We may be able to get through the bills. Of course, if the committee has completed its work, there won't be the ability for people to register after we've completed our consideration of the bills.

Madam Chairperson: Honourable Mr. Swan, you are correct.

Mr. Cliff Cullen (Turtle Mountain): Just to clarify, Madam Chair, when we say the work of the committee is complete, now, I'm assuming we won't go through, for instance, line by line on Bill 15.

Now, if we get through the presenters, let's say we get through presenters tonight, someone still, I understand, would have the opportunity to talk to the Clerk's office and register. Will they have the opportunity to talk to Bill 15 tomorrow night?

***** (16:10)

Madam Chairperson: Mr. Cullen had a question regarding presenters. Practice is to hear presenters first. After that happens, the Chair will ask for any more presenters. If there are none, the committee will move on to clause by clause. If someone decides to register before 12 midnight tomorrow and the committee is doing clause by clause, a presenter can speak, according to rule 92(7), as is my understanding.

Mr. Schuler: I need one more clarification. That is, can the Chair ensure that there will be somebody at the Clerk's office until midnight taking the phone calls, or that there will be some kind of a system in place to take the phone calls?

An Honourable Member: I'll do it.

Mr. Schuler: The Minister of Conservation (Mr. Struthers) says he's volunteering to do it, but I probably think we would need the Clerk's office to ensure that there is somebody there taking the phone calls, or somehow registering them. I leave that up to the discretion of the Chair.

Madam Chairperson: Your request, Mr. Schuler, will be relayed to the Clerk's office, and, as soon as we have information, we will get back to you on that.

Mr. Cullen: Thank you. Just for further clarification, I know there is a specific situation that's going to arise here. So, once we are done, let's say, addressing Bill 15–because I think it's the first on the Order Paper–once we get through Bill 15 and once we're done the line by line and everything, then no one will have the opportunity to speak to that anymore.

But, if we're still involved in the discussion, the line-by-line discussions, or questioning on that particular bill, someone could still present at any given time on that particular bill.

Madam Chairperson: If they register before midnight on the third evening, yes.

We have a number of presenters registered to speak this evening, as follows: Please refer to your presenters' list.

Before we proceed with presentations, we do have a number of other items and points of information to consider. First of all, if there is anyone else in the audience who would like to make a presentation, please register with staff at the entrance of the room.

Also, for the information of all presenters, while written versions of presentations are not required, if you are going to accompany your presentation with written materials, we ask you provide 20 copies. If you need help with photocopying, please speak with our staff.

As well, I would like to inform presenters that, in accordance with our rules, a time limit of 10 minutes has been allotted for presentations, with another five minutes allowed for questions from committee members.

Also, in accordance with our rules, if a presenter is not in attendance when their name is called, they will be dropped to the bottom of the list. If the presenter is not in attendance when their name is called a second time, they will be removed from the presenters' list.

Written submissions from the following persons have been received and distributed to committee members: Gord Forman, National Association of Antique Automobile Clubs of CDA Corporation, on Bill 15; Geoff Sine, Manitoba Trucking Association, on Bill 13; Valerie Price, Executive Director, Manitoba Association for Rights and Liberties, on Bill 31; Ron Bell, President, Association of Manitoba Municipalities, on Bill 36.

Does the committee agree to have these document appear in the *Hansard* transcript of this meeting?

Mr. Blaine Pedersen (Carman): Madam Chair, with regard to Bill 36, the written submission from the AMM, the Association of Manitoba Municipalities, there's actually a typo on that submission, so does that get entered as the typo?

Madam Chairperson: As the document is presented, I believe that's how it gets entered.

Does the committee agree to have these documents appear in the *Hansard* transcript of this meeting? *[Agreed]*

Mr. Schuler: On the submissions that we do have in front of us, it is unfortunate that these individuals can't come to the committee because they do actually present a lot of new information and a lot of important information for this committee. I certainly hope that all members take the opportunity to read

through them, because not all of them necessarily support the current legislation that is before us.

It'd actually be helpful if they could be read for the committee, but I understand that is not going to happen today. Unfortunately, we are the minority on this committee. I still, however, feel that all of these submissions do have great value.

Madam Chairperson: Thank you. It was agreed that we will hear presentations of the bills in numerical order. As has been previously agreed to by the House, the committee will sit until 10 p.m. tonight, and, if necessary, will sit tomorrow commencing at 6 p.m.

Prior to proceeding with public presentations, I would like to advise members of the public regarding the process for speaking in committee. The proceedings of our meetings are recorded in order to provide a verbatim transcript. Each time someone wishes to speak, whether it be an MLA or a presenter, I will first have to say the person's name. This is the signal for the *Hansard* recorder to turn the mikes on and off. Thank you for your patience and we will now proceed with public presentations.

Bill 15–The Climate Change and Emissions Reductions Act

Madam Chairperson: We are now on Bill 15, The Climate Change and Emissions Reductions Act, and I would like to call upon Harvey Stevens, Resource Conservation Manitoba. Please proceed with your presentation.

Mr. Harvey Stevens (Resource Conservation Manitoba): Madam Chairperson, members of the standing committee, I would like to thank you for this opportunity to appear before you today. I'll be simply reading the presentation that has been circulated.

As chairperson of Resource Conservation Manitoba's policy committee, I'm here today to convey the initial views of the board of the Resource Conservation Manitoba, RCM, on the government's proposed Climate Change and Emissions Reduction Act.

RCM is a non-profit, voluntary organization which has been active in promoting resource conservation in Manitoba since 1985. Today, it offers programming aimed at educating children about resource conservation practices, offering active and safe ways of commuting to school, promoting green community options for workers and employers, offering workshops on backyard and industrial-municipal composting and encouraging waste-reduction practices.

***** (16:20)

In addition, it has researched and presented briefs to the government of Manitoba on such issues and policies and programs required to reduce household municipal waste, the current set of extended producer responsibility regulations being implemented to deal with post-consumer waste and green transportation policies.

Accordingly, both in word and deed, RCM has demonstrated it strong commitment to making Manitoba a more environmentally friendly and sustainable province in which to live.

As we all know, the challenges facing not only Manitoba but the entire world to reduce humanity's negative and destructive footprint on the natural environment are both fearsome and daunting. We see the worldwide collapse of fish stocks, the drying up of fresh water resources, ongoing environmental pollution, the destruction of wildlife species and habitats and climate change.

It could well be that the greatest challenge facing humanity is climate change due to the production of greenhouse gas emissions by human activity. It is absolutely imperative to emphasize that the United Nations Intergovernmental Panel on Climate Change has documented extensively and convincingly the scope and impacts of climate change and has demonstrated beyond doubt the real role of human activity in producing the dramatic rise in greenhouse gases. The threat is real and humanity's role in producing the threat is unquestionable. Thus, the need to apply human activity to reduce the threat.

Canada has been documenting the growth in domestic greenhouse gas emissions since 1990. The latest National Inventory Report on greenhouse gas emissions shows that in Manitoba the amount of greenhouse gas emissions has risen from 18 megatonnes in 1990 to 20.3 megatonnes in 2005 for a total increase of 2.3 megatonnes. However, in order to meet its Kyoto commitment of 6 percent decline in 1990 levels, Manitoba will have to reduce its greenhouse gas emissions to 16.9 megatonnes by 2012, the announced target date of the proposed climate change legislation. Given that greenhouse gas emissions have likely continued to increase since 2005 by possibly as much as another 0.4 megatonnes by 2009, the needed reductions in emissions between

2009 and 2012 could well be in the order of 3.8 megatonnes.

The National Inventory Report also describes the sectors in which the level of GHG emissions has both increased and decreased. In Manitoba the largest net increase in GHGs since 1990 has been from the agricultural sector, a rise of 1.6 megatonnes of CO_2 equivalent. By comparison, the transportation sector has contributed a net increase of 0.3 megatonnes. The report itself states: Manitoba's economic structure gives its GHG inventory the lowest percentage emissions from the energy sector and the highest percentage from the agriculture sector.

Agriculture emissions from all sources increased significantly between 1990 and 2005. The good news is that between 2003 and 2005, there was a reduction of 0.2 megatonnes of greenhouse gas emissions from the agricultural sector due to the conversion of agricultural lands.

Given this context, what can we say about Bill 15 in the brief time that we've had to look at it?

First, it is a much-needed piece of legislation because greenhouse gas emissions in Manitoba continue to rise under existing practices. Countermeasures are required to reverse this trend. Relying on good will and good intentions will not suffice.

Second, the presence of a stated target in the legislation is very important.

Third, the requirement that regular reports be prepared that describe the emission reductions that have been achieved and measures taken also is important for public accountability.

Fourth, the identification of key sources of GHG emissions such as building, transportation, landfills, electricity production and the types of initiatives that will be undertaken to reduce emissions is laudable.

Accordingly, RCM applauds the government for introducing this piece of legislation. It is much needed, it is timely and shows clear resolve to reverse a dangerous trend.

However, RCM is concerned that it doesn't go far enough.

For one thing, there is nothing in the legislation that targets the agricultural sector, even though it is the largest contributor to the growth in GHG emissions. The accompanying document, Agriculture: Climate Friendly Farms, certainly describes various measures and programs in place to reduce GHG emissions. However, it would seem that if the legislation targets a sector like transportation which, in total, has contributed a small increase in GHG emissions since 1990, it surely ought to contain legislated measures that address the tremendous increase in GHG emissions from the agricultural sector.

Second, given the track record of successive provincial governments in failing to produce required annual reports on The Waste Reduction and Prevention Act of 1990, only one has been tabled in the House. RCM questions whether simply indicating that a report will be prepared is sufficient for it to happen. The legislation needs to spell out real material consequences for failing to produce reports.

Further to this, RCM would like to see the legislation spell out real material consequences for the government for failing to meet its stated target of a 6 percent reduction in GHG emissions by 2012.

A brief history lesson may highlight why RCM sees the need for such a measure. When the provincial government of the day passed The Waste Reduction and Prevention Act in 1990, it committed to a 50 percent reduction in waste going to landfills by the year 2000. However, by 2000 there was only a 20 percent reduction in the amount of per capita waste going to landfills, so without real consequences in place for failing to meet targets, there isn't any incentive for government to do so.

One way of doing this would be the inclusion of a measure that financially committed the government to increase spending on GHG emission initiatives equal in value to the world-traded value of the amount of CO_2 emitted in excess of the targeted 16.9 megatons of GHG emissions by the end of 2012. This measure would give this legislation real teeth and provide additional funding required to achieve its stated objectives.

RCM is very pleased to see a provision for addressing landfill methane, a powerful greenhouse gas that has not been controlled in Manitoba. We would note, however, that systems for collecting methane, once organic materials are landfilled, will not be 100 percent efficient, so we would hope to see further action to divert organics from landfills which would not only prevent the harm that results from GHG emissions but would also ensure that the value in composted material is recovered and retained.

RCM will be taking a more detailed look at both the current bill and the recently announced climate change plan and may have further observations to make in due course. In the meantime, we want to commend the government and Legislature of Manitoba for demonstrating timely, farsighted and meaningful leadership in taking concrete action on what is the most pressing environmental issue facing Manitobans and others with whom we share the earth. Thank you.

Madam Chairperson: Thank you for your presentation.

Do members of the committee have questions for the presenter?

Hon. Jim Rondeau (Minister of Science, Technology, Energy and Mines): No, no, I'll let Mr. Schuler go first.

Mr. Ron Schuler (Springfield): Thank you very much, Harvey, for coming out this evening. I'm sure there are many other things that you could be doing–getting a garden ready, planting flowers–other than coming to committee, and we always appreciate hearing from the public.

I found on your last paragraph, and it's one of the things that I know we've sort of heard a lot about over the last 10 years, and that has to do with biodegradable going into landfills. There was a discussion, and I know quite a few communities pick up biodegradable separately and then pick up the garbage. What you are saying here is you're recommending that that not be the case?

Mr. Stevens: Sorry. We're recommending quite the opposite. We're noting in the second last paragraph that capturing landfill methane is fine, but what we need to do is be diverting organics from landfills with a more comprehensive and aggressive program of diversion.

Mr. Schuler: I guess then the argument is is that you reduce the amount of garbage sites, No. 1, and with NIMBY being strong and powerful, that being one of the side effects. What do you recommend then what should happen with all the organics? The amount being collected at some point in time then becomes far too great to be using for gardens and for that kind of thing. What is your recommendation that we should doing with that?

Mr. Stevens: Well, I think in general terms, RCM would be recommending that as much composting occur as possible. We have several staff on our payroll whose sole function is to conduct composting workshops with municipalities and with private householders, in fact, to teach them how to do composting. It's our strong belief that that really is the recommended approach, the way to go.

***** (16:30)

Mr. Schuler: You know, for the committee's sake, and we do have a bit of time, one of my big concerns is electronics in landfill sites. I believe that we are going to be facing a tsunami of TVs, especially as people move towards high definition TV, flat-screen TVs. We've seen it with computers; people are going to flat screens. Is there a concern about the kind of and the volume of electronics that are going to find their way into our landfills?

Mr. Stevens: Well, Resource Conservation Manitoba certainly has had that concern. We've been pushing very hard for the last several years for comprehensive extended producer responsibility programs, that manufacturers of these products, in fact, be responsible for the cost of recovering them, the post-consumer waste that's generated, because it's our belief that if they are not the ones assuming that responsibility, then they have no financial incentive to design their products in ways that minimize the cost and effort required to recycle and reuse the materials.

Mr. Schuler: This will be my last question. I guess, as a consumer, my big problem is where do you take it? I'm fortunate. I brought my 17-inch computer screen here to the Legislature and miraculously, it was taken care off. It literally was a boat anchor. This thing was almost a foot and a half deep.

People have no idea where to take this stuff, whether it's a cordless phone, whatever electronic it is, and if you would comment on that. Where do you take it to? How do we get the public to actually not put it into the garbage bag. Should we be putting it into blue boxes? If you would just give us your thoughts on that.

Mr. Stevens: Certainly not blue boxes, but there was a collection set of depots that were organized by the provincial government last year. My understanding is that they received overwhelming support. There's another one planned for this year, but RCM's hope is that, as soon as possible, the government get on with passing the regulation for electronic waste and get a province-wide system set up for accepting those materials in a regular and consistent manner.

Mr. Rondeau: Thank you very much, Mr. Stevens, for presenting today and your look at the bill. You had stated something about the incentives to meet the targets. You are talking about the equivalent of CO_2 in spending funding as having some consequences for government. Could you elaborate a little bit on that and on how you could see a program like that evolve?

Mr. Stevens: I'm afraid I can't much because we have not had much time to consider this. It's an idea for others to reflect on and take up. But, in general terms, the notion is, I'm thinking of, for example, when industry's been on a project, the notion of a performance bond where you post a sum of money, and if you don't meet the requirements, then you forfeit that.

I mean, this is another notion of basically trying to provide the government with way of–basically a penalty. If you say, we have a target; we are going to meet it, we know what human nature is like. You don't meet it unless there's consequences. This was just an idea for people to look at. If you don't meet it, then pay a price. I think it's doable because we know that there's the carbon emission trading schemes.

They put an actual price on a tonne of carbon, so we have an actual price that we can apply to this. The government will know by how much it's fallen short of its target of 16.9 megatonnes. It's a fairly easy calculation to make if you've established what your actual level of emissions is. By the end of 2012, you know what the shortfall is. You can multiply it by the cost of carbon. You've got an easy calculation. What would be important is to them to have that money dedicated to financing the programs that are intended to meet the reductions in emissions.

Madam Chairperson: Thank you. The time for questions has expired. Thank you.

Mr. Schuler, state your point.

Mr. Schuler: Madam Chair, this is a bill that does not have very many presenters. In fact, there are two. I think one or two more questions would not be out of order. I would ask the committee if there was leave if my colleague could ask one or two questions. Again, there's not a long lineup of presenters, and I think the more information we can get on this legislation, the better it would be.

Hon. Andrew Swan (Minister of Competitiveness, Training and Trade): I know Mr. Schuler wasn't in this committee last night, but there were also a number of people that presented last night. We have 25 presenters, some of whom, I believe, sat through six hours of committee last night. I think in fairness to all presenters, it's appropriate to stay within the time guidelines, 10 minutes to present and five minutes for questions, so we can get on and make sure we treat every presenter fairly.

Mr. Leonard Derkach (Russell): Madam Chair, Mr. Swan may also recall that in last evening's presentations, we did allow for extensions. As a matter of fact, we allowed for presenters who hadn't been on the list to present. So there was flexibility last night. I guess we're asking for that same consideration today to allow for a few extra questions. My goodness, there are only two presenters on Bill 15 on the list, surely we could allow for another two or three minutes for a question from this side of the House.

Madam Chairperson: On the point of order, there was no point of order, but if it is the will of the committee to give leave for the speaker to answer a few more questions. What is the will of the committee?

Some Honourable Members: Leave.

Some Honourable Members: No.

Madam Chairperson: Leave has not been granted.

Mr. Schuler: Let the record stand that the New Democrat member shut down leave.

Mr. Swan: Let the record show that New Democrat members are showing consideration for the various witnesses who've sat through many hours of committee and who hope to get on to present in a timely fashion tonight.

Hon. Christine Melnick (Minister of Water Stewardship): I also wanted to shed some light on the individuals who presented last evening who weren't on the list. They had felt that they had, in fact, registered. They felt that through a misunderstanding they didn't end up on the list. That's what happened last night. It wasn't extra people being allowed on.

Mr. Schuler: That is eminently reasonable. That's all that we're asking for this evening. It's unfortunate that we're going to have tyranny of the majority by New Democrat members. They're going to stomp everything down. I think that's unfortunate and it's not reasonable. I appreciate the minister's reasonable approach to yesterday evening.

Mr. Cliff Cullen (Turtle Mountain): Even our presenter here pointed out in his presentation that they haven't felt that they've had time to have a look at this particular legislation.

It's unfortunate that we have Manitobans who do take the time to look at this legislation, but at the same point in time just don't feel they have the time– are allowed enough time to review the legislation.

I think it points to the fact that the current system we have here, in terms of bringing legislation forward, bringing it through to committee, just isn't quite working. It's not working for Manitobans, and it's very frustrating for us as legislators as well.

I think it's time that this whole procedure is reviewed so that we as legislators have the opportunity to thoroughly review legislation that's brought forward so that we have a clear understanding of the intent of the legislation and that Manitobans, in fact, who ultimately will pay the price for legislation that's brought forward, have the time to review these documents and, in fact, have the time to adequately review it and bring forward changes that they think are necessary.

I think the presenter brings forward a very important point. I think it's an issue that we and the legislators should all have a look at in terms of the process.

Ms. Melnick: What's clearly not working are the tactics that we're seeing on the other side of the table that are keeping people from presenting last night and today. I think that we should all acknowledge that rules were agreed upon that have been longstanding and make sure that the folks today don't end up waiting hours and hours like they were forced to last night because of members of the opposition.

Madam Chairperson: We are entering into debate. Leave was not granted. Let us continue with the presentations.

Point of Order

Mr. Derkach: On a point of order.

Madam Chairperson: State your point, Mr. Derkach.

***** (16:40)

Mr. Derkach: Excuse me?

Madam Chairperson: Mr. Derkach.

Mr. Derkach: Thank you. First of all, Madam Chair, your tone with regard to state your point, is a little bit aggressive, and I say that in all sincerity. I've been through many committees and I've never seen this kind of attitude. So I state that for the record.

Secondly, Madam Chair, my point of order is that the government is trying to bully the opposition, as is their nature, into shutting down any debate on this legislation that they can. Now, it is well known that the government this year, for the first time, was bringing forward legislation a week before the deadline date for legislation was agreed to in terms of second reading.

Second reading on bills was occurring the week prior to a deadline that had been set through negotiations, Madam Chair, and it did not allow enough time for us as opposition members to scrutinize the legislation and to come forward with any kind of meaningful response to that legislation. I remind you that even in debate in the House, we were not able to debate the bills in the House because we had run out of time. The government could not arrange its business in an orderly fashion to allow members to speak to the bills that were before the House.

Now, that's not a criticism that's unwarranted. It's a criticism that is necessary because members of the Legislature were not given enough time to debate legislation in the House because the legislation was not given second reading until very late in the session.

So, Madam Chair, it is for that reason that we are requesting that Manitobans who step forward to make presentation on these bills in committee be given the latitude to be able to not only present their entire presentation but indeed to also have the opportunity to answer some questions that we legitimately have because we haven't been given the opportunity to debate this legislation.

Madam Chair, this is a form of closure. The fact that bills could not be debated properly and the fact that on the 22nd of May all bills had to move into committee was clearly a method of closure of the government on bills that they chose to introduce late and that they chose not to introduce for second reading until a very late period of time.

So we legitimately and quite sincerely want to ensure that Manitobans and we as the opposition party have an opportunity to debate the legislation properly and to be able to ask presenters questions that, indeed, reflect their views on legislation, so that when we go back to the House in report stage or in

third reading we can then have an opportunity to thoroughly give scrutiny and due process to the bills that the government has brought forward.

I'm not reflecting on any member individually in the House. Neither do I want to, but, Madam Chair, we have gotten ourselves into this position where bills were not properly debated after second reading of the bills–

Madam Chairperson: Order, please.

As honourable members know, a point of order should be raised to draw attention to the Chair and the committee to some departure from the rules or from normal procedures. According to rule 92(2): When persons are registered to make presentations to a Standing or Special Committee considering a Bill, the Committee must allow each presenter a maximum of 10 minutes to make a presentation, and an additional five minutes to respond to questions from Members of the Committee. As an exception . . . with the unanimous consent of the Committee, allow a presenter who has spoken for 10 minutes more time to present and to respond to questions.

So you did not have a point of order.

Mr. Derkach: Madam Chair, I'm not finished my point of order.

Madam Chair, my point of order is, in fact, relevant because it deals with the extension of time that can be granted in a committee with the consent of all sides. My point of order is that I am trying to convince you as Chair and members of this opposition that unanimous consent for giving more time, more latitude, to presenters to make their case is indeed a legitimate point of order as is covered by rule 92, and this is covering that.

So, Madam Chair, I make my point to this committee, not identifying any individual member of this committee but, indeed, to indicate that if we are doing our job properly as a committee, then we have to allow for that flexibility for members to be able to speak their case and for us to be able to give due process to the legislation by being able to ask the members questions even if it goes beyond the five minutes. That is–

Madam Chairperson: You are correct, Mr. Derkach, that is, with the unanimous consent that we can extend the time. Unanimous consent has not been granted, so we cannot extend the time.

Point of Order

Mr. Blaine Pedersen (Carman): Madam Chair, I raise it then as a point of order. It's more of a question to the Chair then. There's some information presented in the presenter's information here, which I really question as to whether is correct or at least clarification on it. So, if this person is presenting information which may or may not be true, and we don't have a chance to ask the person of this question, does that mean then that this legislation is going to be based on false information?

An Honourable Member: I hope you asked that question of the taxpayers' guy.

Mr. Pedersen: Well, we ask them every day if the taxpayer–how they like to pay for a vote tax

Madam Chairperson: Was that a point of order, Mr. Pedersen?

Mr. Pedersen: Point of order or a question. What am I supposed to do with this information? Is it correct? Does it become part of the legislation, or what is it?

Madam Chairperson: Mr. Pedersen, on your point of clarification. *[interjection]*

Order, please. Excuse me. Whatever is submitted, Mr. Pedersen, to us is submitted to *Hansard* and it appears as in that fashion.

Mr. Schuler: What my colleague was trying to get at is there's a sentence that there was a reduction of 0.2 from the agriculture sector due to the conversion of agriculture lands. The question is, what is meant by that? What was it converted to? That was the question that we had wanted to ask. We had a question of the individual. We accept him as an individual who has a responsible role, represents an organization that has some kind of a vested interest in this legislation, and we just wanted to know what does he mean by due to the conversion of agriculture lands. That was what we were wanting to ask the individual. Unfortunately, government members used tyranny of the majority and shut down the opposition. We have been shut down and, to the public, if we are coming across as frustrated it's because we are being shut down by a massive majority government.

I would suggest to members opposite, take your Ukraine pins off and put them in your pocket, because they fought for this kind of democracy that we are now trying to get here at this committee. We

actually want to ask a question of someone who stated an opinion. That's what we would like.

Mr. Swan: It's been a bit difficult to hear with the Member for Russell (Mr. Derkach) putting down urban people, but let me say that I listened very carefully to the questioning. I saw Minister Rondeau actually give way so that the members of the opposition could ask whatever questions they wanted to. I suppose it's their own difficulty if they can't marshal the questions they want to ask within the time period, which I would note was agreed upon by all parties and are the rules of this committee.

So there is no point of order, and I would really like if we could get on to letting Manitobans present to us, as they've been waiting many, many hours to do.

***** (16:50)

Mr. Derkach: Well, you know, Madam Chair, if the tyranny of this majority would just subside a bit and allow for the questioners to pose their questions. You know, we have just gone through at least 10 minutes here of wrangling back and forth where we could have used that time much more productively in asking questions of the presenters.

We are frustrated, Madam Chairperson, because of the way in which the government is treating the opposition. I'm not going to try to recap what the Minister of Competitiveness (Mr. Swan) said from his seat but even the comments and their attitudes reflect the arrogant attitude of a government that is using its sheer majority to plough through legislation, without allowing proper due process of that legislation.

There is nothing wrong with allowing–we have done it in the past, we did it in years before where people who presented before this committee and before committees of the Legislature were given flexibility. Members of the opposition were given flexibility; members of the government were given flexibility to question the presenters beyond the five-minute limit, provided that it was agreed to by both sides.

This is all we ask. The last 10 minutes could have been invested into asking questions, meaningful questions, so that information could be gleaned so that we could better make our views known on the legislation and better be prepared to vote either for or against the bills, based on good, accurate information that we gleaned from Manitobans.

Madam Chairperson: Leave–there is no point of order. Leave was not granted to extend the time. Rule 92 allows for unanimous agreement. There was not leave given.

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Madam Chairperson: We are continuing with the presenters. I would now like to call upon Curtis Hull, Climate Change Connection.

Do you have materials to distribute?

Mr. Curtis Hull (Climate Change Connection): Yes, I do.

Madam Chairperson: Thank you. Order, please. We have a speaker. Would you please proceed with your presentation.

Mr. Hull: Distinguished and honourable committee members, my primary purpose in coming before you today is not to debate or comment upon any specifics within this bill. I think that was done ably and completely by the submitter just previous to me, Mr. Stevens. Instead, I'm here to support the direction in which this bill is taking Manitoba.

The most important aspect of this bill is that it sets a numerical target for emissions reductions. Once this target is accepted, all actions within the province must align with this objective. Initially, all provincial government departments will need to review their operations and specific regulations with this in mind. Interdepartmental efforts and resources will need to be co-ordinated but, more importantly, it is my hope that the consequences of this bill will be to direct all Manitobans to make changes.

I have heard other submissions to this committee point out how this bill will bring changes to their businesses. They are correct. Changes are coming; it is not this bill that is driving those changes. Status quo behaviour, technology and infrastructure are no longer appropriate for the world today, for this province or for future generations; not all of the changes are negative. There are a lot of positive business opportunities.

You have heard submissions that quote numbers. Get used to it. There are a lot of numbers involved in this issue, but look carefully at those numbers. What we need is an overall reduction in greenhouse gases, mostly carbon dioxide, methane, and nitrous oxide.

To do this, we primarily need to reduce our consumption of fossil fuels. In the case of automobiles, it doesn't matter if you drive an old car,

a new car, a Hummer or a Prius, every litre of gasoline burned produces 2.5 kilograms of carbon dioxide.

The causes and cures of climate change are not within Manitoba's borders. Manitoba is a relatively small contributor of greenhouse gases; however, there are big changes coming and Manitoba needs to prepare for them. We must start to make changes in behaviour and infrastructure now while we can plan them and afford them and not wait until the changes are forced upon us by the outside world. This bill sets an example for the world and makes me proud to say I am a Manitoban.

Now I have a few comments and facts to put this in context, and I feel compelled to do that because of some submissions that I heard last night. Contrary to one of the previous submissions, the time for debate is over, except perhaps in the popular press. The Intergovernmental Panel on Climate Change, the IPCC, fourth assessment reports released in 2007 were based upon 29,000 sets of data, much of them collected since 2002. This historic achievement is the work of 2,500 scientific reviewers, 800 contributing authors and 450 lead editors from 130 countries. Two facts are abundantly clear to the independent, peer-reviewed scientific community. The climate is changing quickly and a key reason for this rapid change is human behaviour.

There's a difference between weather and climate. Climate is an average of weather over time. Predicting the weather is like predicting the motion of a single atom of water. Predicting climate is like predicting the behaviour of a glass of water.

Also, there is a reason this issue is more aptly called climate change rather than global warming. The climate of different areas of the world is predicted to change in different ways. In fact, most computer models project a localized cooling in some parts of the world, including some parts of Manitoba, for some period into the future. However, some very sensitive parts of the world, such as the Arctic and the northern parts of our own province show and must anticipate warming that is far greater than the world average.

Why this bill is important. A high probability of potentially catastrophic events on both humans and ecosystems would be reached if global temperatures rise by more than two degrees Celsius above pre-industrial levels. Temperatures have already increased 0.74 degrees in the last hundred years. A 2 degree Celsius rise is the point at which some of the most devastating and dangerous processes brought on by climate change would become unavoidable. These include: the risk of water shortages for between 2.3 and 3 billion people in terms of drinking water. Some of this may be from changes in rainfall and evaporation, some from disappearing glaciers. The disappearance of glaciers would imperil people who depend on their melt water. This includes the people of Manitoba, not for drinking water, but a significant portion of our precious hydro-electric resource depends upon glacial melt water.

Climate refugees. Even if Manitoba is not as severely affected as other parts of the world, what would people south of us do if they were no longer able to grow enough food to feed themselves?

Up to 30 percent of the earth's species could face an increased risk of extinction.

Above 2 degree Celsius at least two key positive feedback mechanisms may pass the point of no return. These mechanisms would accelerate the warming without any involvement from us. There's the melting of the Arctic permafrost which would begin to release massive amounts of methane, and the Amazon rainforest, if it collapses, would remove the ability of huge quantities of trees to absorb carbon dioxide and their decay would result in more carbon dioxide. Contrary to the modest objectives of this bill, there is a compelling argument that says to prevent this 2 degree Celsius temperature increase, we in the rich countries must reduce our greenhouse gas emission by 90 percent by the year 2030.

That's George Monbiot in his book *Heat.* In conclusion, time is running out to work on this climate change issue in a planned and affordable way. I suggest, in fact, that the objectives of this bill are, in fact, modest and represent the minimum that we must achieve in the immediate future. We also believe that this bill is not all that is required to bring the changes needed, but it is an essential step in that direction. I think the previous presenter, Mr. Stevens, listed some of those areas which, I believe, aren't in this legislation, but I'm anticipating will be in subsequent legislation. He spoke at length about agriculture.

Please support this bill as I do. Some day your children will thank you.

***** (17:00)

Madam Chairperson: Thank you for your presentation.

Do members of the committee have questions for the presenter?

Mr. Cullen: Thank you, Mr. Hull, for your presentation. You indicated that the numerical target for emission reductions is an important aspect to this bill, and our understanding of this particular bill is that only 5 percent of those reductions will be required before the next provincial election, leaving 95 percent of those reductions required after the next provincial election. I'd just like to get your thoughts into the slow uptake on that particular avenue in terms of the reductions going forward.

Mr. Hull: Part of the issue relates to the metrics and the ability to measure the reductions in a timely fashion. The most recent available data is 2005, unfortunately, and there is a time-lag. There's also a certain time-lag before certain measures that are put into place now come to fruition and actually result in reductions of greenhouse gases, but you are correct in that this is an ambitious time line that we've set before us.

Madam Chairperson: Excuse me. A reminder, if you have a cell phone, please turn it off or turn it to vibrate.

Mr. Cullen: Well, I guess my point was, I don't think it's that ambitious if we're only trying to progress to 5 percent of our target within the next four months or, pardon me, four years. I think that leaves a little bit to be desired.

I guess the second part of the question is, this bill doesn't talk about any penalties if the government doesn't reach those targets, and I'm wondering what your view is on penalties that should be associated with this. Right now, under this legislation, the minister can select his own targets and there're no repercussions if the minister doesn't meet those targets.

What's your organization's view on proposed penalties for this particular legislation?

Mr. Hull: In terms of my organization, we haven't spoken about that specific subject, so I can't speak about the entire organization on that one–the steering committee of my organization.

In my own personal view, I would have to say that having the ability to have consequences for targets not met is just in general a good idea. That's my own personal comment.

Mr. Cullen: You know, it's certainly good for us to set targets and reduce greenhouse gas. My concern going forward is, are we going to be tying our hands here in terms of future economic development? So where does the whole process of economic development going forward, how do you balance that with the goal of reducing greenhouse gases? Obviously, if we as an economy are going to move forward in Manitoba, a component of that will be potential for greenhouse gas increases.

How do we balance moving our economy forward versus this particular legislation where we actually want to reduce greenhouse gases? I'm just wondering how you see that being balanced.

Mr. Hull: Well, there's a supposition in the question that the reduction of greenhouse gases will result in a negative impact on business, and I suggest that there will be a shift in business, that certain established businesses–old-world businesses, if you will–will suffer a decline. However, I do believe that there is abundant opportunity for the business community in this challenge that we're facing. I mean, if you just take a look at automobiles. If the automobile fleet is obsolete because of the way that it's being propelled, the energy that it uses, if it has to be replaced, for example, wouldn't there be an opportunity for business that's geared for that to take advantage of that opportunity? What I'm suggesting is that forward-looking business would grasp this, just as I see it, as an opportunity and take a look at how they can fulfil the need that's before us and profit from it.

Mr. Pedersen: I guess I didn't really pay that much attention to physics and chemistry when I was back in school, but I always had figured out that a litre of gasoline weighs less than a kilogram. Can you explain to me in here on your second-last paragraph of page one: Every litre of gasoline produces two and a half kilograms of CO_2.

Can you tell me how you get less than one kilogram of gasoline turning into two and a half kilograms of CO_2?

Mr. Hull: Yes, it's a surprising fact, isn't it? This is how I understand that it works. Basically, gasoline is largely carbon. It's a hydrocarbon and hydrogen weighs next to nothing. Carbon is the heavy element in that hydrocarbon long chain. Its atomic weight, I believe, is 16. The atomic weight of oxygen is 12. *[interjection]* Is it reversed? Thank you. Thank you very much. Okay, the atomic weight of carbon is 12. The atomic weight of oxygen is 16. The production of carbon dioxide involves bringing oxygen from the air, combining it with the carbon and producing a

new element; therefore you wind up with almost a tripling in the atomic weight.

So you take a litre of gasoline which is basically a kilogram, and then you combine it with almost two additional kilograms of oxygen, and you wind up with 2.5 kilograms of this new compound.

Madam Chairperson: Thank you. Our time for questions has expired.

Mr. Derkach: Madam Chair. Is that the last presenter on Bill 15?

Madam Chairperson: Yes, it is.

Mr. Derkach: Thank you.

Madam Chair, I have a motion. In view of the importance of this bill and in view of the presentations that we have heard regarding the bill and some of the issues I think that this bill either is not addressing or perhaps is addressing in a way which impacts not only on Manitobans but, indeed, could have an impact on people who live in greater Canada, I believe very strongly that Manitobans outside of the Legislature should have an opportunity to have access to debate on this bill, because this bill has such critical importance for Manitobans throughout.

***** (17:10)

So, therefore, I move

THAT this committee recommend to the House that Bill 15, The Climate Change and Emissions Reductions Act, be withdrawn and that public hearings be called across the province to ensure proper scrutiny of the proposed legislation and that a report be tabled in the House in the fall 2008 sitting.

Madam Chairperson: It has been moved by Mr. Derkach

THAT this committee recommend to the House that Bill 15 be withdrawn and that public hearings be called across the province to ensure proper scrutiny of the proposed legislation and that the Committee on Social and Economic Development table a report in the House in the fall 2008 sitting.

The motion is in order. The floor is open for questions.

Mr. Rondeau: I'd like to speak a little bit to the motion. I know that the member might not be aware of this, but we started this session on April 9. April 11, the bill was introduced. I know the member opposite has troubles with the e-mail, but it has been on a Web site, on the front page of the government Web site since that date. I do have a copy that he had in paper form.

The plan, which is here, I can send it to the member opposite. Again, he has troubles with the e-mail. I would be happy to provide him a paper copy of the plan. I know he had troubles with the e-mail. The plan is on the Web site for all Manitobans to receive. I know that I did a briefing of not one but two critics. I provided a side-by-side to the critics.

In fact, it's interesting to note that, on the back, you say there're not enough consultations. I would like to provide in size 8 font–I have to use size 8 font–there are seven pages of groups that have had meetings. There's a group on agriculture; there's a page of agriculture on size 8 font. There's a group on business, which is a page of size 8 font on businesses that were consulted and had discussions on this.

NGOs, there's a half a page of that. There are exhibitors; there's another page of municipalities that have been discussed and had input on this. On northern and First Nations, there's a group of people who did that. There are sustainable roundtable discussions. Lo and behold, the transportation group has another page of contributors and people to discuss this from transportation.

There's also the community economic development, community governments, different governments, other non-Manitoba sectors that we've been doing that has nothing to do with the western climate change, et cetera.

I'm pleased to see that the member last night said there was no such thing as climate change. I know he was excited when the Canadian Taxpayers Federation said there was no worry about climate change. I'm shocked that the members opposite want to delay action.

We've just heard a number of presenters who said that we needed to move forward quickly on climate change. I'm glad the Tories have said that there's no such thing as climate change; they want to delay action on climate change. They want to do nothing. I know the members did nothing when they were in government; in fact, they were ninth out of 10 on energy efficiency. I know they did nothing on efficiency on buildings, so I'm happy that the members do want to take action on climate change. I know that you are there.

It's amazing that the Tories are demanding delaying action on climate change. I'm proud to be a government that wants to move forward on this. I'm proud to be a government that's leaders. I know when the member was in Cabinet, you were ninth out of 10 on energy efficiency. I knew that you didn't do anything as far as windmills and I know that you crow about windmills now, but you did nothing.

I am pleased to hear–*[interjection]*–I am pleased that the member wanted to talk, but now doesn't want to listen. I am pleased–*[interjection]*–I am pleased to see that we have got a good plan. If the member needs to, I can send you the paper copy. I can send you the paper copy of the bill, but they've been on the Web site, in fact, the front page of the Web site for many months. I'm also pleased that my staff have gone through consultations with multiple partners, multiple groups that have discussed this province-wide.

Madam Chairperson, I'm shocked by the member who wants to continue to do nothing. They did nothing when they were in government, and I'm pleased that we have a plan and we're moving forward. So I would vote against this.

Mr. Derkach: Well, I don't know whether the minister has been into some sauce or what he's been into. In the way he has been speaking, you wonder, Madam Chair, because at no time did I suggest to the committee last night that there wasn't an effect on climate change. I didn't suggest that at all, and I don't know whether the minister was listening or whether he's just delusionary.

But, Madam Chair, let me also indicate that although the minister says he had consultation with many groups–and I take him at his word for that–last night, when we had presenters before the committee, we asked the question on whether or not they were consulted on the impact that this bill would have on their industry, and in more than one case, the answer was no. The minister, then, from his seat–he didn't have the courage to put it on the record–said that he did consult with them. Now, in other words, he was calling the presenters less than truthful.

Madam Chair, I take the presenters at their word and when they say that they did not consult with the minister on this legislation, I believe them.

Madam Chair, secondly, this bill has an impact on a lot of Manitobans. Now, the member says it's on our Web page. We know that. That's not an issue, but when did the minister bring this bill into the House for second reading, and did he bring it in in time so that there could be adequate debate in the House? The answer to that is no, because the House was shut down from debate on the 22nd of May, and all bills at that stage were moved into committee whether they were debated or not. That was not our call. That was the call of the government.

So, Madam Chair, it is in that spirit that we are trying to ensure that Manitobans have a say as to the elements of this bill and to ensure that this committee–and the minister may think that because he's got a majority in his government he can ram through legislation, that Manitobans shouldn't have a say in it, Manitobans shouldn't have input into it, but that's not democracy. Today, we had before our Legislature a man from Ukraine, the President of Ukraine, who has fought for democracy to the point where his life was threatened because of his stance on democracy. I'm proud to wear two pins today, one being the pin which represents Canada and Ukraine because we support democracy; the other, the Holodomor, where people who did not believe in democracy tried to obliterate a population who wanted and cried out for democracy. I wear those pins proudly today, and today the government is trying to shut this committee down, trying to exercise its power and its numbers to shut down the debate in this House and in this committee.

We will not allow that. Madam Chair, we have every right as legislators in this province to demand that proper public scrutiny is given to the bills that this government, this undemocratic government, wants to bring forward. I'm sorry to call them undemocratic, but that's exactly how they have been acting since they were elected in June of last year. That is regrettable because we believe that Manitobans have every right to be able to give due diligence through their elected members.

Madam Chair, the people who are elected by the people of this province have every right to come before this committee to state their views in this committee to make sure that we hear and understand what it is Manitobans are truly telling us about the legislation that the government is proposing.

But we have seen evidence in this committee in the last two days of anything but democracy, because every time we ask for leave for people to be able to have their time extended or to be able to ask them another question, members like the Minister of Competitiveness (Mr. Swan) move in very quickly to shut down that debate and to ensure that Manitobans

aren't given the opportunity to bring their views forward. They aren't being given the ability for us to ask them questions, so that, in fact, proper information can be put on the record, so that when we go back to the House, we can give this bill the kind of scrutiny that it deserves.

***** (17:20)

Madam Chair, this is not the only bill. We have seen other bills come before this committee, and that's the same treatment that the government is giving the other bills. It will not allow any flexibility unless it's in its best interest to allow that flexibility for people to have extended time to speak to a bill.

Last night, we saw the Minister of Competitiveness speak out when a member did not take his full 10 minutes to make the presentation. He then decided that it was okay to allow for an extension of time for questions so that person could get more than five minutes of questioning. But it wasn't good enough for members who had taken up 10 minutes of time in their presentations, because perhaps their presentations were more thorough, perhaps their presentations dealt with more points, but they were not given the ability to be questioned for more than five minutes.

The minister thinks that he can pick and choose when he decides to give somebody latitude and when he decides to give somebody flexibility in making a presentation. He doesn't have that right as an individual around this table. This table is made up of committee members from both sides of the House. It's both sides of the House that should be dealing with this information, not just the minister himself.

So that is why I think it's important that this bill be taken out to all Manitobans so that Manitobans can, indeed, have input into this legislation, rather than this being shut down by a government that is starting to act like a very undemocratic government and using its majority to try and force legislation through without giving legislation the proper scrutiny that it deserves. Thank you, Madam Chair.

Mr. Cullen: Well, Madam Chair, I, too, want to speak in favour of the motion brought forward by the Member for Russell (Mr. Derkach). I think it's fairly clear. We've had two presenters here today, both Mr. Hull and Mr. Stevens. Their submissions indicated that they really felt they haven't had adequate time to do justice to this particular legislation.

When you do look at the legislation, it is certainly an encompassing piece of legislation, 18 pages in the document alone. In fact, it encompasses a number of other acts as well. It certainly will involve all Manitobans to some degree and many Manitobans to a very significant degree. When we talk about the business community, certainly they will be impacted very profusely by this particular legislation. We've had two presenters here indicate quite straightforward that they felt that they needed more time to review the bill. Obviously, when we asked them questions about specific issues regarding the emissions and the time of those emissions, it appeared that they would certainly like some more time to evaluate that.

When we quizzed them about some of the penalties going forward, they felt that those sorts of issues should be addressed because the issue of penalties in entirety is lacking from this particular legislation. Again, it's one of those feel-good pieces of legislation that this government likes to bring forward. Put a nice, fancy name on it, and Manitobans will feel good that climate change is going to be addressed in Manitoba.

But, as we know, quite frankly, this bill here is cherry-picking segments of industries and businesses around the province. It doesn't really deal with the wide issue of greenhouse gas emissions. There are so many things that are lacking here. The minister went through a list of people that he said that they have consulted with. Well, we certainly sitting on this committee and as opposition critics, we would like to see those submissions that those other agencies or those groups or those individuals brought forward to the government. I think that would be very worthwhile if the minister was prepared to table those submissions, those consultations that he has apparently had with organizations.

I guess I almost have to second-guess the minister when I hear two presenters today that have a very valid, very important stake in greenhouse gas emissions, I would think would be some of the first industries, first companies that he would be consulting with. Quite clearly they told us today that they felt that they haven't been consulted, and they haven't had the opportunity to review the full impacts of how this legislation might move forward.

I think the Member for Russell raises a very valid point, where we should be setting aside this legislation, bringing it back in the fall. We'll have time, ample time to consult with Manitobans. I'll give you an example. Just last night, talking with some people in my home community, and they

weren't aware of this particular legislation going forward. So I brought it to their knowledge, and there are a couple of individuals there that would like to make a presentation to the committee because it affects them. In fact, one individual was a municipal reeve, and he wasn't aware of this particular legislation coming forward. He has a very vested interest in this particular legislation. He represents a fairly considerable portion of Manitobans, and, obviously, he should be at the table representing his constituents as well. I think, again, the member's motion is certainly very valid.

The other thing that I think the committee should be aware of, and Manitobans should be aware of, that the Canadian government is currently in debate over our greenhouse gas emissions and how things might move forward. Obviously, whatever the outcome there is, there is going to be a significant implication for Manitobans, and I would guess that it's going to have fairly substantial implications on this particular legislation and how it plays out in Manitoba. I think it's an opportunity for not only the government, but us as opposition members to have a chance to discuss the situation with the Government of Canada as well and see how there might be some interaction between the current legislation that is brought forward here and the legislation that is going to be brought forward at the federal level.

You know, there're just so many issues here that aren't addressed in this legislation, too, and I think that's part of the frustration that Manitobans sense. There's so many things that are so vague. We look at the advisory committees that the minister can set up. We don't know exactly who's going to be appointed to those, what role those advisory committees are going to play. The minister has the ability to set up his own regulations. He has the ability to set up his own mandate in terms of what the regulations are going to look like and what the emissions levels are going to be and then, again, there's no repercussion for that. A lot of those things are so vague in the legislation that I think Manitobans have the right and the responsibility to ask those questions and, I think, over the course of the summer they should have that opportunity, so I certainly want to speak in favour of the motion by the Member for Russell (Mr. Derkach).

Mr. Pedersen: I would certainly like to speak in support of this motion. While the motion reads to take this out to the country for hearings, when the Member for Russell was speaking before and talked about taking the bill to the country for hearings, there's often comments made across the table and the comment that was not on the record but was made by the Member for Wolseley (Mr. Altemeyer) was something to the effect of taking somebody out to the back 40 and being shot. I think that's pretty bad, Madam Chair. If that's indicative of the attitude of this government, it's no wonder they try to ram through this legislation. They shut down presenters. They don't want to hear from the public. They don't want to hear from the opposition. Apparently, they know better than everyone else. Obviously, certainly that's the attitude, and if that's the attitude they have, that's very regrettable.

There's been a number of presenters that have come to this committee that have emphatically stated, and we can take them at their word, I believe, that they've had no input into this bill in spite of what the minister tries to tell us about his extensive consultations when the stakeholders that will be affected by this bill, read about it in the press. I hardly think that that's meaningful consultation. We've heard from many different presenters, and really from both sides of the spectrum, saying the bill is too ominous, and from others who say the bill doesn't go far enough. So the idea of taking this out for further consultation, you will never please everybody. We all know that, but, at the same time, you need to strike some sort of balance in this, and taking it out, delaying this bill, putting it out for consultation to the public is a solid move.

Time and again we hear about how the federal government is lagging on this. The minister's told me numerous times that the low-speed vehicles, it's the feds fault why they can't do them, why they can't get them licensed here in Manitoba. Yet, this bill, as I read it and as I understand it, will set Manitoba standards for emissions and for standards that will be offside with both the federal government and with the North American market. We've heard that from presenters that have real concerns that their vehicles. They won't be able to sell vehicles in Manitoba because of this, except Manitoba Public Insurance will still be able to sell some and have on the road some 8,000 vehicles a year, pre-1995, in effect becoming the biggest dealer in used cars in Manitoba. Yet this bill doesn't address that. They don't even address themselves on this.

***** (17:30)

I raised the question about presenters. I wanted to ask a question. It's been denied, and the members of the government seem to take great delight at

poking fun or criticisms at the presenter from the Canadian Taxpayers Federation. If they were so opposed to this presentation, why didn't they extend the question period and ask the presenter questions? It's very easy to criticize the person after they've left, but if you're afraid to ask them questions, why don't you get out there and stand up and ask the questions, or maybe you don't want to hear the answers? Maybe that's why you've shut it down.

As I understand it, the bill briefing was a bit of a sham on this. The spreadsheet raised more questions than answers from the minister, and for a bill to be rammed through the Legislature and not being able to answer questions in regard to the bill is disturbing. Obviously, there hasn't been enough thought put into it.

Delaying this bill and putting it out for public hearings across Manitoba is taking it out to the people. Are they afraid of what they'll hear? If it's legitimate, if they do have good points in their bill, then take it out there and explain it to people. Manitobans are very reasonable and they will listen to reason if this is such a reasonable bill and the parts of the bill are explainable. If they can explain how they can do 5 percent emissions control or reduction in the next three years and miraculously do 95 percent in the next two years, Manitobans deserve an explanation as to how that's actually going to be done.

We heard from these two presenters today, Mr. Stevens and Mr. Hall, really questioning that as well, so it's not the lunatic fringe that's saying that this bill is not workable. Both sides have their legitimate concerns about this.

Madam Chair, it would also be interesting to hear from government members to speak to this motion as to why they wouldn't want to take it out to public hearings. I don't hold my breath on that. I don't expect them to get up. It would be great if they would explain to us why they don't need to take it to Manitobans, but I think this bill is poorly designed. It needs to be overhauled and taken a serious look at it again. If it is good legislation, I'm sure that our side of the House would support it. Thank you.

Mr. Schuler: I know there are individuals in the gallery who want to present, and I suspect they will be able to present this evening still, but I'd like to point out to the committee and to those in the gallery: there's a saying that there are two things you should never watch being made. One of them is sausage and the other one is legislation. I'll leave the sausage. You can go to your local butcher to figure that one out.

Legislation is extraordinarily dangerous if it's rushed. We have an obligation as an opposition to ensure that any legislation that goes through has been properly vetted and has been properly gone over. It is our job. In fact, our title is Her Majesty's Loyal Opposition. The minister says we should pass this legislation because evidently, when you were in government, you did nothing. I have to say to the minister that is the most childish argument that shouldn't even be made at this table when we're talking about serious issues of legislation.

I point out to the minister, because neither he nor I were here pre-1999, blue box recycling did not appear all of a sudden with this minister. It came under Glen Cummings, a Conservative Cabinet Minister. So we can dispense with this, you did nothing. But it still is a terrible argument that somehow, oh, my goodness, the minister says you did nothing. For that reason, without questioning, without doing our job, without debate, without anything, we should just absolutely agree with anything the government puts before this Manitoba Legislature.

I can tell you, for the years I've been here, and I've been here almost the same amount of time or more than most committee members, outside of the minister, he's been here a bit longer than I have, I take my job seriously. My job is to be an opposition member, to hold up legislation and say, these are the flaws. These are the problems. This is why we vote against this legislation. We are elected. We elect a government and we elect an opposition. The government should take its job serious, for them to defend that they do. It's important that the opposition take its job serious. What stands between tyranny and the public is a strong opposition, and thus we are at this table opposing.

Opposition comes in various forms. We have seen in the last 10, 15 years amazing forms of opposition. We've seen thousands, tens of thousands of people rattling their keys in a town square, that was their opposition. We have seen candles being lit and people walking through the streets with lit candles. We've heard about the Orange Revolution where young people out in the town square, freezing, opposed what was going on by their government.

We in Manitoba are fortunate because of history. Because of those who went before us, we are

allowed to oppose in what I would call a little bit more civilized fashion here in this Legislature. We have this committee, and it is our job to put forward the kinds of things that we've been putting forward.

This legislation is very encompassing. It has not had enough public scrutiny. The minister, the fact that he hit a cow with his car, hardly makes him a cook of hamburgers. His lists and lists and lists of people that they drove by and evidently consulted with, he hasn't put one shred of proof that he consulted with any of them. Not one document, nothing has been put on the table. So we don't know what's been consulted and who has been consulted and who hasn't been consulted.

We have been elected to protect the public from a massive majority government. We sit across from the government that the people chose many members of, but that doesn't mean that our resolve should be any less at this committee. We as an opposition should have a strong resolve. If there are two independent members from the Liberal Party or 19 members of the Conservative caucus, we must still stand in this Legislature and do as our title says. Our title is Her Majesty's Loyal Opposition. It's been developed by custom over hundreds of years. We will sit at this table and fight for that because, perhaps, after the next election, and I would say, hopefully after the next election, the roles will be reversed and then it will be members opposite who will then have the right and the privilege and the responsibility to be in opposition.

Why are we opposing this legislation? Madam Chairperson, 95 percent of what this legislation speaks to, 95 percent of it comes after the next election. Shame on the government for saying we can, in four years, achieve 5 percent, perhaps. The next 95 percent, we're going to shove off on another generation of elected officials because the New Democrats don't have the guts, don't have the forewithal to stand up and say, we're going to set up proper targets.

Madam Chairperson, 95 percent of it is shoved off after a next election. That's why we should be here and oppose it. That's why we should be standing in our place and saying, this is gratuitous at best. At best, it's gratuitous. We wanted to see something a little bit more, a good made-in-Manitoba solution, and we thought that the made-in-Manitoba solution would perhaps entail a little bit more than 5 percent. A little bit more. Even from New Democrats, we should be able to expect more than 5 percent in four years.

***** (17:40)

I say to this committee it is responsible of this committee and it is responsible of this opposition to ask that this legislation be carried over to a fall sitting, and I commend my colleague for having brought the motion forward. I would ask this committee, I would ask members of this committee to hold off on legislation that's so important. We are not passing this legislation for the next three weeks, nor will it be for the next three years. This'll be legislation that will have ramifications for tens and tens of years. Then why try to ram legislation through the darkness of night? Why get it in at the last moment? Why is it that it's being introduced and basically closure shut down on opposition. I apologize to those who have to sit here and listen to these speeches, but this is actually one of the first opportunities we've had to seriously deal with this legislation. We haven't had the opportunity that we should have had as an opposition.

So I would recommend to this committee that we look at the motion, and what's the hurry? Certainly, the government in four years without legislation can achieve 5 percent. Or can't we even count on them? Is it that they need legislation so that they can even maybe achieve 5 percent? We already know that the bar is set so low, my goodness, surely, if we hold on to this legislation for four months, you're still going to achieve your pathetic, meagre 5 percent and leave the 95 percent to another government. Surely this committee has the forewithal to allow this legislation to hold over to a fall sitting.

Madam Chairperson: Is the committee ready for the question?

Some Honourable Members: Question.

Madam Chairperson: The question before the committee is as follows:

THAT this committee recommend to the House that Bill 15 be withdrawn and that public hearings be called across the province to ensure proper scrutiny of the proposed legislation and that the Committee on Social and Economic Development table a report in the House in the fall 2008 sitting.

Shall the motion pass?

Some Honourable Members: No.

Some Honourable Members: Agreed.

Madam Chairperson: All those in favour of the motion, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

Madam Chairperson: In my opinion, the Nays have it.

Formal Vote

An Honourable Member: Could we have a recorded vote, Madam Chair?

Madam Chairperson: A recorded vote has been called for.

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

Madam Chairperson: The motion is accordingly defeated.

*** * ***

Mr. Pedersen: I move

THAT this committee recommend to the House that The Climate Change and Emissions Reductions Act be carried over to the fall session and this committee be allowed to call expert witnesses.

Motion presented.

Madam Chairperson: The floor is open for questions.

Mr. Pedersen: I think the whole point of the motion explains itself. We've tried to make our point on this, that there's been less than adequate input into this bill from when we heard the presenters. They didn't have input into it.

What is the government afraid of here? Their 5 percent in the next three years is about 1.65 percent per year. I don't think, between now and this fall, which would probably be then about 0.4 percent of emissions if they pass this bill–I don't think it's going to make any difference at all and certainly achievable, even if the bill came back in its present form after public hearings this summer and hearing from witnesses.

Mr. Vice-Chairperson in the Chair

What we're saying is that there hasn't been adequate discussion on this bill both from the legislators' point of view. It was brought in very late. Because of the timetable in the Legislature, we haven't had adequate time to discuss this bill in second reading.

If this bill is as good as what the minister claims it is, then there should be a lot of people willing to come out and support him on this. We have the opinion that there is not that mass of experts out there. We think there's a mass of experts out there who have serious questions about this bill; we just got a taste of it from the presenters that were in here. What all of us are after, both sides of the House, is we're after cleaner air, less emissions and a stronger environment for Manitoba.

To take our time on this and to make sure we get it right is reasonable, and it's also doable because this bill, as it's set up, will not accomplish what it's professing to do. Actually, what the bill is professing to do is make a statement that they have intentions of lowering greenhouse gas, but it doesn't put the mechanisms in there as to how it will happen.

What all of us need to understand is what those mechanisms will be. Therefore, put it out to people who will have sincere and honest input into this bill and can give us some solid recommendations because, as I say, between now and this fall, there is nothing to lose and everything to gain from this, except from the publicity point.

They've put out a bill; then they send out glossy press releases about how they're going to reduce greenhouse gases, except that they forget to mention that there's only 5 percent in the next three years. After the next election, somehow magically, there'll be 95 percent reduction in reaching that target, 95 percent of the target in the last two years of this mandate of this bill.

There's no reason at all why–unless the only reason for the government to do this, to ram this through, is that they really have no idea how they are going to do it and they'll just hope that everyone will forget about what their targets are. Actually, their targets of 5 percent are achievable just by doing nothing, because the average Manitoban takes it more seriously than this government does.

Fuel economy on cars will probably lower those emissions in the next three years, but there's an idea. How about getting some experts in and explaining that to us that, if over the next three years, which

would explain the 5 percent? How are you going to explain the 95 percent in the last two years?

***** (17:50)

This bill is just far too rushed; they're in a hurry. They're trying to ram this down, just like many other pieces of legislation, and they're calling committees and they're trying to ram it through.

Bill 38's another example. They need that legislation passed through right away because they're facing deficits, and the only way they can face a deficit is with Bill 38 so that, again, they can average it out to after the next election. Run deficits and then raid the Crown corporations to balance the budget, so they're just–it's a sham how this government is operating. They have no respect for Manitobans. They have no respect for the Legislature. It's really unfortunate that they've taken this attitude, but then, I guess, as some of the members have said: Because we can. And that's an attitude that they've developed, and it's offside with Manitobans.

We can only hope, by taking this out to public hearings and consulting with experts on this bill, that we can really find out and map out a plan for Manitoba that will be in harmony with the rest of Canada and with North America because we are in a global market. We cannot make made-in-Manitoba solutions that are offside with the rest of Canada and the rest of North America. While they've been able to do this the last number of years because of transfer payments, and certainly made them an island to stand on without encouraging business, we know that that's–that little parade is probably going to end in the next few years and, again, I guess that's the hurry for Bill 38 is to be able to push it through so they can handle some deficits without being penalized. Again, this government is not listening to Manitobans. We need them to listen to Manitobans. We've heard from presenters here that are very unhappy with the lack of consultation that's been provided so far, and there's no reason at all why they can't go out into public hearings and bring this bill back in the fall.

Mr. Vice-Chairperson, that's my take on this, and I would really hope that the government members would sit up and take notice and listen to all of Manitobans. Thank you.

Mr. Rondeau: I'd like to just put a couple of words on. When the member said that we're not listening to Manitobans and that he's questioned whether the workshops are there, the workshop results have been on the Web site. They have been placed on the Web site for all Manitobans to see, so I would encourage the member to learn how to use the Web. I will show you where they are on there. They've been on there for weeks. The workshops that have gone around for the different sectors of the economy, they were done. They were conducted by experts. We received consultations and feedback from Manitobans from multiple groups. Those are on the Web site. I would hope that you could do that.

The plan. The plan that I had made an offer to the opposition to do a briefing on and they did not take me up on it. In the plan there're 60 activities. This was never taken up on. I made the offer multiple times to not only to my critic, but other members of the opposition, so this was not taken up. This was done in good faith.

Other things. It was not mentioned that the Western Climate Initiative, which we're a part of, is part of the whole comprehensive strategy and, yes, we are bringing new businesses here. The interesting part is that this is a business opportunity. I'm sorry that the members opposite do not wish to do anything in the environment. I'm sorry that they wish to delay action. I would like to quote on this. This is talking about doing things in transportation. It's talking about green buildings. It's talking about standards for building new buildings, which would carry on forever. It'll talk about taking the methane gas from landfills and capturing it. It's talking about coal phase-out. It's talking about doing something off-grid. It's talking about working with the communities, getting experts. It's talking about setting up emissions credits.

I can see why the members opposite are opposing it. They're opposing it because it's something green. It's something new. I know the members opposite have difficulty with anything new. In fact, I know that there were points of order about the fact that they couldn't use their computer and couldn't find stuff on the Web site, and they had to be provided it in paper. So, I'm pleased that we not only have it on the Web site, it's also available on CD; it's also available on paper for the member opposite and the Member for Russell (Mr. Derkach). But we can have that to you, and I'm pleased to see that.

So I think it's a good bill. I want to take action now. I know the members opposite never want to take action and never want to do anything.

Finally, Mr. Vice-Chair, during the 1990s, they say they did things. Yes, they did, although the

economy went down and basically people moved out of the economy. While the Member for Russell was a member of Cabinet, the decrease of population, decrease in economic activity, the megatons went up by two million tonnes. It went from 18 to 20 megatonnes. Under our watch it's been flat, and we're trending downwards. What's nice is we're doing 60 actions. I know the member opposite, I haven't quite got you a copy, the paper copy. I trust you can use the Web site. If you can't, please let me know, I'll get you a paper copy of the plan, which has 60 different items in it. But we've had extensive consultations. We've had extensive feedback from experts, and please check the Web, and if you need the Web address we can actually have a staff member show you where it is. Thank you.

Mr. Derkach: Well, Mr. Vice-Chair, I won't engage in the condescending tone that the minister has been using in his remarks, because I do believe that members on both sides of the House use the types of information that they need to be able to make their positions known on this bill. The reason that we have asked for not only a delay in this bill till the fall, but also, perhaps, expert witnesses coming forward, because of the conflicting information that we have been hearing at this committee that was presented by members who presented last night and today, and when I hear members of the automobile association indicating that they had no consultation with the minister–

An Honourable Member: They didn't say that.

Mr. Derkach: Well, Mr. Vice-Chair, perhaps the minister would like to check, for the record, the question that was asked and the answer that was given by the dealers association, and then he would clarify in his mind what the real answer was to that question.

Mr. Vice-Chair, it doesn't give us a lot of confidence in the minister when we hear comments like that; that people were not consulted; that, in fact, there wasn't any consultation. My colleague, the Member for Carman (Mr. Pedersen), indicated to the minister a few minutes ago that reeves in his area did not know about this bill, were not consulted with, and yet the minister makes a statement that he consulted with municipalities. I mean it's easy to put a list together and say I've consulted here and there and there, and hopefully, he can pull the wool over the eyes of the committee members and nobody will check. But, when you check with those specific groups that he talks about, they look at you and shake their head and say, no, we had no consultation on this matter. So, that's why we have little confidence in what the minister says.

But, Mr. Vice-Chair, I think important to this bill is the fact that we, as a committee, can hear those expert witnesses regarding climate change so that, indeed, we can make a more informed choice when it comes to either bringing forward amendments that will strengthen this bill, bringing forward amendments that would change the bill so that it would better reflect what Manitobans are talking about in terms of this legislation, and it would, at the end of the day, perhaps make a better bill.

Now, my colleague, the Member for Carman, I think was right on the money when he indicated that, you know, we're not going to affect climate change in the next three months to such an extent that we're going to cause irreversible damage.

So there is no reason why we cannot put this bill out to the public, take it out to Manitobans, have a good and thorough discussion on this bill, and then come back to the House with a report, bring forward some expert witnesses for the good of the bill so that, indeed, at the end of the day, Manitobans are going to enjoy a better bill, one that truly reflects what Manitobans feel and how strongly they feel about the environment and how we can impact climate change in a more positive way.

***** (18:00)

The minister may talk about his Web page and he seems to be preoccupied with his little technology information issues. I can tell you that if we need to look at the propaganda on the Web page, we'll certainly make ourselves available of it and so will Manitobans. So we don't need to be lectured by this minister in a condescending way. We have caught this minister on many occasions where he has not been quite truthful even in the way that he represents things, so I don't have to go back to that. But let me just indicate that I think bringing expert witnesses forward is a prudent way to proceed and certainly that is something that I would encourage and support.

Mr. Vice-Chairperson: Just before recognizing the next speaker, I do want to remind all honourable members that we are all honourable as much as we feel passionately and have different views on the issues of the day. That said, who's next?

Point of Order

Mr. Vice-Chairperson: On a point of order.

Mr. Derkach: Yes, on a point of order. If I have offended anybody with my comments I certainly would like to withdraw them and apologize for that.

Mr. Vice-Chairperson: Technically speaking, it's not a point of order, but it is appreciated.

* * *

Mr. Cullen: Mr. Vice-Chair, I certainly want to speak in favour of this motion as well. I think the case has been made that we do need some time, and the people of Manitoba do need some time to review this particular piece of legislation, because it does cover most Manitobans in some way, shape or form. I just refer to the actual proposed legislation here and it talks about advisory committees and even under this section 19(2), the minister may direct an advisory committee to carry out public consultation before providing advice and recommendations.

Well, I think that says it all. Why do we have to implement legislation to say that we're going to have advisory committees and have public consultation? Why don't we have the public consultation before we enact the legislation and have a chance for Manitobans to bring these things forward? You know, the other thing I do want to point out that, you know, we don't always need legislation to get things done, and I'll talk about one aspect of this bill and that's the whole idea of capturing greenhouse gas emissions from landfills.

Manitoba has–yes, well I guess we're really just getting started on a little pilot in Brandon. That's about all we've got accomplished here, and, quite frankly, that was accomplished without legislation. The City of Brandon decided they were going to move ahead and try and get some things done. I don't know how well the Province co-operated with the City of Brandon, but the fact remains you don't need legislation to move things forward.

The City of Grand Forks, they've been doing this for a number of years. They've been capturing greenhouse gas emissions from their landfill, and, in fact, they've been very successful in terms of some of that energy they're collecting they use to heat other city entities, and actually selling some of those credits on the market, so actually generating income for the City of Grand Forks. We haven't got that far, but that's not because there's legislation in place to do it. That's because the government had the will to get it done. And that's why I wonder if the government of the day is bringing forward this legislation in name to make Manitobans feel good about what they're doing and what they're trying to accomplish here in Manitoba.

You know, the other aspect here that a lot of Manitobans aren't aware of is the proposed coal tax in this legislation, because there are a lot of Manitobans who do use coal, and most of those are relatively small operations, some commercial operations, some farm operations. We don't know what those particular regulations are going to look like and Manitobans have a right to know.

So, because this bill involves a lot of regulations, a lot of appointments by the minister, and leaves a lot of the discretion up to the minister, we think it's only right that Manitobans have the opportunity to review what those regulations may say. We don't know how far down the road those regulations would be brought forward by the government, but Manitobans should have an idea what implications are going to be for them in regard to those regulations, and just the fact of having this committee allowed to talk to expert committees, individuals, I think, it's just a novel approach.

Look at the debate we're having in the biofuels industry for instance, you know, every time you open up the paper one group is saying yes, this is a good thing. Another group is saying no, it's not a good thing. Well, that, I think, is something where we as a committee should be talking with the experts in the field trying to get a good consensus of where that industry's going, the pros and cons and how that will impact Manitobans and how we can develop better legislation for not only that industry but for all Manitobans.

So, certainly, Mr. Vice-Chair, I do want to speak in favour of this motion and I think it's an opportune time for us to have a broader discussion with all Manitobans and call on expert review for this particular legislation. Thank you.

Mr. Vice-Chairperson: Thank you for those comments.

Committee Substitutions

Mr. Vice-Chairperson: Just for the committee's information I'd like to make the following membership substitution effective immediately.

A substitution has been made of Ms. Rowat for Ms. Stefanson for all concerned. *[interjection]* Okay, just to be clear, Ms. Rowat will be replacing Ms. Stefanson. Yes. Okay, very good.

*** * ***

Some Honourable Members: Question.

Mr. Vice-Chairperson: Is the House ready for the question?

An Honourable Member: Committee.

Mr. Vice-Chairperson: Is the committee even ready for the question?

An Honourable Member: Question.

Mr. Vice-Chairperson: The question before the committee is as follows: Moved by Mr. Pedersen that this committee recommend to the House that The Climate Change and Emissions Reductions Act be carried over to the fall session and this committee be allowed to call expert witnesses.

Shall the motion pass?

Some Honourable Members: No.

Some Honourable Members: Yes.

Mr. Vice-Chairperson: I declare the motion defeated.

Formal Vote

Mr. Derkach: Just a count, Mr. Vice-Chair.

Mr. Vice-Chairperson: A count has been requested, also known as a recorded vote for those of you watching from home.

A COUNT-OUT VOTE *was taken, the result being as follows: Yeas 3, Nays 5*

Mr. Vice-Chairperson: The motion is accordingly defeated.

Bill 16–The Child Care Safety Charter (Community Child Care Standards Act Amended).

Mr. Vice-Chairperson: We will now move to discussion and presentations on Bill 16, The Child Care Safety Charter (Community Child Care Standards Act Amended).

The presenter that we have on the list, the only one is Karen Starr, private citizen. Is Karen Starr in the room? Give a few moments in case they are nearby. Calling the name once again. Ms. Karen Starr, are you with us?

Floor Comment: No.

Mr. Vice-Chairperson: No. Okay, her name will be moved to the bottom of the list.

Bill 19–The Liquor Control Amendment Act

Mr. Vice-Chairperson: Our next piece of legislation to consider is Bill 19, The Liquor Control Amendment Act.

Once again, we have a single presenter lined up, Mr. Fred Curry, private citizen. Is Mr. Curry with us here? Very good, and I see you have copies available for the committee. We thank you for that.

Just before we get started, since it's been a little while since we had a presenter, you have 10 minutes for your presentation and then there will be up to five minutes for questions afterwards. In between, I will need to recognize both yourself and anyone asking a question, for the benefit of *Hansard.*

Mr. Curry, please begin.

***** (18:10)

Mr. Fred Curry (Private Citizen): Thank you, Mr. Vice-Chairperson. It's Bill 19 to amend The Liquor Control Act. There's a single portion of it that pertains to safety in bars. I wish to address that portion, and it's not to anything that's actually in the amendment, but it's something that I would think is not in the amendment and it perhaps ought to be.

I took the liberty of sending electronic copies to the Clerk, to the critics for both parties and to the minister. There are embedded links in a portion of my presentation. The presentation is actually only the top two pages. The other eight pages are supplementary material, and there are links. If anybody's interested in the links, you can certainly get them from the Clerk or from the minister. I'm quite happy to send them to you.

One of my clones, I'm a city planning consultant, and I work with resident groups in older neighbourhoods right around the city, mostly north of Portage right now, although I do work in other neighbourhoods. I also spent a decade or so of my life, when I was younger and more foolish, hanging around bars, so I have certain experience there, and I work with young people so there's a discussion with people who are still working in the industry. So I have anecdotal knowledge of that.

My concern is with the "in" in Bill 19 which is safety within licensed premises, and the term "bar" excludes what we call, I think, dining room licences here. So it includes bars, lounges, cabarets and beverage rooms here, and private clubs which essentially are lounges.

The data from around the world certainly confirms–English-speaking data that's available on the Internet and in libraries–that there is an issue of safety–particularly with violence is the greatest concern– in all parts of the world and that there are design things that can be done which, although they are successful, they're not 100 percent successful, so that if you have a bar in your neighbourhood, you're more likely to have violence in that place than you would if there was no bar there.

However, the little-known fact that has emerged within the last, say, 10 years is that in neighbourhoods in which bars are located, there is a statistically measurable increase in the incidence of violence. I've attached abstracts from three studies which confirm this. Two of them are geospatial. The third one was done with hospital admissions to determine that in areas around bars, there's a higher incidence of violence, among other things. I also appended a bibliographical list from a university Web site in the U.S. Some of the items on the list are the three papers that I mention showing that there is an increase of violence in areas around bars.

There's also an abundance of literature available going back almost 30 years in the U.S. that premises that have sexually oriented businesses in them also experience a risk. I didn't bring any of the studies. I can get them. Reverend Lehotsky and I collected them for years. Reverend Gregan has a bunch of them at New Life Ministries now. I'm happy to submit any of those. I did submit one portion of an on-line adult-youth study done for Newport News which provides a summary–this is on page 8 and page 9 of my presentation–of the data from Indianapolis, the data from Austin and Los Angeles.

The data from Austin and Indianapolis are two classic studies, but, essentially, they show a significantly higher rate of crime in areas around adult businesses. Since some of the adult businesses are bars–and we do regulate adult entertainment and license bars to have adult entertainment here; private clubs and beverage rooms are allowed to have adult entertainment here–this is also an issue.

So the bars are a cause of violence in neighbourhoods, and what I would hope we could do is to regulate them following the manner which is done in the United States. So, if you look at, I think it starts on page 6 and page 7 and page 8, I included portions of the Tampa Bay by-law, which is one of the best in the U.S. I also included portions of the Los Angeles adult cabaret by-law to show that they do regulate bars there. The way they do this is by buffers.

What I'm suggesting is that, if you adopt the standards that are done in the United States to regulate things like this, what they do is they provide a buffer of roughly 1,000 feet. Sometimes it's 500; sometimes it's 1,500. It depends on the pattern of land use in the city, how much frontage is going to be available for the uses in particular, and how much of an impact they're going to have on the buffered uses.

In some cities, for example, they include, say, hospitals and cemeteries because–for example, if you talk to the guy who does maintenance at the St. James cemetery, across from there are three bars in that neighbourhood. He's got a real problem with people doing stuff in the hedges and whatnot in the cemetery, which isn't really seemly if you're going there to pay your respects to a friend, which I do occasionally. I have a friend buried in that graveyard. This guy has a problem with people sleeping and whatnot in the hedges; they do drugs; they do other things.

You provide a buffer of 1,000 feet between the bars and the uses you want to buffer. I would suggest, in our case, you can think of churches, schools, community centres, residential buildings, cemeteries and other uses like that.

Madam Chairperson in the Chair

You should also amend the Liquor Licensing Regulation 177/94, section 15.1, which has the definitions of adult entertainment in it, so that they include both kinds of adult entertainment.

There's one kind of adult entertainment where people do a dance and they show themselves off. As you know, probably since 2005, 2006, swingers' clubs, places where people can go to have consensual sex in quasi-public places is now legal in Canada. These places are springing up in Winnipeg. If you check on the Internet, you'll find out that there's at least one licensed premise that I know of in the city that has a swingers' club in it that meets several times

a year. They advertise on-line and posters are all up and down Pembina Highway and Corydon when they're having these events.

If you amend your definition to include what are called sexually specified anatomical areas and specified sexual activities–these are the two phrases that are used in the by-laws in the United States–and you forbid the licensing commission to license any adult use in a bar, or any liquor licence to a place that has an adult use in it within the buffered areas–I think if you do that, you'll be offering not just protection from the violence that is known to occur in the areas surrounding these bars, you will also offer protection to families.

A lot of people living in the neighbourhoods where these bars are have young children. There's a certain corrupting influence to people who go to bars either just to get drunk or, if they're going to a place where they think they might be able to find sex. I think if you talk to people who live in the neighbourhood, you find out the women and children get hit up.

You can prevent this by preventing liquor licences from being issued to places like this, if they're in residential neighbourhoods. I'll finish, that's good.

Madam Chairperson: Thank you. Do members of the committee have questions for the presenter?

Mr. Cliff Graydon (Emerson): Thank you very much for your patience this evening and also your presentation.

In your presentation, it would seem to me that you do have an aversion against drinking, which I don't think is a bad thing, however, in moderation, the same as anything else. I would assume that you would agree that drinking wouldn't be bad in moderation.

Mr. Curry: I've been known to have a few. Yes, I'm not opposed to drinking. The issue here is, are you going to allow–now, we're not talking about restaurants; restaurants are fine. None of the data that I've seen show that there's any problem with restaurants. The data shows that there is a problem with respect to bars which we will call lounges. We license lounges here; we license cabarets; we license beverage rooms and we license private clubs which are essentially licensed as a lounge.

***** (18:20)

Within the surrounding neighbourhoods of places like that, you have an increase of violence. The reason you have it is pretty obvious. If you're familiar–I'm talking from my experience–is that people go to bars for more than just having a drink. People go to buy and sell sex. They go to buy and sell drugs and use them. People go to fight and some people go to watch the people fight, right? Because it's like a sport. You attract people like that to live in the neighbourhoods around the bars, right? So there's drug dealing going on. There's a bunch of criminal activity going on in the neighbourhoods that has nothing to do with the purpose for which the premise is licensed, but it's causely connected to it. These are called secondary effects. So you regulate for the secondary effects. I'm not suggesting prohibition.

Mr. Graydon: Thank you for that answer. In my mind, certainly, in my personal opinion, I wouldn't want to live right beside a bar. However, bars are situated throughout the city of Winnipeg and throughout the cities in our province. They're also situated in rural Manitoba, and in rural Manitoba would you suggest that we have the same incidence of crime, sex and fighting in the bars that you have in the city of Winnipeg?

Mr. Curry: My recollection, and not about the sex and the fighting, but my recollection from speaking to people is that there is a fairly significant incidence of crime in towns in rural Manitoba. Now, I don't know if that's associated with the bars or not, but I would think–like, one of the things they do in some jurisdictions in the States is they do close down places if there's already a congregation of them in an existing neighbourhood.

If you don't have bars congregating, there would be no need to do that, although if you passed a buffer of this kind, what it would do is it would prevent more from gathering. Right now, I don't know if you know, but the City of Winnipeg has essentially passed on regulating licensed premises at all, so we're now going to be forced to come to the Liquor Commission hearings to be able to object to additional liquor outlets in the neighbourhoods in which I work. We've already spent–you wouldn't believe how much time you spend. I mean, we spend a lot more time doing that than I've been sitting here for the last couple of nights.

We've already got lots of bars. All this would do would prevent their being additional ones. Now, if the government in its wisdom decided that they wanted to do something about existing bars in

neighbourhoods by closing down a few of them, that would be fine. I'm not suggesting that you close them all down, but I think, probably, the minister with the area he represents is well familiar with some of the problem bars in the city of Winnipeg. They're not the only ones that are a problem, but there's a ton of them.

Madam Chairperson: One minute left.

Mr. David Faurschou (Portage la Prairie): There are situations currently where existing bars are in proximity to–and I will speak from personal experience–Portage la Prairie, a bar right across the back lane to the Anglican church, which has experienced significant concerns emanating from the activities at the bar. Yet, the legion, the army-navy halls, again in residential areas, none of that occurs.

What is your proposal to deal with existing enterprises that are currently located within residential areas? How would you deal with that situation?

Mr. Curry: We don't count legions. One of the neighbourhoods of which I'm speaking, very disappointed to lose their legion, but the place where the legion was is now a problem because the people that buy it keep wanting to open up cabarets or big lounges.

If there's no problem–I mean, small places would probably be less of a problem in a neighbourhood than a big place. One of the things I suggest is you might think about creating a category called an accessory lounge, because we get applications where people say, well, we want to have a restaurant, 250 seats: 100 seats restaurant; 150 seats lounge.

That's not an accessory lounge. If you've ever worked in the industry–I have–having a small seating area, if you're awaiting tables, it makes sense to have people having a couple of drinks while they're waiting to get to your section so that you can serve them. You can figure out what the percentage of the seating area in a place would have to be in order to serve that need.

That's not a problem. It's just when you get lounge after lounge after lounge after lounge, and big ones, or cabarets with a ton of people operating in close proximity to one another. Drug dealers set up turf in bars, right? So, if you have two bars close together and you have two different sets of drug dealers with their turf, there's conflict. If you spread them out and you have one dealer running the bar, you have less problems.

Madam Chairperson: Thank you. Our time for questions has expired.

Mr. Curry: Thank you very much.

Mr. Blaine Pedersen (Carman): Is there leave for one more question from the Member for Morris?

Madam Chairperson: Is it the will of the committee to give leave for one more question to the Member for Morris?

Some Honourable Members: One question.

Madam Chairperson: Leave has been granted for one question, Mr. Curry. Thank you.

Mrs. Mavis Taillieu (Morris): I thank the committee for that and thanks, Mr. Curry, for your presentation and you certainly seem to have a handle on some of the issues in regard to this bill.

I'm wondering if you had possibly been consulted in any of this before hand. It seems that this legislation is drafted in response to specific instances that occurred in specific establishments.

Sometimes when you get that kind of knee-jerk method of drafting legislation when it's just specific to one thing, then you really haven't had the opportunity to look further abroad and look into further aspects of what could be developed in the legislation.

It seems to me that you have done that, so I'm wondering if you had any opportunity to be consulted with or if you know of any public hearings that may have been conducted in regard to this legislation.

Mr. Curry: No.

Bill 21-The Advisory Council on Workforce Development Act

Madam Chairperson: We are now at Bill 21, The Advisory Council on Workforce Development Act. I would like to call upon John Doyle, Manitoba Federation of Labour. Mr. Doyle, do you have materials to pass around?

Mr. John Doyle (Manitoba Federation of Labour): Yes.

Madam Chairperson: Please proceed with your presentation.

Mr. Doyle: Thank you Madam Chair, members of the committee. We're very pleased to be given this opportunity to share with you some of our views on this bill.

The purpose of this act is to facilitate and encourage the co-operative participation of employers, employees and labour organizations in the development of government policies and strategies for developing Manitoba's work force.

This is the preamble of Bill 21, and it gives us insight into how important this bill is. It has the potential to address many issues that face the residents of Manitoba, including work force training and retention, apprenticeship and skilled worker issues and worker adjustment policies.

The Manitoba Federation of Labour is pleased to add its voice to others who support the passage of Bill 21.

Its' role is described in section 4, that is, to consult with sector councils and provide information and advice to the minister about work force trends, and about initiatives, policies and strategies for developing Manitoba's work force.

Right now, there are 16 sector councils operating in co-operation with the government of Manitoba. To our surprise, only a small number of them include work force representation through representatives of their employee's democratic structures, their unions.

This is one reality an amendment to Bill 21 can remedy. By denying labour a seat at the table in the vast majority of cases in Manitoba's sector council structure, a deep well of knowledge and expertise is going unused.

One of Canada's first, if not the first, sector council is the Canadian Steel Trade and Employment Congress, CSTEC. It was established in the 1980s, as a bipartite body made up of major steel industry employers and the United Steelworkers of America, the union representing most of the employees in that sector to present a common front over trade grievances with the United States.

***** (18:30)

But it soon became a valuable tool for the parties to use to meet a related challenge, worker adjustment in the face of large-scale steel industry layoffs. It has been documented that large majorities of the order of 75 to 80 percent of affected workers who took retraining courses through CSTEC found new jobs, either in the steel industry or elsewhere in the Canadian work force.

The point we're making here is that the parties realized added dimensions to their partnership than was originally anticipated when CSTEC was formed. That is the benefit of creating the necessary critical mass for planning by including a stakeholder as important as workers when sector councils are formed.

The reality is sometimes the horse has to be led to the water trough before it will drink. We recommend that Bill 21 be amended to include a requirement that all of Manitoba's sector councils must have organized labour or labour-endorsed representation. If a sector is not unionized to the point that makes this possible, then workers in that sector should be appointed as community representatives. Such appointments, including employee appointments made to the Advisory Council on Workforce Development, should require endorsement by employers and labour organizations.

It is not enough to say that labour representation on each sector council is not necessary since they'll be represented on the advisory council created by Bill 21. We need labour representation from the industries, which are relevant to the various sector councils from which the immediate recommendations will emanate. Otherwise, it will put an impossible onus on the labour representatives on the advisory council to be experts on all aspects of Manitoba's economy in order to properly review recommendations from each sector council.

We say this because the challenge of finding employee representatives that will truly represent the interests of their co-workers in a non-union environment is virtually insurmountable without this measure. Too often employee representatives are selected by their employers, and who they truly represent at the table is impossible to determine.

Why labour representation on sector councils is important is well-documented and obvious when what sector councils do is reviewed.

Following the successes of CSTEC, the federal government sponsored more sector councils, joint labour management bodies to create human resource strategies and address human resource issues within a particular sector. This includes the distribution of training funds, the design of sector-specific skills

programs, the design of improved sector labour market information mechanisms and the development of industry-wide occupational and training programs.

And how has this bipartite process that includes labour representatives worked out? Human Resources and Social Development Canada's Web site contains useful insight into this. I quote: "Neutral observers have concluded that the councils have been successful within their terms of reference. They have fostered a climate of trust and problem-solving within their sectors. They have improved the delivery of labour market programs, especially in sectors like steel where employment is declining. Standardized training programs have produced cost savings."

The importance of the labour and management link for sector councils in Manitoba was underscored in 2006 by a report prepared by the Premier's (Mr. Doer) Economic Advisory Council, a tripartite body mandated to provide the Premier with advice on a range of economic development issues, including skills development and worker retention. Its observations on sector councils and bipartitism are as follows: In Manitoba we want to ensure that we recognize and promote the benefit of workers through their representatives and employers being equal partners in the planning and implementation stages of a skills development and retention program. This develops a sense of ownership and commitment on the part of all parties, smoothing the way for effective implementation of the resulting strategies.

We have the following advice for the Premier: Build on the success of Manitoba's sector councils. Increase the mandate of sector councils; expand these structures to represent other areas of economic activity.

This is as timely today as it was in years past, as evidenced by a statement made by the Canadian Labour Congress following the presentation of the federal budget in February of 2008: We said that the budget should kick-start new manufacturing investment by supporting sector-development strategies and key industries like auto and forestry. We need highly targeted measures to boost real investment, not more reckless, costly, across-the-board corporate tax cuts, which mainly benefit the booming energy sector and the banks.

We also need more government support for labour adjustment and worker training. Instead of the stopgap temporary, foreign worker program, which has led to many cases of gross exploitation, we need to move unemployed and underemployed workers, especially recent immigrants and Aboriginal Canadians, into good, skilled jobs.

This is a clear call for enhanced sector councils that operate with the benefits embodied in a strong bipartite forum, the kind of strategy we urge the Province of Manitoba to adopt through Bill 21. Organized labour in Canada has a history of developing positive experiences of sector-training strategies. We will continue to promote sector skills-training councils in which labour plays an equal role with employers.

Madam Chairperson: Thank you. Do members of the committee have questions?

Hon. Andrew Swan (Minister of Competitiveness, Training and Trade): Mr. Doyle, I want to thank you and the Manitoba Federation of Labour for your efforts to improve the quality of life and conditions for Manitoba workers. Thank you for coming and presenting to us today.

As you know by this legislation, section 2 would ensure that, on the advisory council, there are representatives of each of employers, employees and labour organizations. We do agree with you that labour certainly has a place at the table for the advisory council to provide that input and advice to us as part of what we hope is a new partnership for Manitoba, as everybody struggles with the labour shortages that exist in this province.

As you're aware, there is nothing in this bill which directs how sector councils should organize their own affairs. Each sector council has made their own decision. That decision they may change over time, and I expect the MFL will continue its advocacy and encourage sector councils to, as you put it in your brief, add dimensions to their partnership.

So I wish you well in those efforts, but, at this point, we're not directing any of the 16 sector councils and maybe more to tell them how they need to organize their affairs. But, having said that, we are looking forward to a new partnership, maybe somewhere that this Province hasn't gone to truly get business and labour and government all pulling in the same direction.

Mr. Doyle: Every step forward is a positive one. We have the opportunity to take more than one step

forward, but, if the will of this committee is to limit it to one step, then we're better off today than we were yesterday. So I look forward to seeing how the advisory council works out, and I hope that I will be active in the work force long enough to see the advisory council advancing this kind of information to this and to subsequent governments.

Mrs. Mavis Taillieu (Morris): Thank you very much, and thank you for your presentation. I'm not the critic for this bill, so forgive me if I ask questions that may seem rather simple, but I do notice in the explanatory note that the bill establishes an advisory council to provide information and advice to the minister about work force trends and other initiatives, policies, strategies for developing Manitoba's work force.

From your presentation, I understand it that you have not been invited to be part of the advisory council. I'm just wondering how much consultation you had with this, and what recommendations did the Manitoba Federation of Labour make in terms of this advisory council.

Mr. Doyle: My reading of the bill is a bit different. I believe that we as the organized labour sector will be invited to participate in the advisory council, unless I've misread things, and that there will be working people that are not currently in the unionized sector also invited, so-called employee representatives.

Now, how that will all work out in terms of how these people are selected, and how the–I assume that we'll be asked to provide the names of potential candidates to be appointed to the council to sit and give the minister advice, as is the case, the process that's followed in many other appointments. For example, the Manitoba Labour Board, the Labour Management Review Committee. Our representatives are selected from a list of potential appointees that the minister seeks and we provide.

Madam Chairperson: We have a minute remaining. Mrs. Taillieu.

Mrs. Taillieu: Thanks very much. You said any step forward is a good step. You'd like to see two steps. What's the next step?

***** (18:40)

Mr. Doyle: I think the next, well, I don't know, I'd have to think about what the next step should be. But I think as a generalized statement the broader this tripartite approach, that is, representation from companies, from labour and from government, the more standard that this approach can become to a large number of issues, the quicker we're going to be in a position of we're all rolling in the same direction towards the same goal and not burning off a lot of time debating and, perhaps, even obstructing each other's activities, as has been the case in some instances over the past hundred years.

I'm not sure if that's a good enough answer, but–

Madam Chairperson: Thank you. Our time for questions has expired.

Bill 27–The Shellmouth Dam and Other Water Control Works Management and Compensation Act (Water Resources Administration Act Amended)

Madam Chairperson: Moving on to Bill 27, The Shellmouth Dam and Other Water Control Works Management and Compensation Act.

I will now call upon Antoine Hacault, private citizen. Please proceed with your presentation.

Mr. Antoine Hacault (Private Citizen): Good evening, Madam Chairperson–it says good afternoon in my presentation, but–and honourable member of the standing committee. My name is Antoine Hacault. I am a partner at Thompson Dorfman Sweatman LLP. I have over 20 years of experience in municipal assessment matters and compensation matters related to flooding and expropriation.

As indicated in the second paragraph of this memo, I tried to glean the intent of this legislation as it relates to this compensation package. In my view, the legislative drafting misses the boat. This is why I have suggested in this memo–it's a fairly technical memo. It relates language that is found in other statutes, which I have found has worked very well over those years.

If I might quickly go through some of these, so then, if there are any questions, I'd rather leave more time for questions and less time in presentation. I deal firstly with the definition of economic loss. That's a concept in this piece of legislation which will tell the EMO and other people dealing with this legislation as to what will be the source of compensation.

There are two items that I suggest changes on: Firstly, it's providing a wider definition with respect to the types of things that can receive compensation, so you'll see on the right-hand side what's been

deleted and what's been changed. That wording is taken from The Expropriation Act.

The other thing that I thought is important in this legislation is when I do work on behalf of clients, they need the resources to be able to adequately present their case to government authorities. In this kind of technical area, they would need reimbursement of adequate, reasonable costs for engineering consultants or other consultants to be able to demonstrate their views on particular matters. Otherwise, you are faced with, quite frankly, the weight and the power of government authorities and all their experts, and really don't have the resources as a small farmer that might be affected by this to properly present your case. So that's why I suggested changes to those two definitions.

I'm going on to page 2 of the presentation. Another item that may not have been considered in the legislative drafting and that's come up in some of the flood-proofing cases that I've had to deal with was non-conforming uses. People may have set their buildings in accordance with flood-proofing regulations and requirements several years ago. They've changed after the 1950 flood and after the last flood we've had. I don't think that this legislation looked at that issue. We maybe have issues where you have farmers that fully complied with flooding regulations at one point in time but, because of the way the legislation is worded, might not be entitled to any compensation. So that's an issue which I think we should look at. The reason I raise it in the legislation is that I'm not too sure whether it can be dealt with in the regulations.

The next thing that I have on comments on page 2 is with respect to what is eligible. Again, I've used the wording that's in the expropriation statute. The reason why I used the wording in there is that we've had 40 or 50 years of experience with that piece of legislation. It deals with public funds and compensation for people out of public funds. We haven't had any concerns about that legislation being unfair, either to the public purse or to the individuals, so I don't see why we would need to have a restrictive wording in this particular piece of legislation, and I take the wording from there. So the changes on pages 2 and 3, you'll see I have comments after each change as to why those changes might be suggested.

Again, at the bottom of page 3, I deal with the local building restrictions may be considered. In this piece of legislation, there are a number of different things that can be considered in refusing compensation to the owner. The one is compliance with applicable zoning by-laws and building requirements, again comes to this nonconforming use.

The next page, page 4, I'm not sure whether or not this was considered. There are some programs in which farmers and other people actually contribute some money themselves. This piece of legislation indicates that, if there is a compensation program, it has to be deducted from the general compensation payment. The question I ask is: Did we think about the situation where the individual has himself paid for insurance, there's some contribution to the government, and, in effect, because he's taken out of his own pocket to get an insurance contract and to get compensation out of that contract, will no longer be entitled to full compensation from the government under this program?

Under Autopac, for example, as it then existed, if you paid for your own insurance, that was your matter, and you could get compensated from that. In addition, you could get compensation from the third party.

With respect to appeals under EMO and flooding, there was kind of a joint co-operation between two boards. The Land Value Appraisal Commission had jurisdiction to deal with compensation claims. That is a tribunal that has a law professor on it, years of experience in dealing with these claims. I've suggested that, if after the EMO has dealt with this, instead of dealing with the act with the disaster appeal board, which presumably would only meet in disasters, which might be fairly lengthy, and they might lose the expertise they might gain in a very kind of critical time, it is to put it to this other board, which meets regularly and develops, on a regular basis, its expertise. So that is a suggestion which I make.

Lastly, there are some consequential amendments which are related to that. Those are my general comments. I know I've proceeded to this very quickly, but I've tried to put in the written presentation the suggested wording and the comments related to that suggested wording. I've tried to, in my presentation, focus more on the philosophical issues that may be, can be or could be addressed in this bill. Thank you.

Madam Chairperson: Thank you. Thank you for your presentations. Do members of the committee have questions?

Hon. Christine Melnick (Minister of Water Stewardship): Yes, thank you very much for coming this afternoon. Certainly, you've made a very good presentation, and we will have a look at it.

This bill is largely based on the floodway act, so you'll see a lot of similarities between the floodway compensation act and this act as well. So, just to give you some sense of where we were coming from as a government in terms of a lot of the criteria and a lot of the compensation issues there.

***** (18:50)

Thank you very much. I'll certainly have to have a longer look than I was able to during your presentation, but thank you very much for coming forward today. We'll certainly have a look and consider your suggestions.

Mr. Hacault: I would be most pleased to respond to any e-mail or any questions which any member of this committee might have following this presentation. Thank you.

Mr. Larry Maguire (Arthur-Virden): Thank you very much, Mr. Hacault, in regard to taking your time to come in tonight and make a presentation.

You talked about the buildings and structure. In regard to the Shellmouth circumstance, of course, there are still discussions on changing the levels of the dam and that sort of thing at the present under some discussions that are ongoing. I wonder if you can just indicate in regard to pertaining to loss of buildings. Some of the ones that were in last night, some of the persons that were presenting last night indicated that it's more farm flat land that's being flooded as opposed to not a lot of buildings being in the river valley bottom, but you're reference here would be to structures and references to buildings that may be impacted as well.

Mr. Hacault: Yes, my reference to the building and structures is because it is in the legislation. I acknowledge your statements that this largely floods farmers' lands and the reason why I related it to that is you may have, for example, storage bins for grains and granaries. You may have livestock shelters. So those might have been built in compliance with the regulations at the time they existed, but if a municipality or other entity then puts new regulations in place it appears that this legislation would disentitle that farmer to any compensation.

Mr. Maguire: Just as a follow-up, as well, in regard to compensation, one of the people that presented last night, Mr. Trinder, indicated that he would be willing to look at a buyout of his property and those particular under extreme circumstances with an agreement to perhaps rent it back, something to that effect, or even to relocate, in some cases for pasture and some of it for crop land. I know you've provided some discussions here about compensation as well, and I wonder what your thoughts would be on the feasibility and the likelihood of, or the mechanism around how you would provide a buyout like that. From your experience, has that occurred in Manitoba in the past?

Mr. Hacault: Over the years, both sides of this committee have had compensation packages as a result of the flooding issues. To answer your question, for example, south of the floodway on St. Mary's Avenue there were voluntary buyout programs which were offered, but the compensation was based on the legislation, so it ensured fair compensation to the people who decided to opt for those programs. It allows people to get on with their own lives, so certainly an optional buyout program. There is legislation that is already available. It's called The Land Acquisition Act, which allows voluntary programs, provided it's put in, so it can work when it's done properly.

Madam Chairperson: One minute remaining.

Mr. Leonard Derkach (Russell): Thank you for your presentation, Mr. Hacault.

From the changes that I see you are making, or proposing to be amendments to the legislation, these are intended to strengthen the legislation for a better understanding by the producer or the person who suffers the loss. Is that correct?

Mr. Hacault: Yes, it is to strengthen and give more flexibility, because I'm not too sure what the presenters gave yesterday, but I can think of some fact situations which would not be compensated under this legislation. Say, for example, if you had to go through a field that was flooded to get to the next one and you couldn't access it, this legislation doesn't appear to compensate farmers for that. He would lose not only as a result of the flooded land but the land which he can't access. If the intention is to provide full compensation to the farmer that's affected, this does not, in my respectful view, achieve it. Although there is flexibility in the regulations to define it, a regulation cannot enlarge compensation in the base statute. It can only provide more detail in what the base statute provides.

Madam Chairperson: Thank you. Our time for questions has expired.

For the information of the committee with respect to the Clerk's office taking registrations, registrations for presenters will be taken up until midnight tomorrow. The Clerk's office will be open until 5 p.m., and then after 5 p.m. people can call in and leave a voicemail message at 945-3636 and the callers will be contacted on the following morning to ensure that all the correct information for completing the registration has been given.

Another viable option for presenters is to register directly at the meeting, as registrations will be taken until midnight tomorrow.

Bill 31–The Freedom of Information and Protection of Privacy Amendment Act

Madam Chairperson: Bill 31, The Freedom of Information and Protection of Privacy Amendment Act, and I will now call upon Blake Taylor.

Mrs. Mavis Taillieu (Morris): Yes, I have a motion for the committee.

Madam Chairperson: Read your motion, please.

Mrs. Taillieu: I move, seconded by the Member for Minnedosa (Mrs. Rowat),

THAT this committee recommend to the House to allow all presenters to Bill 31, The Freedom of Information and Protection of Privacy Amendment Act, to present for an unlimited amount of time, and to accept questions for an unlimited amount of time, and to accept questions for an unlimited amount of time for committee attendees.

Madam Chairperson: Do you have your motion written? Thank you.

Mrs. Taillieu: Madam Chair, I've been informed that I do not need a seconder for this motion, so I'd like to delete that part. Do I need to read this motion again?

Madam Chairperson: Yes, please.

Mrs. Taillieu: I move

THAT this committee recommend to the House to allow all presenters to Bill 31, The Freedom of Information and Protection of Privacy Amendment Act, to present for an unlimited amount of time, and to accept questions for an unlimited amount of time, and to accept questions for an unlimited amount of time for committee attendees.

Motion presented.

Madam Chairperson: The motion is in order. The floor is open for questions.

Mrs. Taillieu: Madam Chair, I want to say that I feel that this is a very, very important piece of legislation, I think one of the more important ones that we've seen brought forward in this session, and certainly one of the ones that we have a lot of concern with.

I do want to just apologize to the presenters that are here waiting to present to this bill. We certainly do want to allow you the time to present, which is why we've brought this motion forward.

I know that there are certain among you that are experts in this topic, and I know from briefing with the minister today that you were not consulted with the preparation of this bill. I don't believe that we should put aside people that have expert abilities and have expert input into such important pieces of legislation, that they should be denied time to present and have questions put to them, because, as the Member for Springfield (Mr. Schuler) so aptly put it forward earlier at the committee, we have a job to do here. We do need to ensure that all legislation that comes across this table is adequately debated, that we've had time to look at the legislation, have had time for input into the legislation, and that the people of Manitoba have adequate access.

***** (19:00)

Access is the thing that this bill deals with, access for the public for public information, something that this bill clamps down upon and actually puts another level of bureaucracy on, which, indeed, I think the public should be very, very concerned about.

Because of this, because of the length of the bill, the intricacies of the bill and the difficulties in understanding some of the clauses in this bill, I think it's very, very necessary that we have the presenters here be allowed to give full presentation and it be allowed of committee members to ask a lot of questions, because there are a lot of questions around the clauses in this bill.

Certainly, we do know that, finally, today, we did get a briefing with the minister. We thank him for that, but it has taken some time for us to agree on a time to meet. I'll just give an example of what occurred today in that we've been questioning for two weeks now on whether or not the clause in the bill that gives the Premier (Mr. Doer) the singular, absolute power to deny Cabinet documents was in

fact related to the current administration. The answer was, yes, yes, it was. So there's an example of why we need to look very closely at this bill.

The minister did say that they would be bringing an amendment to that clause. That is why we need to look very closely at clauses in this bill. I think there has not been adequate consultation done. That's why, when we have experts in the audience today presenting to this bill, we should give them the courtesy and the time to present their concerns with the bill and then have ample time to ask the questions.

Again, I know that people have come here very patiently to make presentation here tonight, and we are going to get on with that, but I would just like– well, perhaps the member opposite is suggesting that we shouldn't, but I disagree with him.

I think that, as I said, we have a duty here to ensure that the legislation that goes forward in the province of Manitoba, our duty as opposition is to make sure that it is done right.

With those few words, Madam Chairperson, thank you.

Hon. Steve Ashton (Minister of Intergovernmental Affairs): There are various opportunities to debate motions of this kind. The more appropriate time, when we traditionally do it, is before presentations of all presenters, which should have been yesterday. While this motion was not moved yesterday, it's being moved today. There were various other motions moved yesterday.

I note from the comments that, essentially, the member is debating the bill. There are various tactical options she has, any member of the opposition has, when we're dealing with clause by clause, when we're dealing with this bill when it's reported back to the Legislature. There are numerous options open to members of the Legislature.

But I would remind the member that we have a set of rules in terms of presentations that was agreed to by all parties. We've been following that for all of the bills. In this particular case, I think we've seen that there's plenty of opportunity for members of the public to speak.

My concern, quite frankly, particularly with the debate on this motion now, is that we should not further inconvenience members of the public. I know I talked to a number of people that were quite frustrated late yesterday. We had the opportunity to debate these type of motions yesterday, and I would suggest we vote this motion down. We have rules that are being followed in all our committees, have been followed since they were agreed to by all parties. The members opposite know that. If they wish to suggest that we should delay the bill, or if they are opposed to the bill and wish to vote against it, they have that opportunity during clause by clause. There are numerous votes there they can speak to and vote at that point in time.

But, at this point in time, it's time to hear the public. With all due respect, I would suggest we defeat the opposition's motion and stick with the rules that we're agreed to by all parties.

Hon. Andrew Swan (Minister of Competitiveness, Training and Trade): No, I believe Mr. Ashton has covered everything I was going to. Thank you.

Mr. Larry Maguire (Arthur-Virden): I just want to put on the record that the Member for Thompson (Mr. Ashton) indicated that there are concerned Manitobans and, yes, I've also spoke to some of those. They're very, very concerned about some of the detrimental legislation, not particularly Bill 31, but some detrimental legislation that the government has brought forward to the future of Manitoba, and I think it's very important that, particularly the title of Bill 31 being The Freedom of Information and Protection of Privacy Amendment Act, the very essence of this type of bill is an excellent opportunity for us to ask more questions of the individuals today that have come forward and taken the time to make their presentations and put them together. It would be an opportunity for us to question them more and to provide opportunities to enhance the government's opportunity to improve a bill like this.

I think that's solely why the Member for Morris (Mrs. Taillieu) brought this forward, to try to enhance the opportunities to amend, as I have done with some of the bills that I was responsible for as well, just the opportunity to attach more information to, around giving the government the opportunity to provide amendments to some of their own bills, and, if they don't bring those forward, for us to be able to do that as opposition.

That is our role as opposition in the province of Manitoba, Madam Chair, and that is to try to make Manitobans aware of the type of legislation that's coming forward. Certainly, some of the more derogatory bills that I would talk about and mention

would be Bills 37 and 38 which try to change the freedom of Manitobans, which is the opposite of what this bill has been brought forward to try and do.

So, with your indulgence, I would really try to make the point that this bill, this bill is really the opportunity to move forward with it.

Madam Chairperson: Is the committee ready for the question?

Some Honourable Members: Question.

Madam Chairperson: The question before the committee is as follows:

Moved by Mrs. Taillieu

THAT this committee recommend to the House to allow all presenters to Bill 31, The Freedom of Information and Protection of Privacy Amendment Act, to present for an unlimited amount of time, and to accept questions for an unlimited amount of time, and to accept questions for an unlimited amount of time for committee attendees.

Shall the motion pass?

Some Honourable Members: Yes.

Some Honourable Members: No.

Voice Vote

Madam Chairperson: All those in favour of the motion, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

Madam Chairperson: In my opinion, the Nays have it.

This motion is accordingly defeated.

Formal Vote

Mrs. Taillieu: Recorded vote.

Madam Chairperson: Recorded vote has been requested.

***A COUNT-OUT VOTE** was taken, the result being as follows: Yeas 3, Nays 6.*

Madam Chairperson: The motion is accordingly defeated.

*** * ***

Madam Chairperson: I will now call upon Blake Taylor, professor, private citizen. Do you have materials?

Mr. Blake Taylor (Private Citizen): Here you go.

Madam Chairperson: Thank you.

Mr. Taylor: Good evening.

Madam Chairperson: Just one moment, please, until we distribute your materials.

Mr. Taylor: Sure. For a minute there I thought I'd have to bring my filing cabinet in, if it was going to be unlimited, but it's not necessary.

***** (19:10)

Madam Chairperson: Please proceed with your presentation.

Mr. Taylor: Hi, I've come here today to argue in favour of putting more stringent limitations on the ability of ordinary citizens to access information and increasing the power of government and government institutions to exercise their discretion to limit access to information to the public.

Just checking if the minister's awake down there. Didn't find that funny, the minister responsible. I thought you'd find that funny. *[interjection]* Okay, thanks. Appreciate it.

Okay. FIPPA, Bill 31. I call my presentation Apples and Oranges. This act deals with two distinct and separate entities. One is individual citizens and the other is government, government institutions and the work done by civil servants.

Group 1, ordinary citizens, I believe and I hope you share my view, should have the right to personal privacy from whatever, ambulance chasers, unscrupulous salespersons, nasty insurance companies, mortgage holders, et cetera. This is fine. It's not a terrorist threat, but it's fine. I mean, who likes telephone soliciting and who likes a snoop?

The other group is government, government institutions and the work done by civil servants. These should be subject to freedom of information. These should be subject to access by citizens. Now, I don't advocate revealing actual personal information about civil servants or even members of the House. Deodorant and toothpaste use, religious beliefs, sexual behaviour; actually, who cares? I wouldn't want to know.

What I do want to know is why decisions affecting all of us profoundly were made. I want

freedom of information to the documents and reports of government and government institutions. I want this right restored in the interests of democracy and responsible government. The privacy of individual citizens is not related to the secrecy of records kept by government except where it is private information kept about identifiable citizens. Restrictions to access should be limited to this and to matters of national security, but sadly, this legislation has no such limit.

On the contrary, the legislation, in my opinion, virtually equates the privacy rights of individual citizens with the privacy of government institutions and the work of civil servants in the performance of their professional duties. For example, under division 3, mandatory exceptions to disclosure, privacy of a third party, it states, quote: The head of a public body shall refuse to disclose personal information if the disclosure could reasonably be expected to reveal the identity of a third party who has provided information in confidence to a public body for the purpose of the administration of an act.

Well, the administration of an act means managing or implementing a scheme or provision in a statute or even a regulation. This means that if a citizen inquires about the implementation of a regulation affecting them, the government body can deny them the reasons for the decision if, by giving access, a civil servant's identity may be guessed or surmised by the applicant. In other words, everything written or said by a civil servant affecting the administration of an act or a regulation can be withheld on these grounds. Apparently, the only exception is the head who can provide a general conclusion without the actual information he or she based the conclusion upon. So where does this leave the person who wants to argue against the way a regulation was enforced or enacted? In the dark. That is perversion of the protection of privacy principle.

So, when a civil servant provides a report, an analysis, a reasoned argument for a decision in the performance of their job, well, that should be open to review by interested members of the public who are, after all, the ones affected by these decisions and rulings. It isn't and shouldn't be considered personal information when it's part of a civil servant's job to give a report.

Another even more seriously offending clause, 23(1), advice to a public body, quote: The head of a public body may refuse to disclose information to an applicant if disclosure could reasonably be expected to reveal (a) advice, opinions, proposals, recommendations, analysis or policy options developed by or for the public body or the minister. I don't know what else there would be. Under this clause any public body's analysis of a vital topic can be denied to the public.

In fact, virtually any report, major or minor, made within the government department or public institution can be excluded from access through the broad, sweeping powers given by this clause. The implications of this clause are massive and devastating to the public's right to freedom of information. The fact that this clause is discretionary is of no help to citizens seeking access, because discretionary, as it turns out, means the government or public institution in question will reveal the documents only if it's to their advantage.

If the applicant challenges in court, the institution will win every time because of the following clause, quote: Order of court where record contains excepted information 73(2). If the court finds that a record or part of a record falls within an exception to disclosure under part 2, the court shall not order the head to give the applicant access to that record or part of it, regardless of whether the exception requires or merely authorizes the head to refuse the access.

Now, I have been assured by the chief of FIPPA that this means government institutions or bodies do not have to provide the court with any reasons or justifications for denial. They just have to show that it comes under one of the exceptions in the legislation, such as the two I've cited. The head's discretionary power is in fact absolute power, both in court and out of court.

This legislation mixes apples and oranges. It, in effect, uses the concept of personal privacy of individual citizens to justify secrecy by government and government bodies and institutions. As such, it's hugely wrong-headed and it's unfair to the public, although it is, admittedly, clever in a sinister sort of way.

So my recommendations are as follows:

(1) Throughout the act, eliminate the work of civil servants, government employees and consultants from the exceptions to access. In particular, (a) eliminate civil servants and government employees from 17(2)(c), unreasonable invasion of privacy in the case of administration of an enactment. Certainly, leave law enforcement;

that's a reasonable exception. I can see a reason for it.

Revoke 23(1)(a) and (b), advice to a public body. These clauses are much too far-reaching to be anything but broad and sweeping secrecy on the part of government and government institutions.

(2) Limit the absolute power of heads to restrict access. Revise 73(2), order of court where record contains accepted information, and require the head to justify their discretionary decisions to the satisfaction of the court and empower the court to award access to the applicant in discretionary cases and let the court base that on the criteria of individual rights balanced with the public good. I expect if you did this, in most cases, the two are the same for those who believe in open and responsible government and true democratic principles.

(3) Strengthen the appeals process. Require the Ombudsman's office to act within its 90-day limit and eliminate the extensions. This will mean providing the office with increased staff and resources; (b), give the Ombudsman's office some power to enforce access. Add fines for wrongful denial of access to balance fines for wrongful disclosure, and stop mixing apples and oranges.

Work done by civil servants should be accessible to the public. This access is not an invasion of anyone's privacy. It is, instead, a guarantee of transparent and responsible government. Thank you.

Madam Chairperson: Thank you for your presentation.

Do members of the committee have questions?

***** (19:20)

Hon. Eric Robinson (Minister of Culture, Heritage and Tourism): Well, thank you very much, Mr. Taylor, and I do apologize on behalf of myself and my colleagues on this side for the wait you had to endure to make the presentation.

Mr. Taylor: I thought you were going to apologize for not laughing at my joke.

Mr. Robinson: Well, perhaps in private I'll do that.

Thank you very much for your thoughtful presentation and, certainly, all consideration will be given to the presentation you have given this committee.

Mr. Taylor: Thanks.

Mrs. Taillieu: I thank you so much for your presentation, your insightfulness, and your knowledge on the subject. It sounds like you've probably had some personal experience with accessing or trying to access information, and perhaps you have been denied. Have you had some such experience?

Mr. Taylor: It wasn't easy to identify the most offending clauses because they're the ones that were used repeatedly when my family made a request through the Ombudsman's office for access to a protection for persons and privacy investigation report, and it took three years for the Ombudsman to get most of that information through three separate severings. The Ombudsman–well, the next presenter will talk about that particular case, but that's how I found out about these clauses was through being denied information that the Ombudsman believed we should have received. It took three years and it was a mess. It was very hard on our family, of course, but it taught me something about the way this legislation can be used by government bodies.

Mrs. Taillieu: Thank you very much. I think that your experience, as people go through the process, that's when they learn of the difficulties around some of the legislation that's being proposed. If you haven't had the opportunity–I shouldn't say opportunity, but if you haven't had the misfortune, I guess, of having to navigate through this, a lot of the public would not be fully aware.

I just wonder if you had any opportunities before this bill was drafted to have any–if you know if there were any public consultations done before this bill was drafted in the last little while.

Mr. Taylor: Yes, actually, my presentation is sort of cheating. I'm using an old essay because there were public consultations. What was that? Four years ago, something like that. Both FIPPA and PHIA there were public consultations. Three years, something like that. I gave this same speech at that time, and I was very disappointed to see in the amendments that these issues didn't appear to me to be addressed, but I'm sure there's still time.

Mrs. Taillieu: Thank you very much. It's very interesting to note that you made this presentation four years ago to a committee and they have not listened to you and you're here again. Let's hope that there'll be some listening tonight and some strengthening of this bill in terms of access to information and protection of peoples' privacy.

Madam Chairperson: Thank you very much. I will now call on Mimi Raglan, private citizen. Please proceed with your presentation.

Ms. Mimi Raglan (Private Citizen): Four years ago, I gave a presentation at The Freedom of Information and the Protection of Privacy Act review detailing how this act had been used to keep information in a Manitoba Health Protection for Persons in Care investigative report about my mother's care and death in a Winnipeg hospital in 2001 and how it had been kept from our family.

I made several recommendations at that time, none of which I can see reflected in the amendment bill. I'm hoping to persuade you today to make the necessary changes in order to prevent further similar injustices from happening to members of the public under the guise of the right to privacy of health-care professionals, health-care institutions, public bodies and government.

Since my presentation to the FIPPA review committee, former Ombudsman Barry Tuckett retired. Just before he retired in January 2005, he was able to persuade Manitoba Health that they had used inappropriate severing of the PPCO investigative report. They finally released most of the rest of its contents to our family. It had taken nearly three years. Mr. Tuckett, at that time, apologized to us for the delays, saying that he had found the stalling by Manitoba Health atrocious. He also stated that he felt that we had been burnt at both ends of the stick, being denied access to our mother's health record information at the hospital and later by Manitoba Health's blocking of information in the PPCO report. Mr. Tuckett then assured us that he would be recommending that the next Ombudsman write up our case as an example of the misuse of privacy rights in the 2005 Ombudsman's Annual Access and Privacy Report.

In November of 2001, our family was still devastated about my mother's recent treatment and death at a Winnipeg hospital. Hearing our tragic story, a well-meaning friend who happened to work for Manitoba Health suggested we take our concerns to Manitoba Health's newly formed Protection for Persons in Care Office. During my mother's admission that October, we became increasingly alarmed at her care and her deterioration and had therefore asked on several occasions to check her health-care records. On each occasion, we were refused access, with privacy legislation given as the excuse, even though my 86-year-old mother did not know what treatment she was getting and wanted my sister and I to know everything about her care so that we could help her, as indeed we always had.

Enrolled in a palliative home-care program which advertised family involvement in planning of your care, as well as ease of transfer to hospital and back home as soon as possible, our mother had requested admission to hospital for treatment of painful ankle ulcers and reassessment of home help on October 8, 2001. Eighteen days later, Frances was dead, riddled with infections and, in the end, overcome by pneumonia. After her death, we were finally allowed to see the record which showed us that our mother had been immediately placed on a care plan for the actively dying without her knowledge and had subsequently been treated with a high-end dose course of immune-suppressing corticosteroids that had been given to her for 16 days at the same strength without appropriate tapering.

We now understand why Manitoba Health did not want our family to see the contents of the PPCO investigative report. We read, to our great interest and dismay that, in the investigator's opinion, our family felt guilty over our inability to save our mother and hence, we gather, asked for an investigation into our concerns. All the information that we had provided to the PPCO about which we were interviewed for four hours and had backed up with detailed notes specifically related to the health-care record, the incident report and medication information was scarcely referred to in the report, while one of our two main concerns about the effects of medication given was apparently not investigated at all. Instead, to our horror, the information that was severed was all information that our family could easily have refuted: erroneous statements about my mother's health status upon admission and throughout her ordeal, her level of pain from infection, her wishes and expectations and the severity of and the effect of the fall upon my mother. As well, there are several pejorative comments about our family, and about me in particular. These personal comments are contradicted in my mother's health-care records and appear be an attempt to justify the documented lack of care and lack of communication on the part of the staff.

***** (19:30)

Another specious claim was that our family may have been describing our own personal pain when we used words like "torturous" and "excruciating" when describing our mother's painful infections.

Overall, the investigator appeared to be trying to justify the actions and statements of the people she was supposed to be investigating, rather than basing her investigation on the documented evidence.

The inappropriate severing in the PPCO report was accomplished under FIPPA clauses 17(1), disclosure harmful to a third party's privacy, and 17(2)(c), disclosure deemed to be an unreasonable invasion of privacy, and 23(1)(a), the head of a public body may refuse to disclose information to an applicant, if disclosure could reasonably be expected to reveal advice, opinions, proposals, recommendations, analyses or policy options.

In the first version of the severed report we received, most of the body of the report was missing and there were no references to which FIPPA clauses were being used where, in the severing. Initially, when we went with our access complaint to the Ombudsman, both our family and the Ombudsman investigator assumed that an investigation into care naturally would be considered personal health information; therefore, we applied for access to the report under PHIA as well.

However, this request was turned down completely. In the second version that was eventually obtained for us through the Ombudsman's office, we received a little bit more information and the remaining severed passages specified which FIPPA clauses had been used.

In the third and final version obtained through the Ombudsman's efforts, much more information was revealed, but what was also evident was that, in some instances, the information that had previously been severed under FIPPA did not appear to relate in any way to the clauses identified.

In another passage found in the key findings section of the report, the reason for the severed passage had been switched from privacy of a third-party 17(1)(2)(c) opinion to advice to a public body. In other words, if one justification didn't work, then try something else.

Despite the misinformation in the body of the report and its conclusions, the PPCO investigator did make eight recommendations for remedial action which we were allowed to see and which confirmed exactly our documented concerns about the lack of communication by staff towards my mother and our family which, we believe, resulted in our mother's untimely death and the patient being placed on an inappropriate care plan, the patient's pain not being monitored, the patient's medications not given and the missing description of the head wound on the health-care record, even though the facility had reported the death to the CME.

I hope I have persuaded you that, in the interests of balance in the legislation and appearance of fairness to ordinary citizens of Manitoba trying to look out for vulnerable loved ones, the following changes need to be made and added to the FIPPA amendments.

I suggest: (1) Eliminate the word "opinion" from the reasons a head of body may refuse to disclose information, 23(1)(a), and (2) Ensure that privacy of a third party does not apply to public servants in the performance of their professional duties; that's 17(1) and 17(2)(c).

In conclusion, I hope that Minister Robinson will follow the example of his colleague, the Minister of Health, Theresa Oswald, by improving access to information for Manitobans. Thank you.

Madam Chairperson: Thank you for your presentation. Do members of the committee have questions for the presenter?

Mr. Robinson: Thank you very much, first of all, for your presentation, Ms. Raglan. I know that it's awfully difficult to talk about a loved one's passing, and I know that you've endured many painful moments. To relive them again tonight, I just can't imagine how difficult it could be.

I want to assure you that our government is committed to ensuring that we don't have similar situations as you experienced. I really want to say that I believe that we're going in the right direction. We certainly valued your recommendations previously when you appeared before the review committee that was chaired by our colleague Ms. Irvin-Ross. Certainly, I think that the privacy adjudicator, which is going to be a new independent office, will correct some of those unfortunate incidents that you had to endure in your search for information that you were searching for, but I want to personally tell you that I regret the experiences that you had to endure, and I want to assure you that consideration will certainly be given to the recommendations that you have made here this evening. Thank you very much.

Mr. Leonard Derkach (Russell): Well, Ms. Raglan, I want to say thank you for your presentation. I certainly don't want to go over the experience that

you had with your mother and try to relive that, but let me just say that I think the recommendations you are making are so that other people will not have to go through this again, and, also, so that you would never have to experience what you did again. If these, I guess amendments, are not brought forward by the government to the bill, would you allow us to use your recommendations as amendments to this bill?

Ms. Raglan: Yes, I would.

Mr. Derkach: Thank you very much.

Mrs. Taillieu: Thank you very much, and I know it's very difficult to go over those kinds of issues, but thanks so much for having the courage to come tonight and do that.

I wonder, just because of the nature of–you've identified a couple of clauses in the legislation, and I think that there's so much more in this legislation in other clauses that affect other people as well, I'm wondering if you would also be of the view that if this legislation were to be held over until the fall, and more adequate consultation and more public input and more careful consideration of this bill be done, if that might be a better way to go than to ram this legislation through fast now.

Ms. Raglan: Well, I'd certainly–if that kind of time is necessary to incorporate some of the changes that myself, my husband Blake Taylor are making, I would certainly think that that is appropriate to hold it over till fall. If it can be done sooner, great, but.

Mrs. Heather Stefanson (Tuxedo): Thank you very much, and, Mimi, I want to thank you for your presentation today. I know you and I have talked about this in the past and how painful it is, especially when you're talking about the loss of your mother. Obviously, our sympathies go out to you and your family. You know, this was quite a few years ago that we talked about this. You have brought your issues forward to this government for a very long time and I think that certainly you've made some recommendations here that need to be brought forward. It sounds like if you're willing to sort of work together, and I know you've hopefully–I mean, I would have thought you would've already been given the opportunity to work when this legislation came out. You've been fighting for this for so many years, and I'm alarmed that you haven't been listened to thus far and I sympathize with that. And certainly going forward I know we'll be willing to work with you and ensure that this is, hopefully, finally heard and we can put this to rest. So thank you very much for your presentation today.

Ms. Raglan: Thank you.

Madam Chairperson: Time for questions has expired.

I will now call on Brian Bowman, Private Citizen. Do you have written copies for distribution?

Mr. Brian Bowman (Private Citizen): No, I don't.

***** (19:40)

Madam Chairperson: Please proceed with your presentation.

Mr. Bowman: Thanks very much for the opportunity to speak with you tonight. The proposed amendments to Manitoba's FIPPA legislation have been a long time coming and do represent some significant reforms.

Why is privacy and access to information so important? Well, to answer this question, I cite remarks made at the 16th annual Fraud Investigators Conference in 2006 by the assistant privacy commissioner of Canada where, and he stated, quote, people have a right to privacy, the right to control access to their personal information and to information about them. Privacy is a fundamental right, one that is recognized under the universal declaration of human rights. The now-retired Supreme Court Justice Gerard La Forest, one of this country's greatest defenders of privacy rights, once said that privacy is at the heart of liberty in a modern state. Privacy is a critical element of a free society and there can be no real freedom without it. All other rights flow from privacy: freedom of speech, freedom of conscience, association and of choice. The destruction of privacy rights is a prominent feature of any totalitarian society. In fact, many political philosophers believe that privacy is constructive of democracy itself, close quote.

My remarks tonight will focus on three primary aspects of Bill 31. Firstly, the creation and powers of a newly-minted information and privacy adjudicator; two, changes to the access to information provisions in FIPPA; three, revisions to FIPPA's privacy protections.

Bill 31 provides some modest improvements to FIPPA. However, there are provisions in Bill 31 that represent serious threats–

Madam Chairperson: Order, please. Thank you.

Mr. Bowman: Do you want me to start over?

Madam Chairperson: Continue.

Mr. Bowman: Okay. Thank you.

There are provisions in Bill 31 that represent serious threats to Manitobans' rights to privacy and access to information. Before I begin my detailed remarks, I should provide you with some basic biographical information, who I am.

I practise as a business lawyer at the Winnipeg law firm of Pitblado LLP, with the specialization in privacy and access to information. I was a founding board member and am the immediate past chair of the Canadian Bar Association's national privacy and access law section, and I am the past chair of the Manitoba Bar Association's technology, privacy and intellectual property law section. In the course of my practice, I act for public bodies and private-sector organizations and individuals in Manitoba and across Canada from Newfoundland and Labrador to British Columbia. Modesty aside, I should mention that the Canadian Privacy Law Review has recently acknowledged me as one of Canada's leading privacy law authorities.

I should also note at the outset that my remarks today are just that, they're mine. They do not represent those at Pitblado LLP or its clients or any other organization that I am affiliated with who may or may not agree with what I'm about to say.

Moving to the first part of my presentation, I'd like to comment on the creation of an information and privacy adjudicator.

Currently, the oversight for compliance with FIPPA is administered by the Manitoba Ombudsman. As members of the committee will know, the Ombudsman does not have order-making power, but merely has the power to recommend compliance. Furthermore, and as I'm sure many of you know, many Manitobans don't understand what an Ombudsman is or why one is responsible for privacy matters.

Instead of an Ombudsman, nine other Canadian provinces and territories currently have a privacy commissioner, including all of the other western Canada provinces.

Partly because the term "privacy commissioner" is easy to understand, many of these privacy commissioners enjoy much greater public profile than the Manitoba Ombudsman. Perhaps for this reason, Gary Doer promised in 1999, quote, to establish a Manitoba privacy commissioner as is in the case in other jurisdictions, close quote.

Notwithstanding the Premier's (Mr. Doer) promise, Bill 31 proposes the creation of a Manitoba information and privacy adjudicator. He or she would have the power only, and I stress the word "only," at the request of the Ombudsman to issue orders against public bodies that have not acted on the Ombudsman's recommendations.

Manitobans themselves would still have to initiate FIPPA complaints to the Ombudsman. This would increase the amount of time and costs to organizations, public bodies, and to complainants seeking the timely resolution of privacy or access to information complaints.

Despite the billing by the government that the information and privacy adjudicator would be, quote, independent, he or she would be requested to weigh in on privacy and access to information disputes only if the Ombudsman deemed it appropriate. Parties who don't agree with the Ombudsman's initial handling of the complaint would not have the ability to complain directly to the information and privacy adjudicator.

Question for you is, what if the Ombudsman did not agree with previous decisions of the information and privacy adjudicator? Over time, I would respectfully argue, the Ombudsman could simply decide not to request that the information and privacy adjudicator review any of the Ombudsman's decisions. There's no requirement to. The information and privacy adjudicator would have the limited mandate of reviewing decisions by the Ombudsman.

In other provinces like Saskatchewan, privacy commissioners have much greater responsibilities, including informing the public of their privacy rights. In Manitoba this responsibility would still remain with the Ombudsman, and, as you know, the Ombudsman has two functions. It's not even a full-time position, like it is in most other provinces.

The amendments set up a structure of increased bureaucracy where the information and privacy adjudicator may be effectively viewed, in my respectful opinion, as a junior ombudsman.

If the amendments are passed into law, Manitobans will likely be as confused about their privacy and access to information rights as they

currently are. In my view, Manitobans deserve a privacy commissioner. The government should make good on its promise by creating a full-time privacy commissioner with order-making power to protect the interests of Manitobans.

I'll now discuss Bill 31's effects on access-to-information rights. I believe that Bill 31 does contain some modest reforms. There are positive reforms to FIPPA related to access-to-information matters, namely a reduction of the closure period for Cabinet records from 30 to 20 years. I think it's a move in the right direction. Personally, I don't think it goes far enough.

Two, having opinion polls paid for by public bodies being accessible to the public and the government now being required to release a summary of respective ministers' yearly expenses: These preservations are all positive because they generally increase access to government information, all of which should better increase public accountability.

I do, however, have two major concerns about Bill 31's other access-to-information reforms. The first is the proposed revised wording to section 20(1) of FIPPA, which will now require public bodies to refuse to disclose information to applicants that have been received by the public body from, quote, an organization that represents governmental interests of a group of Aboriginal people, including the council of a band as defined in the federal Indian Act and an organization representing one or more bands.

This is a very broad and non-exhaustive definition. There is no definition as to what type of organization should be interpreted as, quote, representing governmental interests of a group of Aboriginal people, end of quote.

Could three people acting together bring themselves within the ambit of this section? I'm not sure. This definition does need to be narrowed, especially because the language contained in section 20(1) of FIPPA indicates that the public body has no discretion to disclose information to an applicant once the section is activated.

The second concern I have related to the access-to-information reforms contained in Bill 31 is the addition of more grounds that a public body can use to deny access-to-information requests. The proposed revised wording to section 13(1) of FIPPA would enable a public body to disregard an access request if the public body, acting on its discretion, decides the request is, among other things, quote, frivolous or vexatious or repetitious or of a systematic nature.

This provision raises two concerns. The first is the use of the word "systematic." The *Canadian Oxford Dictionary* defines systematic as methodical; done or conceived according to a plan or system. The reality is that many bona fide access to information requests are just that. They are conceived as part of a plan or system to gather information. As a result, the inclusion of the word "systematic" as grounds to disregard an access-to-information request is very troubling.

The concern I have is with the provision related to the reference to frivolous and vexatious claims. This requires the public body evaluating an access-to-information request to look at the requester's intentions. This is clearly something that runs counter to one of the philosophical underpinnings of access-to-information rights. The public should be free to ask for information without having to justify the reason for such a request. Obtaining access to information is a right. It should not be subject to whether or not a civil servant views a request as, quote, frivolous or vexatious. At a minimum, there should be a requirement for the public bodies who wish to make use of this provision to proactively work with the ombudsman or a privacy commissioner to determine if doing so is appropriate.

I'll conclude my comments with the third and final aspect of my remarks, Bill 31's effects on privacy protection. Bill 31 contains some modest positive reforms to FIPPA, namely permitting the use and the disclosure of personal information by public bodies for program evaluation purposes and sanctioning university and college disclosures of contact information about alumni for fundraising purposes.

***** (19:50)

I do, however, have one major concern about Bill 31's reforms as they relate to the protection of privacy. Proposed wording to section 44(1) of FIPPA permits a public body to disclose the personal information of Manitobans to another public body for the purpose of delivering a common or integrated service. Common or integrated services, if properly regulated, can provide Manitobans with better and perhaps more efficient government services, and I think that's a good thing.

However, the bill doesn't define what is an integrated service and as a result it opens the door for information to be collected by one public body for one purpose to be then subsequently used by another public body for an entirely different purpose, and in doing so, violating the expectations of Manitobans related to the protection of their privacy.

Madam Chairperson: I'm sorry. Your time has expired.

Mr. Swan: Can I suggest leave that Mr. Bowman be able to finish his presentation on the understanding that would then take away from the five minutes for questions?

Madam Chairperson: Is it the will of the committee to give leave to Mr. Bowman to conclude his presentation? *[Agreed]*

Mr. Bowman, continue.

Mr. Bowman: Thank you. I've been trying to rush through it as quickly as I can. As I've mentioned, the bill does include some modest positive reforms, but it also introduces some dangerous and, I think, questionable reforms.

We should have a full-time and independent privacy commissioner, not an information and privacy adjudicator with a limited mandate that remains tied to the Ombudsman's discretion. We should have clearer and more comprehensive rules that provide the public with effective access to information rights, and we should have fully developed rules to protect privacy where public bodies are disclosing personal information for integrated services.

Thanks very much, and I'll be more than happy to answer any questions you have.

Madam Chairperson: Thank you for your presentation. Do members of the committee have questions for the presenter?

Mr. Robinson: Thank you very much, Mr. Bowman. I had the opportunity of reading your article in the *Winnipeg Free Press*. Certainly, thank you for your views.

Would you agree that the bill we're introducing, which allows the privacy adjudicator, in fact, will have order-making power, putting us in line with B.C., Alberta and Ontario? Would you be in agreement with that and would that sit well with you?

Mr. Bowman: No, I wouldn't agree with that. It does not bring us in line with any other Canadian province. It actually sets us apart from other provinces. Nine other provinces have a privacy commissioner, which is the first stop for citizens or public bodies to deal with. The Ombudsman still is that entity. I do think the introduction of order-making power within the process is a positive step and I would compliment the government for doing that, however, this is not–this is really a half-measure that doesn't bring us anywhere in line with the processes that are working very well in some other Canadian provinces.

Mrs. Taillieu: Thank you very much, Brian, for your presentation. That was just great. I'm just astounded to even to hear the minister say, I read your column in the paper. I would have thought with your credentials, your expertise in privacy matters that you would have been the first person consulted with in drafting of this legislation. If that had been the case, perhaps we could have seen a better piece of legislation.

I'm just wondering if there's anything else that you'd like to say about what is not included in the bill that you might recommend to be there.

Mr. Bowman: Thanks for the question. There's a number of things that, I think, haven't been considered by the Legislature or, at least, don't appear to have been considered.

One is breach notification. It's something that's being hotly debated at the federal level. Without weighing in to the manner in which you would do it, because it is a very complicated process, I think the Legislature would be well advised to consider at least a form of breach notification, which would mean if there's a violation of privacy where data goes missing by a public body, there's some process in place to ensure that the affected individuals are notified so they can take corrective steps to mitigate their damages. In other provinces, public bodies have had to grapple with new legislation to deal with concerns that citizens have about the Patriot Act. That has not been on the table as far as I've seen.

Of course, I think one of the big gaping holes in this legislation is something that's certainly being talked about amongst privacy practitioners across Canada, is the fact that we've not made a move to introduce a privacy commissioner, as is the case in other jurisdictions.

Mrs. Taillieu: Did I understand you to say that other provinces are looking at us and saying we are just not up to speed with the rest of Canada? Is that what you're–is that what I heard you say?

Mr. Bowman: When the FIPPA and PHIA legislations were brought in, PHIA in particular, if my memory's correct, we were seen as leaders across Canada. There have been second-generation privacy laws that have been introduced in recent years, especially in the private sector, which have left many practitioners across Canada scratching their head about what's going on in Manitoba.

I certainly can't speak for all of them, but I have received many calls from people wondering what's going on in Manitoba, especially with the introduction of an information and privacy adjudicator. These calls were made by private sector, public sector, from within and outside of commissioners' offices. People are taking note of what's going on. They're important changes, and so I think that's why.

Mrs. Taillieu: Well, thank you very much, and I know that I just want to thank you. We all know by this time I think that you've been very helpful to me in drafting of a proposed private members' bill to extend coverage in the private sector. Is there any way that that kind of legislation could be incorporated into the FIPPA legislation, or would that have to be stand alone?

Mr. Bowman: I think there are certain provisions from the private member's bill that you introduced and from some of the second-generation privacy laws that have unfolded. There are things like breach notification that could be considered at least. But, no, typically the private sector privacy laws are introduced as stand-alone pieces of legislation. They're proving to be very helpful, both to organizations and complainants.

The struggle, of course, with all of this as you're hearing is finding the appropriate balance. If there's one thing that I could say is that these reforms, I don't view them as partisan issues. These are really fundamental rights, and I think adequate discussion and debate on these as well as the private sector privacy legislation, it would be very helpful, I think, for all Manitobans, regardless of political stripe, to have an open and frank discussion about them because they affect all of us.

Madam Chairperson: Thank you. Our time for questions has expired.

Mr. Bowman: Thank you.

Madam Chairperson: Thank you.

Mr. Vice-Chairperson in the Chair

Mr. Vice-Chairperson: The committee now calls Elizabeth Fleming, private citizen. Thank you very much for bringing multiple copies of your presentation. You may certainly begin.

Ms. Elizabeth Fleming (Private Citizen): Good evening. My name is Elizabeth Fleming. I am presenting on Bill 31 on behalf of the Provincial Council of Women of Manitoba. We appreciate the opportunity to speak to this bill.

The council is a federation of approximately 30 Manitoba women's and women and men's organizations that work through a system of resolutions to develop policy that will improve the quality of life for women, children and families in Manitoba. We are pleased that one of our federates, the Consumer's Association of Canada, Manitoba Branch, is scheduled to speak to Bill 31 later today.

Our interest in freedom of information goes back to 1977, when the National Council of Women of Canada adopted as policy the right of the Canadian public to information concerning the public business. In 1999, the Council of Women of Manitoba adopted as policy a freedom of information resolution. Its main purpose is to ensure that public bodies maintain a culture of openness with routine disclosure of public information being the rule.

***** (20:00)

Before the September 1999 provincial election, we worked with other organizations in Manitoba on a freedom of information survey of political parties entitled Democracy in the New Millennium. I'll speak a little later about the response of the New Democratic Party to that survey at that time.

In 2002, we worked with others, including Professors Paul Thomas, DeLloyd Guth and Ken Gibbons, on a national access to information conference that was held at the University of Winnipeg. In 2004–

Point of Order

Mr. Vice-Chairperson: Mrs. Taillieu, on a point of order.

Mrs. Taillieu: Yes, on a point of order, we have a presenter here who is trying to make a presentation, and she has to stop in the middle of her presentation

because she can't even hear herself for the members on the opposite side of the table talking.

Mr. Vice-Chairperson: Not technically a point of order, but it is duly noted. I'm sure all honourable members on both sides will try and keep their conversations quiet, if they need to happen at all.

Ms. Fleming, please continue.

*** * ***

Ms. Fleming: Thank you, Mr. Vice-Chairman. In 2004, we participated with the Manitoba Access to Information Network in the statutory review of the Freedom of Information and Protection of Privacy Act, FIPPA, that was chaired by Kerri Irvin-Ross who was, I think, on the PHIA side. We didn't have somebody from the FIPPA side.

Since 2006, we have participated on a Right to Know advisory group organized by the office of the Ombudsman. As part of Right to Know Week in September 2006, we worked with the Canadian Association of Journalists, Manitoba Chapter; Canadian Taxpayers Association of Canada, Manitoba; Consumers' Association of Canada, Manitoba; Manitoba Bar Association; Manitoba Library Association; Winnipeg Press Club and media sponsor, the *Winnipeg Free Press*, on a political bear-pit session at the Press Club.

The title of that one was, "Government secrecy versus the public's right to know: Where do the political parties stand on access to information?"– which brings us to our comments on Bill 39 tonight.

Overall, we find that a number of the amendments in Bill 31 are less about freedom of information and more about restriction of information.

The Council of Women of Manitoba is, therefore, recommending five amendments that would support, rather than restrict, the public's right to know.

Section 2(1)(a) adds adjudicator to the list of definitions. This refers to the information and privacy adjudicator proposed under section 58.1. An adjudicator would have to wait for a green light from the Ombudsman to act. An intermediate layer of bureaucracy would be a waste of the FIPPA applicant's and complainant's time and taxpayers' money.

We should follow the lead of Canada and most other provinces and establish a fully independent information and privacy commissioner with the power to order the release of information.

Back to the survey that I mentioned earlier, in response to the 1999 survey referred to, Paul Vogt wrote, quote: On behalf of Gary Doer, I am pleased to submit the NDP's response to the Democracy in the New Millennium election questionnaire submitted by MARL, PCWM AND CTF-Manitoba. Thank you for giving us the opportunity to comment on these important issues, end of quote.

The question there was question 6. If your party forms the Government of Manitoba, would you amend the FIPPA to allow the Ombudsman or commissioner to order the release of information from a department, board or commission, association or other entity, to which the Act applies, as is the case under Alberta, British Columbia, Québec and Ontario legislation?

The NDP party's answer was, yes, the main tool in enforcing FOI legislation is the prospect of embarrassing the government. When a government seems impervious to embarrassment, as has been the case with the Filmon government, a practical and relatively inexpensive enforcement mechanism is the only alternative.

The Council of Women of Manitoba agrees with this response and, therefore, recommends that:

(1) Instead of an adjudicator, the Government of Manitoba establish the position of an information and privacy commissioner with the power to order the release of information. It would also concur with the comments made by the previous speaker, Brian Bowman, who is an expert on privacy law.

Section 2(1)(e) repeals the definition of public registries, and there's a further section that repeals public registries in schedule C of the FIPPA regulation 64/98.

Now, if these two proposed amendments are adopted, it would mean that about 50 public registries would be dropped in the following government departments: Agriculture would lose one; Consumer and Corporate Affairs would lose 17 public registries; Family Services would lose three; Health, three; Highways and Transportation, 10; Industry, Trade and Tourism, three; Labour, six; the Liquor Control Commission, one; Justice, four; and Rural Development, one.

Public registries are one of the best ways for governments to make routine disclosure of

government-held information. We should be expanding public registries not removing them.

The Council of Women therefore recommends (2) Sections 2(1)(e) and section 1, that definition of public registry and schedule C of the FIPPA regulation be kept as they are in the current legislation.

Section 13(1) concerns public body may disregard certain requests. The amendments to this section expand the reasons for staff to disregard a FIPPA request or requests. The amendments do not define the new types of requests, frivolous and vexatious and repetitious or systematic that staff may disregard and what might vex one head of department might seem quite legitimate to another head of department or to the Ombudsman or commissioner.

According to one former FIPPA staffer with many years of experience with the FIPPA and requests, these restrictions are unnecessary and could be abused by a head of department. Multiple requests across different departments or to the same department for different pieces of information are legitimate ways to apply under the FIPPA. Some may elicit a response in a timely fashion while others could be held up and maybe go to the Ombudsman or commissioner with a complaint. It's unreasonable to have to put in one or a few omnibus requests and have to wait until the last piece is processed right through the various systems.

Therefore, we would recommend that the proposed amendments to section 13(1), frivolous and vexatious and repetitious and systematic, be removed.

Sections 7(c.1) and 8(c.1) add two exceptions, quote, an organization that represents governmental interests of a group of Aboriginal people.

Over the years, Aboriginal women on reserve have told us about the difficulties that they have had in getting information from their band council. They have had to go to the Province for information about VLT revenues and gas bar revenues that they felt were unaccounted for. Similarly, Aboriginal women might wish to request information from a Child and Family Services agency. These amendments, if passed, would mean that their future requests would be denied. That seems unfair and unconstitutional when it's information that's normally accessible to other Manitobans.

Please note that most band councils do not have a provision for access to information requests, and the Province is their only hope of having access to certain information. Also, as mentioned by the previous speaker, there is no definition of a group of Aboriginal people and that could be very widely interpreted; could be two or more.

The Council of Women of Manitoba therefore recommends that sections 7(c.1) and 8(c.1) not be enacted until band councils in Manitoba have equivalent access to information provisions for their members.

Section 10, Cabinet confidences. The provincial Council of Women of Manitoba commends the government of Manitoba for reducing the closure period for Cabinet records from 30 to 20 years. However, other jurisdictions have shorter times. For example, Alberta, B.C. both have 15 years.

The Council of Women of Manitoba therefore recommends (5) that section 10(a) be amended by striking out 30 years and substituting 10 years.

This concludes our comments on Bill 37. We hope that this committee will consider our recommendations and work together to support Manitobans' right to know.

***** (20:10)

Mr. Vice-Chairperson: Thank you very much, Ms. Fleming.

Mr. Robinson: Thank you very much, Ms. Fleming, for your presentation. I think it's very clear, and I want to thank you for the work that you have put into this on behalf of the Council of Women of Manitoba.

I just want to ask one brief question to clarify for my knowledge. I've had discussions with Bev Jacobs from the Native Women's Association of Canada. I wonder if you could further clarify for us your meaning of your recommendation on that particular matter with respect to 7(c.1) and 8(c.1). I wonder if you could further elaborate on that for us, please.

Ms. Fleming: Certainly. What we're going on here is what we have heard from Aboriginal women who have come to us with concerns that they have had, amongst other things, with getting information from their band council.

In one particular case, they were concerned that VLT revenues were not being used for the purposes that they–they weren't coming back into the community. The people in charge of it happened to

be the band councillors or the band chief, I think. This was some years ago. I don't remember the actual details, but they could not get that information through their council, and the people involved in running the casino were the same people that had the information. When they asked us what to do, we suggested that they go to the Gaming Control Commission and ask for that information. In fact, we did go to try and get it for them.

They were also concerned about the gas bar tax revenues, too. They felt that they were unaccounted for, that gas was being sold and they couldn't find out about that.

In regard to Child and Family Services agencies, I gather that there would be problems trying to get information on those.

Mr. Robinson: Just so I completely understand, have you had dialogue, then, with the provincial Native women's organizations in our province as well as the Native Women's Association of Canada?

Ms. Fleming: We have not canvassed the Native Women's Association of Canada. Mother of Red Nations is a member of our council, a federate member of our council.

Mrs. Taillieu: Thank you so much, Elizabeth, for coming and presenting and being so patient and coming back again tonight to make the presentation; certainly appreciate it and appreciate your knowledge. We know that you represent not only the Council of Women but a lot of affiliate organizations associated with the Provincial Council of Women and that you have made presentations like this before.

So I'd just like to ask you how much you were consulted before this legislation was proposed.

Ms. Fleming: Like other presenters before me, we did appear as part of the Manitoba Access to Information Network at the 2004 statutory review, which, by the way, was five years late. But, that aside, we made our presentations and we asked for many of the things that we're asking–and many more things than what we're asking for now.

Today I would say that I've just applied myself, or our council, to the legislation, and not the many, many other things that could be done to improve access to information in Manitoba, particularly routine disclosure.

Mrs. Taillieu: I think that what we've heard from you and from previous presenters is that there are a lot of amendments that would need to be looked at with this legislation. Certainly, the minister, himself, has said he's proposing at least one amendment. You've proposed some. Mr. Bowman has proposed some. Others have proposed some, and we certainly have many to look at for amendments.

I believe this is a very important piece of legislation, and I would wonder what you would think if we can ask the government to hold this legislation over and perhaps take a real serious better look at it.

Ms. Fleming: Our councils would be very pleased to have another review. I mean, if the five-year statutory period is nearly up, it is almost due for another review, but this legislation will put that review back to five years from when the privacy and information adjudicator is appointed. So, whenever that is, it'll be another five years but, in fact, that five years is nearly up. I think there is a very strong case for having a review, a full-scale review.

When this government came into power, what we did was we came to the minister responsible for the FIPPA at the time, with an actual bill, with the amendments in it, the actual sections. It was done by a lawyer with experience with FIPPA. It would be wonderful to present that again to a proper statutory review.

Part of our review when we came forward in 2004, we had a very detailed process for review. The review in 2004 was superficial. It was one-sided and it wasn't even chaired by the minister responsible.

Mr. Vice-Chairperson: Ms. Fleming, thank you very much for your presentation and for answering our many questions.

Mr. Swan: Mr. Vice-Chair, certain members of the committee have asked whether it would be appropriate to have a five-minute recess to take care of various necessities.

Mr. Vice-Chairperson: Happy to canvass the committee. Is there agreement to take a very brief and timely five-minute break? *[Agreed]*

Thank you very much, committee members. We will reconvene at promptly 8:20.

The committee recessed at 8:16 p.m.

The committee resumed at 8:29 p.m.

Madam Chairperson in the Chair

Madam Chairperson: In consideration of Bill 31, The Freedom of Information and Protection of Privacy Amendment Act, I would like to call on Colin Craig, Canadian Taxpayers Federation. Do you have written copies for distribution?

***** (20:30)

Mr. Colin Craig (Canadian Taxpayers Federation): No, just an oral presentation.

Madam Chairperson: Thank you. You may proceed.

Mr. Craig: Well, good evening, and thank you for the opportunity to speak here again tonight. My name is Colin Craig, and I'm the provincial director of the Canadian Taxpayers Federation. The Canadian Taxpayers Federation is a not-for-profit, non-partisan advocacy organization that is committed to lower taxes, less waste and more accountability in government.

I would like to begin by asking all members to keep in mind that every single cent of government money is in fact taxpayer money. The taxpayers of this province should have the right to know how every single cent is spent, and they should have access to virtually all government documents. This, of course, would not include personal information such as health information, driver's licence data and that type of material.

In terms of transparency, consider the difference between a small locally elected town council to a gargantuan government the size of the provincial government. At many town council meetings, virtually everything is public. Meetings are public, decisions public, to build public buildings, tax rates and all kinds of other matters are all discussed in the open for all to see.

Over the years, various parties have led the provincial government here in Manitoba. What we have now is a level of government that is generally secretive. This is a result not just from the current government, of course, but many governments. It's something that we do see across the country. Up until this bill, Cabinet documents have been kept confidential due to a clause that allows for 30 years of confidentiality. I applaud the government for proposing to reduce that time period; however, I ask the committee to consider eliminating the clause altogether wherever possible. While respecting the privacy of individuals, the Cabinet clause should be as close to zero years as possible. Again, it's our money, the public has a right to know what the government is doing with it.

Just as small towns are generally open about public spending and reports, the provincial government should also seek to become more transparent in as many areas as possible. We have a right to know how our tax dollars are being spent.

In terms of Bill 31, it seems as though the creation of a privacy adjudicator will only allow for another layer of bureaucracy. Further, no other province has an adjudicator; most have privacy commissioners.

However you create it or whatever you call it, the direction that should be sought after is one that opens up the government to its citizens. That does not seem to be the case with this legislation. Part of the legislation exempts details that involve Aboriginal organizations. That's downright racist. Not only First Nations taxpayers, but all taxpayers deserve to know how tax dollars are being spent, period. In fact, today I met with an Aboriginal, a member of a First Nations band who was concerned about how his band funding was being spent.

The repetitive, frivolous and vexatious clause is concerning. What one head of a public body determines to be vexatious may be interpreted by another in a totally different fashion. Perhaps there could be all-party consent to determine what is frivolous, to throw out such requests. Certainly no party would support a request that simply wastes the taxpayers' dollars. What is concerning is the ability of an unelected head of a public body to simply wave off a request for information.

In conclusion, I think there are some positive aspects of this legislation, but I think it should go back to the drawing board and draft a document that would transform our provincial government into being one of the most open and transparent governments in the country. Supporters of the Canadian Taxpayers Federation are waiting to applaud an initiative that would truly open up the government. That is not this piece of legislation.

Thank you for considering the views of the Canadian Taxpayers Federation.

Madam Chairperson: Thank you for your presentation. Do members of the committee have questions of the presenter?

Mr. Robinson: Thank you very much, first of all, Mr. Craig. I always find your presentations to these committees very thoughtful and thorough.

Allow me to just ask you about the three key elements of the new legislation that this government is proposing. Of course, let me say, first of all, that the creation of the privacy adjudicator changing the period that Cabinet documents remain sealed and the legislation that requires ministerial expenses to be tabled on-line, how does your organization feel about those significant changes to the bill?

Mr. Craig: First, with the Cabinet documents. As I mentioned, I think that's a step in the right direction. I think it's a baby step in terms of what taxpayers have the right to know. I think that, as I stated at the beginning, every dollar that the government has comes from the taxpayers of Manitoba, and the taxpayers of Manitoba deserve to know what the government is doing with that in terms of spending, also, in terms of documents and things that are being considered. So I think that moving it from 30 to 20 is a positive step, but it should be reduced, as I said, much closer to zero years.

In terms of posting the expenses of elected officials on-line, again, I think that's a baby step in the right direction. Some of the material that I've seen is not always as detailed as what it could be.

You mentioned a third area there, I think it was with regard to creating a privacy adjudicator. I think it would be more advantageous to create a privacy commissioner as other provinces have done. It seems as though this is almost like creating another layer of bureaucracy there between the public and the information that they're seeking. I've certainly had discussions with Mr. Bowman, who spoke previously, and he is regarded as an expert in this area across the country. I would look to him for advice on that and that's what his professional opinion was.

Mrs. Taillieu: Thank you very much for your presentation and thank you for being patient. I know you were here yesterday, and I know that you were in the other committee as well, so thank you very much.

I also recognize that you're new in the job. Some of the questions I ask, I'm assuming that you will be able to answer and, perhaps, on the experience of the previous director as well, if you're familiar with that.

I'm wondering what has been your experience in terms of getting access to information and the length of time required.

Mr. Craig: As you mentioned, I am new to the position. I've been here for about three weeks now. I have already had a number of items that I've placed FIPPA requests for at the provincial level, as well as the municipal level. I have received some information back. But in conversations with my predecessor, Adrienne Batra, there were a number of occasions where she did indicate that there's information that gets hidden from the public, deals that include third parties and such will sometimes have information stroked out to protect the third party.

I think that there is legitimacy to that if you're talking about an individual's tax circumstances for someone's public health records, if that was the case. But in terms of, for example, a deal with a new stadium that's being talked about, if the taxpayers are going to be spending millions of dollars for a new stadium, we should have every bit of information that the government has because it's our dollars that would be used for that. So I hope that answers your question.

Mrs. Taillieu: Well, thank you very much. We know that information is power and if information is withheld, then only one person has the power, and the public is therefore not able to have the power to act for themselves when they don't have access to the information. That is just not open and accountable government, as you say, to the taxpayers whose dollars are being handled by the government.

Have you had any experience with the public registry, the public directory, and going and looking for access of any information there?

Mr. Craig: In terms of directory of government staff, is that what you're referring to?

Mrs. Taillieu: No, just information that is available on the Web site, for example, and through the public registry.

Mr. Craig: Not significant experience in that area yet. Again, for my comments today, I'm drawing on conversations with my predecessor who often had frustration with getting information. I think as all members consider this legislation, if you could take your party hats off and consider the frustration that you would have if you were all in opposition and trying to get information, I'm sure if you were all in that position, you'd be wondering why you can't get

that information. You're paying for it. You should have a right to it. I think that that should be front and centre as you consider legislation such as this, is to consider how you could open up information so that the taxpayers of all political stripe could get access to that information.

***** (20:40)

Madam Chairperson: Thank you. Our time for questions has expired.

Mr. Craig: Thank you.

Madam Chairperson: I will now call on Gloria Desorcy, Manitoba Branch of the Consumers Association of Canada. Do you have written copies for distribution?

Ms. Gloria Desorcy (Manitoba Branch, Consumers Association of Canada): Yes.

Madam Chairperson: Thank you. Let's take a moment until the materials are distributed, thank you.

You may proceed with your presentation.

Ms. Desorcy: Thank you. Good evening. On behalf of the Manitoba Branch of the Consumers' Association of Canada or CAC Manitoba, I'd like to begin by thanking you for the opportunity to make comments here this evening on Bill 31. For those of you who are not familiar with CAC Manitoba, we're a volunteer, nonprofit, independent organization working to inform consumers and empower consumers in the province and to represent the consumer interest. We've been around since 1947 so we just celebrated our 60th year of working for consumers.

I'd like to begin by talking about the benefits that we see in Bill 31 for consumers. These include clarifications that will make results of public opinion polls paid for by public bodies more accessible and the government's obligation as listed, proposed obligation to release a summary of minister's yearly expenses. A third one that I could have included here would be the creation of a body that would provide redress for consumers and had the power to make orders.

So, initially, when we heard that the information privacy adjudicator was going to be created, we were very happy. But we had always thought that this would be a first responder body, a body that consumers could go to first off without the kind of layering of needing to go to the Ombudsman, waiting for the review, waiting to hear if they're going to be recommended to the adjudicator, then going to the adjudicator. The processes outlined in the bill, we see as quite cumbersome and that is one of our major concerns. For consumers who contact us at our info centre who want to make these kinds of complaints or have made freedom of information requests or have complaints about privacy, the commitment of time and resources to go through these processes is already quite significant. You know, these people may be working, they may have family commitments, they have other things going on in their lives. It's already quite significant. To now have to go through a variety of layers in order to get the redress that you deserve, that is your right, seems unnecessarily cumbersome and what I really believe is that it will discourage many consumers from pursuing it.

Add to that, and I think we've heard, you know, some personal stories from consumers here this evening that would lend credence to that, add to that those consumers who may have barriers to making requests at all. So, for example, according to Stats Canada's latest survey on adult literacy, approximately 40 percent of Manitobans have a reading ability of grade 8 or lower. The skills required to read necessary materials and make formal complaints is already a major task for this portion of the population. Now, granted, I know that government staff are very helpful for consumers in this area and that they do their best efforts to assist them, but if you're signing your name to something, like a complaint or whatever, you have to be able to understand it. There's kind of no way around that. That, for some consumers is difficult.

The same survey indicates that adults tend to lose literacy ability as they age. So, in the face of an aging population, we're now extending this barrier to some members of our senior population. That's not all, of course, not all seniors do lose literacy, but some do. New Canadians face two barriers: not only do they have difficulty with English and French potentially, but they're also unfamiliar with our government processes and procedures including those that are intended to assist them and to protect their privacy.

So, keeping in mind all consumers, including these consumers who have special concerns, we believe that they should be able to go directly to the decision maker who would have the authority when their complaint is warranted to make orders and

provide them with the redress they deserve in a timely fashion.

Another concern that we have is the reduction of the closure period for Cabinet records. I say concern; it's definitely a bonus that it's been reduced from 20 years to 30 years. I totally see that as a positive step, but again, as many others have said, we feel that this doesn't go far enough. We'd be interested in seeing it increased to the amounts in some of the more progressive provinces. I believe that some have 15 and lower numbers.

Another concern is discarding requests that are deemed to be frivolous. While we accept that public bodies may receive some unreasonable requests, use of the word "frivolous" requires the receiver of the request to make a decision or an evaluation of the intention of the person making the request. We're concerned that mistakes can be made and that valid requests might be discarded without consulting the person who made the request. We're also concerned that because the word "frivolous" could be open to interpretation, it might be abused to enable the dismissal of requests that might be inconvenient or time-consuming, but might still be valid requests.

So, in conclusion, we would like to respectfully urge the government of Manitoba to amend Bill 31 to include creation of an information and privacy commissioner, adjudicator–call it what you will–with the authority to make orders, who is independent of the Ombudsman: a first responder with teeth. Removal of the responsibility for FIPPA complaints from the already busy Ombudsman's office; let's make it one-stop shopping for consumers. Further reduction of the closure period for Cabinet records, to be in keeping with the most progressive provinces on this issue, and removal of the word "frivolous" from clause 13(1)(a).

Once again, on behalf of CAC Manitoba, I'd like to thank you all for the opportunity to make comments this evening, and I'm certainly prepared to answer questions to the best of my ability.

Madam Chairperson: Thank you for your presentation.

Mr. Robinson: Yes, thank you very much, Ms. Desorcy. I found your presentation to be really, really thoughtful. I want to just assure you that every consideration will be given to the recommendations that you have provided for us. Thank you very much.

Mr. Derkach: Ms. Desorcy, thank you very much for your presentation. Your recommendations are pretty straightforward and, I think, logical in terms of what needs to happen to improve this bill.

I'm wondering whether or not you have had any consultation with the department or the minister with regard to putting in, instead of an adjudicator, a full-fledged commissioner who would have some authority and who would have an ability to make recommendations regarding his findings, or her findings, and that that person should be, or even his assistant, should be answerable to the Assembly instead of to the Lieutenant-Governor-in-Council.

Ms. Desorcy: We have not had consultation with this minister on this particular bill. Our association has, over the years, many times been–when we've had opportunities, certainly made that request and always felt that would be in the best interest of consumers.

Mr. Derkach: If these recommendations aren't incorporated by the minister or the government, would it be fitting for us, as opposition, upon consideration of your amendments, to bring them forward for consideration by the government?

Ms. Desorcy: I'm going to confess a bit of an ignorance about the process. But, certainly, you know, we would be pleased to see the recommendations taken, regardless of who brings them forward.

Mr. Derkach: Well, the process is that after all of the presenters have completed their presentations, there is a process whereby we will be going through each of the clauses of the bill. It's at that time that we can bring forward amendments, or amendments may be brought into the House in the report stage. So there are actually two occasions to bring these amendments in. Because they are your amendments, and we support them, I was wondering whether or not you would allow for us to use your thoughts and your amendments to bring them forward for consideration.

***** (20:50)

Ms. Desorcy: Well, again, I say, without choosing sides on this debate, I think just looking at it from a non-partisan perspective, we would be happy to see these amendments included. So, if that answers your question.

Mrs. Taillieu: Well, regardless, if we introduce them, then we'll hope that the government will support them and then it will be non-partisan, and if the government does tend to introduce them, then we

will support them. But, certainly, we would look at putting all of the recommendations that have been put forward by presenters–look very closely at those amendments and try and incorporate those into the bill, because certainly there are a lot of problems been identified with the bill.

Certainly, we'd like additional time to be able to do that because, of course, once you pass something through into legislation, you've got it. I think it really behooves us all to take a really good look at this legislation. I don't think that there has been that done to date, because I don't think that anybody that's come forward to this point has said, yes, I was consulted on this bill; yes, I agree with the bill; and, yes, I think it's good legislation. We just have not heard that from anybody.

There seem to be a lot of issues with the bill, and I would certainly think that we would need to hold this bill over and do it right and not just pass it into legislation and ignore the amendments that people have been suggesting.

So I'm just wondering what you think about taking a little bit more time with this bill, holding it, and getting some of these amendments done right with both parties.

Ms. Desorcy: I think it would be good to include many of the amendments that have been discussed today. I think it's important to give proper consideration.

I would hate to see this delayed for an extended period of time because I think it's important that it move forward. Again, I don't know if that's answering your question.

Mrs. Leanne Rowat (Minnedosa): I was very interested in your presentation and you brought a different aspect to the debate, or the discussion, today in talking about Stats Canada's literacy statistical information regarding grade 8 and lower.

I do know that in discussions with individuals who have had frustration in getting information from government departments, they have indicated that if they didn't word their request for FIPPA properly, it would be denied or there would be some spin going back and forth because they didn't ask it exactly the way they thought they were asking it.

So it seems to be a major concern and I'm glad you brought that forward, because wording is a big piece of getting information, and the way that you want it presented back to you, you'd assume that, you know, you're presenting it in the most appropriate way.

So mistakes will be made, but I think that what you're saying here is very valid, and I think that all Manitobans should take notice of this. I think it's an excellent amendment that we should be looking at in providing access for all Manitobans.

Madam Chairperson: Thank you. Our time for questions has expired.

I will now call on Martin Boroditsky, private citizen. I will now call on Martin Boroditsky, private citizen. Seeing as he is not here, he will be placed at the bottom of the list.

I will now call upon Ruth Pryzner, private citizen. I will now call on Ruth Pryzner, private citizen. This is the second time that Ruth Pryzner's name has been called, so she will be removed from the list.

Bill 32–The Personal Health Information Amendment Act

Madam Chairperson: Bill 32, The Personal Health Information Amendment Act.

I will now call on Blake Taylor, professor, private citizen. Mr. Taylor, we'll just take a few minutes until your material is distributed.

You may proceed with your presentation.

Mr. Blake Taylor (Private Citizen): Thank you, good evening, again. This is Bill 32, The Personal Health Information Act. The long-awaited PHIA amendment bill act, Bill 32, is an important step forward for patient safety, for patient rights, and the recognition of the role that patients and families will be playing as full partners in care in the future. With a few critical additions, this bill will form the foundation that will enable health care in Manitoba to catch up to the advances that have begun happening worldwide, following the leadership of countries such as France, Great Britain, and other northern European nations.

The improvements in the PHIA amendment act are gratifying to my wife, Mimi Raglan; fellow volunteer, Chuck Cruden; and myself, since we have been advocating for these changes for the past six years, ever since my mother-in-law, Frances Raglan, age 86, and our family fell victim to the use of The

Personal Health Information Act as an excuse to block information that was vital to Frances's safety.

My own experience taking care of my own mother who had Alzheimer's served to further enlighten us about the changes that need to be made, and since then, through the Manitoba Society of Seniors, through the Winnipeg Regional Health Authority's Patient Safety Advisory Council, and through the Manitoba Institute for Patient Safety, and as private citizens, we have advocated for such improvements.

Thanks go to Minister Theresa Oswald, who has showed very strong and important leadership in this very important area, and to the government for supporting these amendments; to Dr. Jon Gerrard for advancing the cause of patient and family access to personal health information; and to the Manitoba Health Legislative Unit for answering many of my questions.

All of my suggestions today are in keeping with the minister's stated intentions and are offered either to narrow the window of interpretation that has plagued the application of the original act or else to complete the vision these worthy amendments paint. That vision is to let patients and families in on the information we need in order to fulfil our proper role as full partners in care, so that families and patients, together with health-care workers, are able to team up to create a healing environment.

Medicine worldwide has begun admitting to mistakes. This development has created a new relationship between providers and patients and families, a relationship that could reduce medical errors and improve both outcomes and patient satisfaction, or it could instead have a negative impact on the health environment. What is needed is that patients and families be included from the outset of care and throughout the entire process. The choice is to be mutually supportive partners in care, or else risk being mired in defensiveness and mistrust. The family-centred care model towards which these amendments move offers an inclusive and beneficial healing environment for our times.

***** (21:00)

The Personal Health Information Act and this amendment are about access to personal health information for patients and families and, as such, are seminal to the ability of patients and families to participate as partners in health care. Without this information, nothing is possible.

Some will argue that legislation is not the best vehicle to teach health-care providers, administrators and the public about access rights and rules. This may be true, but the legislation will form the basis for these training programs, so it is important, vital, that the legislation make itself as clear as possible.

In this particular amendment, extraordinary clarity and specificity are needed for two reasons:

(1) The stakes involved. The legislation deals with access to information that affects patient safety. In addition to a host of serious issues that this entails, the bottom line is that human lives can be lost if the interpretation of the amendment leads to blocking information that is vital to correct care.

(2) The track record of the 1997 original bill. It is the interpretation of the '97 PHIA act that caused access to information problems, not the intent of the bill. The lessons learned from the interpretation of PHIA are, I believe, the basis for the amendment bill before us today.

With all due respect, Manitoba Health will be the first to acknowledge that over the past 11 years, PHIA training of the public and the providers and administrators has not been a success. For example, anyone who has been PHIA'd, which means has taken the PHIA training provided by regional health authorities, as I have, will know that access is barely mentioned, and that one walks away with the impression that people in the system can't tell anyone anything. No wonder that happens to us when you take that training. That secrecy is not the intention of PHIA, but it has too often been the reality. It is as if institutions' lawyers interpreted the legislation from a liability perspective, not a health-care perspective.

Another example, the *InfoHealth Guide*. There's this, and I just looked at the new one on the Net. Under the clause, patients rights leaves out the right to authorize a loved one to access your health information on your behalf, and yet this right is vital to ongoing patient safety in many situations. Just go into any personal care home.

Former Ombudsman, Barry Tuckett, said, PHIA was never intended to interfere with the normal communication between health-care providers, families and patients. But it has. The suggestions I make below are all in keeping with the minister's intent to facilitate appropriate access to information for patients and families and are made to help ensure that the system complies with those intents. In other words, I'm about closing loopholes.

I have ten minutes, so I'll cut to the chase, but note that I have attachments, if you have one of the big files, supporting my suggestions, and I invite you to read them. I also invite all committee members to contact me at any time after my presentation. My contact information's on the top.

Interestingly, a Manitoba Society of Seniors questionnaire in 2003 found that 100 percent of respondents indicated that if ill and in hospital or a personal care home, they did want their representative to advocate on their behalf and to have timely access to the health-care record. I certainly would, wouldn't you?

Dr. Michael S. Woods, founder, Center of Physical Leadership in the United States, says, and I quote, communication failures have been identified as the root cause of the majority of both medical malpractice claims and major patient safety violations, including errors resulting in patient death. I hope you can see why having a representative is a good idea.

Suggestions: 9.1, notice of right to access information, which deals with the role of the trustee to inform individuals about access rights, is a great amendment, and I applaud you for that, Minister. I have seven suggestions to make it even better, and I'm going to jump right now to No. 4 because of shortage of time, but you can read the other three and discuss them or ask questions about them if you like.

(4) Should the trustee have a duty to provide an appropriate form giving individuals the opportunity and the option to appoint a family member or friend to have access to their current personal health information in order to help an advocate.

A form requirement would help to make the choice to appoint or not to appoint a representative much more universal. Requiring a form would both plug a loophole and make compliance achievable. The Patient Safety Advisory Council asked us to prepare a model form for the Winnipeg Regional Health Authority, and it appears that it has been adopted in some way because they've been sending it to people I happen to know. I have attached a copy of it in the fat form, and here's the colour version that they sent me. It's called Access Rights to Personal Health Information, and on the back there's a form where you can assign someone to access information on your behalf on an ongoing basis.

Quote from the *Journal of the American Medical Association*: "Decades of research have confirmed that poor skills in patient communication are associated with lower levels of patient satisfaction, higher rates of complaints, an increased risk of malpractice claims," and, most important of all, "poorer health outcomes."

Madam Chairperson: Excuse me, your time has expired.

Mr. Leonard Derkach (Russell): Madam Chair, this is such a compelling presentation that I'm wondering whether or not we could once again venture into giving unanimous consent for the presenter to complete the presentation, because this is certainly a very important and I think a very compelling presentation as it's being made by the presenter.

Hon. Andrew Swan (Minister of Competitiveness, Training and Trade): *[inaudible]* –that leave be as we've done this evening that it would then take up as much or as little of the five minutes for questions as our presenter thinks appropriate.

Madam Chairperson: Is it the will of the committee to give leave to continue with the five minutes for the question period for this?

Some Honourable Members: Leave.

Madam Chairperson: We have leave. Continue, Mr. Taylor

Mr. Taylor: Friends can assist in communication between patient and provider and that's our role. Family and friends can assist with patient compliance with the provider's instructions, with medication reconciliation assuring that providers are aware of prior conditions and treatments and help the patient understand the physician's explanations and the options offered, can assist providers in understanding the patient in his and her wishes, can reduce conflicts, provide emotional support and so on. That's why the Manitoba Institute for Patient safety is working on a major information campaign promoting patient advocacy.

Point 5: Should the trustee have a duty to offer patients or their representatives full and timely information about diagnosis, treatment plants, medications and side effects and treatment options.

The opening of the legislation says, and whereas individuals need access to their own health information is a matter of fairness to enable them to make informed decisions about care.

What this No. 5 suggests is recommended by all doctors. Everyone universally accepts it, and my point is that requiring it would cause trustees to ensure that it's happening and;

Number 6: Should there be a requirement in PHIA amendment act that the health-care record include a record of this informed consent to treatment conversation? Some patients may not want the information, but we all have a right to have it offered and the record should indicate that it was offered.

I'll stop there.

Madam Chairperson: Thank you for your presentation. We have a speakers' list.

Hon. Theresa Oswald (Minister of Health): Thank you very much, Mr. Taylor. I want to express my appreciation for you and Ms. Raglan being here all last night and arguably all tonight as well.

I can say that, in this position of Minister of Health, I've had some very, very good teachers when it comes to personal health information legislation, some of the smartest people we have in the province, but I can say with confidence that, when it comes to how I've learned the most about personal health information legislation, I've learned it from you. I've learned it in our thoughtful conversations about how to go forward, and I've learned more from our arguments.

***** (21:10)

Let's get on the public record that we have had many moments where we have been extremely cross with one another, and that is what has made the legislation better. I would have been disappointed if you came tonight without suggestions, and, of course, whether we go forward in regulation or in whatever fashion is best to achieve the so-called loopholes, I know that we're going to have better legislation because of the work that you and Ms. Raglan have done. So thank you.

Mr. Derkach: It is my hope that the committee would even consider a bit of extra time for questions on this matter since it is of such importance to all of us, I believe. Those of us who have just recently lost a loved one who has been in the hospital and we have tried to get information regarding that person's condition, we can understand where you're coming from.

I certainly note that you indicated in your opening remarks that the minister has been open to suggestions regarding how we can improve this information.

I would like to ask you whether or not you think that–a lot of the suggestions that you're making, should they be brought into legislation or should they be left to regulation?

Mr. Taylor: I don't know the answer to that, really. I just know that there's been a serious problem in interpretation, and I think the current minister's intent is right on the money; however the best way to do it, to make sure that the maximum chance of getting compliance with the intention is there. That's why everything that I'm suggesting, really, is about fundamentally plugging loopholes or putting something in the legislation or in the regulations that make it much easier to get compliance.

Like, for example, the reverse, there was a $50,000 fine put in in the original legislation for breaches of confidentiality. Well, that sure got compliance. It got too much, though. It got too much compliance and we got "PHIAnoia," and I question if that should even be there anymore.

I mean, it's the same with the pledge of confidentiality. Why shouldn't there be a pledge of access that tells health-care providers, yes, you have to pledge to be confidential when it's necessary and it's equally important to pledge to reveal the information when you're supposed to reveal it, because, you know, concealing that information could cost a life. Concealing that information could cost a medical error, not to mention it could cost a person basically their right of informed consent, because if you don't tell them the information, then they don't know it.

So they're equally important and I think health-care providers need to know that. I'd like to see that balance restored, and I think you can really only get it by really being very specific with the legislation.

Madam Chairperson: Thank you. Our time for questions has expired.

Point of Order

Mr. Derkach: On a point of order, Madam Chairperson, I note that in the committee in the next room the committee, itself, is allowing for latitude of both committee members and the presenters to go beyond the 15 minutes and the five minutes of questions.

Madam Chairperson, I can tell you that this is probably one area that strikes at the heart of each one

of us, and I don't believe there's another issue that I have had more calls on, more representation on from my constituents. When I hear a presentation like this, it compels me to try to learn more about the recommendations that are being made. I certainly support the presenter in terms of congratulating the minister in her openness and her willingness to do what is right and her intent to try to improve this kind of information to patients.

But, you know, to me, this is an important bill, not just for me, but for people who are going through trying times with loved ones, perhaps in a health-care facility and, as we heard earlier tonight, those people who don't want it to happen again to others.

So I'm wondering whether on this point of order there would be some latitude given by the committee to allow us to, perhaps, pursue this for another minute or two.

Madam Chairperson: It is not a point of order, but if it is the will of the committee to give leave to extend the question time?

Mr. Swan: If I can just comment on this, I certainly respect Professor Taylor and the presentation tonight. I think it's important to note that Professor Taylor has been very generous with his information and has made it clear that any member of this committee can contact him afterwards. He's given us his phone number and his e-mail address.

So, in fairness to the other presenters, we should move on to other presenters, but if Mr. Derkach or any member of this committee wants to follow up, I really appreciate that Professor Taylor has given us that invitation.

Madam Chairperson: Is it the will of the committee to give leave to extend the time?

Some Honourable Members: Leave.

An Honourable Member: No.

Madam Chairperson: Leave has been denied.

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Madam Chairperson: I would now like to call on Mimi Raglan, private citizen. Do you have materials for distribution?

Ms. Mimi Raglan (Private Citizen): Yes, I do.

Madam Chairperson: Thank you. Please proceed with your presentation.

Ms. Raglan: I'm very pleased to speak here tonight about the proposed amendments to The Personal Health Information Act or Bill 32.

Since my 86-year-old mother, Frances Raglan, died at a Winnipeg facility, where the institution's refusal to share treatment information resulted, we believe, in her painful demise, I have been relentless in my quest to change the legislation which allowed this tragedy to occur.

Realizing that my mother's case was not unique, my husband, Blake Taylor, and I, along with seniors advocate, Charles Cruden, have been working for six years towards improved access to treatment information for all patients and families in Manitoba health-care facilities. Together, at MSOS, in 2003, we conducted a questionnaire in which we asked seniors whether they preferred to have access to their records during treatment, as opposed to waiting up to 30 days, and whether they wanted the right to appoint a representative who would have access to their health-care records. The results were unanimous. Everyone wanted access to treatment information during treatment, and everyone wanted the right to appoint a personal representative who would be able to access their health-care information on their behalf.

It is very encouraging that the present Minister of Health, Theresa Oswald, has now recognized the importance of many of our recommendations, making our years of effort at the Manitoba Society of Seniors, The Manitoba Institute for Patient Safety and the WHRA's Patient Safety Advisory Council, and as private citizens lobbying government, all worthwhile.

Two years ago, we were joined in our efforts for improvement to access by MLA Dr. Jon Gerrard who recognized the validity and urgency of these changes to PHIA. On November 20, 2007, Dr. Gerrard proposed Bill 209, the amendment bill, in which he proposed access to health-care-record information requests be responded to within 24 hours for care currently being provided.

In August 2006, Mr. Cruden, my husband and myself were recruited by the WRHA Patient Safety Team to PSAC to help develop an initiative on improved access to personal health information for patients and their representatives. The result, as reported in the February 2008 issue of the WRHA's *Patient Safety Post*, is that Dr. Brian Postl has put the following policy position in place: Access to the health-care record within 24 hours for patients and

their representatives, along with the 72-hour provision for review of this information with a health professional.

***** (21:20)

In accordance with the new WRHA position, I recommend that the minister bring the proposed PHIA amendment act up to the 24-72 standard in place at the WRHA, and to do this for the benefit of all Manitobans.

Having said this, I am pleased at most of the proposed improvements regarding the access issue. I entirely agree with Minister Oswald's statement as quoted in the government's press release regarding the need for improvements to PHIA amendments. She said: "It's important for health-care providers to share information to ensure each patient receives the best care possible." And: "It's just as important for patients to understand their rights." The press release, in fact, goes on to further confirm the intent of the amendment as follows: "requiring patients to be provided with information about their rights to access their personal health information and the right to authorize another person to receive that information."

However, in her next statement regarding striking a balance between privacy and access rights, for me it depends where the priorities lie. The minister states: "The proposed amendments would help strike a balance between sharing information to facilitate treatment while maintaining a patient's right to privacy."

Under the current PHIA, privacy rights have always trumped access rights and, as stated by the WRHA's former director of access and privacy, Katherine Choptain, in her lessons learned from the PHIA presentation, in other cases the facility did not want to share the information with the families and PHIA was used as the excuse, and family members became frustrated with PHIA when they were told that because of PHIA their questions and concerns could not be addressed. This problem of using PHIA's privacy provisions as an excuse for secrecy has also been acknowledged by the head of Manitoba Health's legislative unit.

As B.C. Privacy Commissioner, David Loukidelis, has recently stated: Privacy is important, but preserving a life is more important.

I couldn't agree more. When it comes down to the matter of patients and their representatives or multiple physicians treating the same patient, accessing treatment information on patient's charts, we should not be trying to strike a balance between privacy and access rights. Access rights, in my opinion, should trump privacy rights, period. I can think of no situation where a breach of privacy would cost a patient his life, and neither could anyone else I have spoken to throughout the years, including the head of the legislative unit for Manitoba Health; chief privacy officers; policy analysts; deputy ministers and Cabinet ministers; nursing care managers; Health ministers; and Ombudsman, all of whom were involved in the creation, promotion, application and compliance of PHIA.

I am, therefore, strongly recommending the following additions and changes to the amendments in order to strengthen into access recommendations to ensure that they will work as I believe the minister intends:

(a) in 6(1), Trustee to respond promptly. I suggest changing the response time by trustees to access to current health information requests to within 24 hours and reviewing the record with a health-care professional within 72 hours

(b) under 9.1, Notice of right to access information. The right to appoint a representative should be added here. I understand that it will be in the regulations and, whichever is the best place for it with the best result, I would go along with that, and

(c) under a new section which could be entitled Access responsibilities of a trustee, I propose the following passages: (a) it is the duty of every trustee upon admission to a health-care facility, to provide the patient with a form in which he or she is given the opportunity to authorize one or more representatives who can access the patient's health-care record in either a limited or in an unrestricted capacity; and (b) if there is a request for access to the health-care record by a family member or friend, and no prior written authorization is on file, then it is the duty of the trustee to ask the patient, if competent, if he or she wishes to authorize said individual to have access to his or her health-care record within 24 hours of the request and obtain that authorization from the patient, either verbally or in written form at this time.

I think that (d) has been covered already in the amendments, in exercising the rights of another person. Somewhere in the amendments, verbal

authorization is going to be acceptable, I understand. I think that's for access as well as for disclosure.

In (e) in penalties, in order to achieve the minister's desired balance between access rights and privacy rights, I believe the $50,000 penalty for breaching privacy rights will either have to be eliminated altogether or matched with a similar penalty for failure to comply with access rights.

Also, I highly recommend that Manitoba Health's *InfoHealth Guide* to health services in Manitoba, which was distributed to all Manitoba households in 2007–I gather there's an update on the 'Net now–be amended in keeping with the minister's desire to inform the public of their rights as patients. I'm hoping that it will now include in the patients rights section, the right of the patient to appoint a representative who can receive the information recorded on the health-care record on the patient's behalf.

I believe that the above recommendation will greatly reduce any misunderstanding and misuse of PHIA while they would clarify the duties and responsibilities of the providers. At the same time, these recommendations would improve access rights for Manitoba patients, bringing PHIA in line with its stated intent. They would also contribute to safer, more inclusive care in Manitoba facilities. Do we deserve anything less?

Madam Chairperson: Thank you for your presentation.

Ms. Oswald: Very quickly, thank you, Ms. Raglan. What I said to your husband, Mr. Taylor, of course, applies to you as well. You've been my best teachers. I also want to thank you for your courage in telling your story, more generally in this presentation, and more specifically in the last, it has been a journey that you've been on and we know we're not finished yet. I will just say I look forward to seeing you again.

Mr. Derkach: I can relate to your situation because recently I went through a similar situation with my mother. Through the process, we knew that she was reacting to something that was being given to her. Yet we were denied access as to what it was until our family discovered a patch on her shoulder which was a morphine patch which she was reacting to, almost to the point of a coma, where she would stay in that state for a number of days, even after the patch was removed. Not to go into the details of the story, but I can understand where you're coming from.

Certainly, I'm someone, around this table, and I can tell you, I haven't conferred with my colleagues on this matter, but it's a situation that I support. If there's anything that I can do in bringing forward amendments that can improve the legislation that the minister has before us–and the issue of the $50,000 penalty certainly causes fear in the hearts and minds of those who are responsible for information–I think that's one area where we could impact a significant difference in attitudes and also in the willingness to share information.

I know that's not a question but a comment. I certainly want to tell you that I understand where you're coming from and the recommendations you have made are ones that I would certainly support and pursue in the amendment section.

***** (21:30)

Mrs. Mavis Taillieu (Morris): Thank you for your second presentation.

I just want to clarify something. As I was listening to you and reading your presentation, you talk about the trustee to respond promptly. You suggested changing the response time by trustees to access to current health-care record information requests to within 24 hours, and reviewing this record with a health-care professional within 72 hours.

Is this a recommendation that you had made previously to now, and it has not been incorporated into this bill?

Ms. Raglan: In 2004, I made a presentation at the PHIA review. I did suggest at that time making it within 72 hours, but, since then, I've come across lots of examples where that would not be enough time, and I have–yes, I was certainly advocating narrowing that 30-day time period in which you could possibly wait for a response to a shorter 72, and I certainly have been advocating for the 24 for certainly a couple of years.

Mrs. Taillieu: Where does it stand right now then? I just am not that familiar with this, but where does it stand right now in terms of the time for timely access?

Ms. Raglan: The minister is proposing at this stage in the amendments the 72 hours for access to the health-care record. We are still talking and I'm hoping she's considering the 24. I mean, I don't think she has completed her deliberations about it yet. I'm

not sure. I guess you can answer for yourself, but, yeah, I've been encouraging that time frame.

It's encouraging that it's in place at the WRHA. At least it's the position put forward by Dr. Brian Postl at the moment, so I imagine if it's going to be the case for the WRHA, there's no reason why the rest of Manitobans couldn't also enjoy that narrow time frame for access.

Mrs. Taillieu: So this is a policy within the WRHA that there's within 24-hour access, or is it a recommendation?

Ms. Raglan: I believe it is a policy. It's not a written-up policy yet, but it is a policy that was put forward by Dr. Postl, I think, in February. It's supposed to be being followed at this moment. I haven't heard that it is not the case.

Madam Chairperson: Thank you. Our time for questions has expired.

I will now call on Charles Cruden, private citizen. Do you have materials for distribution? You may proceed with your presentation.

Mr. Charles Cruden (Private Citizen): I thank you for this opportunity to make a presentation on a long-awaited amended Personal Health Information Act, Bill 32. My background interest in this particular legislation goes back to the mid-1990s when I became involved as a volunteer until 2005 with a provincial seniors organization that included presentations to government on seniors issues of concern.

Since 2005, I had a short volunteer involvement with the Manitoba Institute for Patient Safety, MIPS, and more recently as a volunteer member of the recently dissolved WRHA Patient Safety Advisory Council, PSAC. In 2005, I also had health issues that gave me personal insight, as a patient, to the Manitoba health system. From personal experiences hearing of health issues, particularly of seniors, that involved in too many situations the 1997 legislated Personal Health Information Act, PHIA, I made a presentation on behalf of the Manitoba Society of Seniors in 2004 at the PHIA public hearings.

Today, other than making one recommendation for, if not immediate, 24-hour access to patient records, I would prefer to use my time to speak to a personal experience in the health system and those of a close friend who recently passed away.

It has been my pleasure to be involved with Mimi Raglan and Blake Taylor over the past several years on the PHIA issue, and I am aware of their presentation re recommendations et cetera. I give my full support to their comments and recommendations and sincerely hope that they will be considered before final reading and passage of Bill 32.

I would like to make it clear that I count myself very fortunate to live in Manitoba under a health system, not perfect, but certainly a health system that I feel extremely fortunate to be covered by. I would only hope that by making this presentation, some of the not-perfect part will be improved upon. The new amended version of PHIA gives an indication of improvements which will benefit Manitobans. I can only hope that the new PHIA amendments will be sufficiently clear, and that there will not be the ability for interpretations that the 1997 PHIA obviously allowed.

I respectfully offer the following one recommendation and three hopes to be included in Bill 32 legislation:

I would hope that the amended Personal Health Information Act will receive more prompt reviews in the future to ensure Manitobans of current recommendations and a continued up-to-date compassionate and caring health-care system. The 1997 version of PHIA was to have a five-year review. It is now 2008, 11 years later, and a review is finally taking place. The amended Bill 32 certainly gives the hope for improvement on the old PHIA.

The 72-hour clause for access to patients' current health-care information is better than the previous 30 days. However, since 2004 when 72 hours was suggested at public hearings, we have seen a statement in the Winnipeg Regional Health Authority's position going forward in that the standard practice for any admitted in- hospital patient, or his or her representative, who request access to his/her current medical record, i.e., the chart relating to the current episode of care, is to be granted access within 24 hours. Any requests for an explanation of the chart or its notations are to be provided by a qualified health professional within 72 hours of the request.

Dr. Gerrard's Bill 209 before this sitting of the Legislature also proposes: Trustee must respond promptly–6(1) A trustee shall respond to a request as promptly as required in the circumstances but no later than (a) 24 hours after receiving it, if the request is limited to immediately available information, as provided for in subsection 5(1.1).

Therefore, I would recommend that the members of Manitoba Legislature would seriously consider changing the 72-hour access to current medical record to 24 hours as stated by Dr. Postl and proposed by Dr. Gerrard in Bill 209.

I would hope that there would not be the ability to interpret legislation in a manner that is detrimental to the general public. In my opinion, the 1997 PHIA was allowed to be misinterpreted by bureaucracy, institutions, et cetera, that created, in the words of the previous Manitoba Ombudsman, Barry Tuckett, PHIAnoia.

***** (21:40)

A very recent example of this for me was in April 2008 when visiting a close friend in an end-of-life situation in a Winnipeg hospital. On a Friday afternoon when visiting the friend, she did not appear to be aware of her surroundings or who was present, and, although making sounds, did not appear to be in pain or discomfort. When visiting the patient on the following Saturday morning, she was conscious and aware of those present. She expressed a real need for cold water for which she craved. As it was lunch time and meals were being distributed, it was noted that the people delivering meals passed the patient's room. I spoke to the nurse on duty, introducing myself and advising her that I had been involved with WRHA PSAC. Her immediate response was, then you know all about PHIA.

In view of the tone of her response, I did not pursue, other than to ask if the patient could have some soup. I really do think there could have been more compassion and explanation without going into details of the patient's health information. On the following Monday when visiting our friend, she was again responsive to people present and was in a similar state of discomfort as on Saturday. The patient died on that Monday afternoon.

In view of having taken the WRHA PHIA training course requirement of being on PSAC, it is not difficult for me to understand how institution staff are guarded and reluctant to say anything regarding a patient's condition or hospital procedure in even end-of-life situations. I can only hope that the new PHIA amendment will bring about changes in training that will allow our hospital professionals to be able to be more compassionate and patient-care orientated when dealing with patients, families and representatives of patients, and my last hope, but certainly not least, that there be a higher priority put on family, friends and/or representative involvement in patient care.

I refer to a personal incident that my wife encountered when I was in a Winnipeg hospital. I had been admitted to the ER with a medical problem. Shortly after my problem in the ER I was taken to the ICU and my wife, who was present at the hospital, was told to go to a separate waiting room. As the ICU professionals had been monitoring my situation and were aware of what my problem was, the first question asked of me was, would I allow for an external pacemaker to be installed. My obvious response was, whatever you feel necessary.

However, I am a great believer that the patient, particularly in a time of distress, is not necessarily the best person to sit in judgment of themselves. In this situation I do think that my wife should have been present, consulted and part of the decision rather than wondering what was going on in another part of the hospital. All indications in patient safety involvement clearly state that there are many benefits to patients and institutions when family representative of patient involvement is encouraged. I would sincerely hope that all medical professional institutions, et cetera, at time of patient's entering care would encourage all patients they serve to name of more representatives.

I, therefore, offer one recommendation for Bill 32, if not immediate, 24-hour access to current patient records, and three hopes for Bill 32:

(1) More prompt and effective reviews of the legislation;

(2) Updated and effective PHIA training procedures ensuring compassionate patient care; and

(3) All patients would be encourage to name one of more representative.

In closing the 21st century is seeing considerable privacy legislation. PHIA, FIPPA, PIPEDA to name a few acronyms that many of us would find difficult to know what they stand for, as well as the interpretations of the contents of the acts.

Just last week my wife had a bank representative tell her that I could not be included in discussions regarding her retirement funds, something that we have done together for the past thirty years. It can only be hoped that governments are not passing laws that suppress citizens' ability to be involved in arising needs that can affect their daily lives, but rather ensuring the legislated acts will protect and

enhance a citizen's valued Canadian standard of living. I

I thank you for the opportunity to make this presentation and your consideration for possible improvement to a Manitoba government legislated act that, no doubt, in the future could affect the quality of life in everyday living of Manitobans.

Madam Chairperson: Thank you for your presentation.

Ms. Oswald: Thank you very much, Mr. Cruden, for being here this evening and all of last evening as well. I really appreciate the work that you have done together with Mr. Taylor and Ms. Raglan and the Manitoba Society for seniors–of Seniors–to get the acronym right.

I really do think that with the amendments that are coming forward, what we're going to be able to achieve together is, I believe, what was intended all along, and I say that respectfully to the members of the official opposition. There wasn't a bill that was intentionally created to have a culture that was about "here's what we can't possibly ever tell you, ever." But somehow that happened. The work that you have done together with the people that I've mentioned is going to create a culture of "here's what you have an absolute right to know." And that is going to change the tide of everything because if there's one thing I know for sure, to quote Oprah, it's that we're in this together and that the health of our loved ones is a shared responsibility. Lastly, allow me to offer my condolences on the loss of your friend in such a very short time ago.

Mr. Derkach: Mr. Cruden, thank you for your presentation. I think everyone around this table can relate to incidents that perhaps have happened to their loved ones that are similar to what your experience has been. I think what you offered to us here this evening is a very practical approach to what should be common sense when loved ones of ours find themselves in situations where they need the support and perhaps the counsel of their family members in making decisions.

Also, I wonder in having made that statement, I also wonder whether the 24-hour access is one that is reasonable in a situation where it's important to access that information immediately so that we can understand better the condition of a loved one, and whether or not 24 hours is even too long in circumstances like that.

Mr. Cruden: Yes, that's why I say immediate because the patient's record is right there in the nurses that are looking after them. I think that 24 hours is, in the case of my friend–had anybody wanted to, the next morning was too late. I really just don't understand the secrecy. After being through the PHIA training program, I have a better understanding of the reasons why there is such a suppression and fear of patients.

When I was in the hospital myself, the inability to access information, the fact that they would send my wife to a waiting room. She didn't want to see them insert the pacemaker, but she should have been there to have helped make the decision. I really believe that because, after being a patient–and that was one of my first experiences as a patient–I don't think that a patient who is getting medication or has had a traumatic experience is really the person to decide what is going on. A representative is an essential part of that care. Everything that we have seen for so long now, internationally, American, Canadian, that if patients have representatives, it is far better for the institutions and it is very beneficial to the patient providing.

When I was involved with advocacy, I have only had one gentleman who was a doctor tell me that they did not want to have a representative.

***** (21:50)

Mr. Derkach: I agree with the minister when she says we're in this together. I think all of us around this table want to ensure that we improve the legislation and the situation in our province. How we got to this state, I'll never know, because I don't think it was anybody's concerted effort to try to suppress information, but somehow we got there.

I think those of us who have gone through recent experiences would agree that something needs to change for the betterment of the society of our province, and for that, I thank you for coming forward, Mr. Cruden, and sharing your experience and sharing your recommendations because I think, from your experience, you understand better than perhaps many of us what needs to change in this legislation to make it better for Manitobans. Thank you.

Madam Chairperson: Thank you. I will now call on Laurie Thompson, Manitoba Institute for Patient Safety.

Point of Order

Mr. Swan: Just on a point of order. It's now 10 to 10. I wonder if we could see if there's leave to make sure that Ms. Thompson can complete her 10-minute presentation and have five minutes of questions without cutting her off when the clock strikes 10.

Mr. Derkach: Well, I'm happy to see that Mr. Swan has regained some common sense, and certainly, I would be prepared to give leave for the presentation to be completed and even extend the time for questions, if that's necessary.

Madam Chairperson: If you'll give us one moment, we need to check on this information.

Hon. Jon Gerrard (River Heights): I understand that there are three more presenters and they have waited for a long time. I wonder if there's a possibility of extending so that we could hear all three.

Madam Chairperson: What we will do is look at Laurie Thompson, presenter. Is it the will of the committee to give leave to allow her to present and the five-minute question period to follow for a total of 15 minutes?

Some Honourable Members: Agreed.

Madam Chairperson: Agreed. We have leave. Please distribute the materials.

Ms. Thompson, please begin your presentation.

Ms. Laurie Thompson (Manitoba Institute for Patient Safety): Madam Chairperson, and members, I'm Laurie Thompson with the Manitoba Institute for Patient Safety.

The institute is very pleased to provide the following commentary and indicate its general support for Bill 32. We'll also offer some recommendations for consideration. You will notice some similar messages in my presentation. Our presentation was done independently but I'm sure that you will see some obvious themes running through my presentation, as with the last presenters.

For those of you who may not be fully aware of the origins and mandate of the institute, the Manitoba Institute for Patient Safety was recommended in 2003 by a representative committee of key stakeholders in the health field, chaired by Dr. John Wade, and the institute was created in 2004.

We're a not-for-profit corporation. Our mandate is to promote patient safety and quality health care for Manitobans. We do this by working with others on key activities, promoting best practice, raising awareness and providing independent and objective advice to all parts of the health-care system in support of minimizing preventable injuries to patients. We are governed by a board of directors, the majority of which are elected by our member organizations of which we have 30.

A significant achievement in 2007-2008 was the establishment of the institute's Patient Advisory Committee. Members joined the committee because they have had involvement with the health-care system as patients and as families, and some of those experiences have been far less than satisfactory. However, members wanted to be able to use what they had learned from those experiences, as hard as some of them have been, to ensure other patients and families can benefit from the improvements in care.

Included in your package is information on our health literacy initiative, *It's Safe to Ask*, as well as our most recent annual report which outlines our accomplishments. I'd be pleased to answer any questions you may have about our initiatives and activities.

Our comments on Bill 32 are in the context of supporting patient and family-centered care. You heard this term already this evening. Patient and family-centered care is an approach to the planning, delivery, evaluation of health care and is grounded in mutually beneficial partnerships among patients, families and providers.

Patient and family involvement is the essence of patient and family-centered care. Patients and families are essential members of the care-giving team and, as you have heard, the core concept of this care model is information-sharing.

As mentioned, efforts to incorporate patient voices and improving health-care quality and patient safety, including their wishes concerning how their loved ones should be involved, are under way worldwide. One of the goals of the Patient Advisory Committee is to gain better access to personal health information for patient advocates and so the amendments to Bill 32 are, therefore, very timely. For clarification, the word "advocate" may be substituted with the terms identified in Bill 32 as "close personal relationship, trusted friends and family."

***** (22:00)

All of us, particularly those who have been in hospital, can relate to complicated, confusing, stressful and sometimes frightening health-care situations. These situations may put the patient who does not have an advocate or spokesperson at a disadvantage for getting the care that they need.

Examples of areas that an advocate might address include getting information and answers, asking specific questions and ensuring the patient's wishes are followed. Many areas for involvement for the advocate are dependent on information exchange within the circle of care. So legislation affecting access to and disclosure of personal health information is critical to how successfully the care team will function and, ultimately, to quality and safe care.

I will now speak specifically to amendments in Bill 32 and will provide some additional observations regarding the introduction of the legislation.

In the context of sharing recorded information by providers to families, the new provision regarding consent will continue to respect the rights of patients to determine to whom they wish to share personal health information, as well as clarifying how consent is to be gained. The institute supports provisions which clarify health-care providers' roles and responsibilities with regard to sharing personal health information.

A challenge for trustees is determining the appropriateness of disclosure of personal health information in circumstances where the patient has not provided written authorization. There can be circumstances where the patient has the capacity to exercise their rights as outlined in the act but is not able to do so. This could be, for example, and I think you heard an example earlier, an elderly parent who may have confusion because of their immediate episode of illness or due to the effects of their medication.

Although the act does have provision for disclosure of personal health information without consent, in practice this hinges on the health-care provider having full understanding of their responsibility to disclose in the circumstances as outlined in the act. It's also important that health-care providers understand that PHIA principally addresses the question of access to records, not access to thoughts and conversations. The institute believes that sharing of pertinent clinical information is integral to good clinical care.

Ideally, the consideration of having a person to access personal health information in the role of advocate has been made well in advance of the care episode. This includes a decision to have an advocate, what assistance they might want from their advocate and an outline of their wishes in writing. This is particularly important prior to hospitalization, as it can help minimize misunderstandings between all parties who may have an interest in the patient's well-being.

The Patient Advisory Committee is addressing this issue in their current work and will be suggesting that people have a letter that names an advocate or support person. The letter should define the role the person would like the advocate to play in their health care, even if the person can communicate for themselves. For example, the person may give an advocate the right to access medical records, be fully informed about the person's health care or be involved in decision making. People should bring copies of this letter to give health-care providers and ask that the letter be put in the person's medical file. This process will assist trustees under The Personal Health Information Act in confirming a substitute decision maker and gaining express consent, including situations where the patient is able to communicate for themselves. However, it is likely that this form of communication will be used in situations of elective admission to hospital as consumers may not carry this with them at all times.

Another proactive approach is to have space on the admission form to hospital and personal care homes. This space would trigger the admitting professional to ask if the patient resident gives permission to the trustee to disclose personal health information and to whom. This measure would ensure that patients know their rights to assign an advocate and also clarify for the trustee the patient's wishes for disclosure of personal health information.

In the future, perhaps consideration could be given to the revision of the health-care directive as a way to consolidate information for trustees on patients' choices regarding an advocate.

With regard to information about current care and timely disclosure, in current episodes of care, patients' families and advocates absolutely need comprehensive and timely information. Although the change in response time from 30 days to 72 hours is applauded, the institute supports a further reduction that would require hospitals and personal care homes to respond to requests for access to personal health

information from patients and advocates regarding the current record of care within 24 hours. Access within 24 hours would be the start of the process of sharing information. As pointed out earlier, the Winnipeg Regional Health Authority has instituted this as standard practice for any admitted in-hospital patient.

Regarding review of the information with the patient and advocate, medical charts can be complex and the medical language difficult to understand. It may be possible that there may not be a qualified health-care provider available within 24 hours who's familiar with the patient's care plan and is able to review the record with the patient or advocate. Therefore, it's recommended that a requirement be added on this issue. The amendment would require that, upon the patient's or advocate's request, the trustee must provide an explanation of the accessed medical record by a qualified health-care professional within 48 hours of the original request for information.

The act continues to allow a 30-day time frame for response to requests for access to personal health information in any other case other than for health care being currently provided. There are instances where patients or advocates need information from their records. For example, those with an unconfirmed diagnosis or an unstable condition, or seeking a second opinion or care outside the province, and the 30-day time frame is considered to be too long in these circumstances. Therefore, it's recommended that this time frame be re-examined with the possibility of reducing it.

In relation to substitute decision makers, the institute supports the addition of trusted friends and family to this amendment.

A few comments on public education. Too often we've heard the challenges faced by family members in getting the information they need in order to advocate on behalf of their loved ones. We believe this relates to the way in which The Personal Health Information Act has been interpreted in practice. The time to debate what information can be shared with whom and when is not during a crisis with a loved one. This only adds to an already stressful situation and detracts from the essence of patient- and family-centred care. The public needs education and to be reminded of their rights with regard to personal health information.

Finally, with regard to health literacy, an important reminder is that we must bridge the divide between the legislation as written and the legislation as understood by patients, families and care providers. The divide requires that the legislation be translated into plain language. It's estimated that approximately 60 percent of adult Canadians and Manitobans do not have the necessary skills to manage their health and their health care. This results in important patient safety issues such as difficulty providing informed consent, not understanding directions on medications, and in the context of Bill 32, not understanding their rights regarding personal health information.

Madam Chairperson: Thank you. Your time has expired.

Members of the committee have questions?

Ms. Oswald: Thank you very much, Ms. Thompson, for being here last night and tonight, making it in just under the wire. Of course, we really appreciate your insights and the insights of the Manitoba Institute for Patient Safety, and just as the other presenters have said tonight, of course, in the vast, vast majority of cases, we know that patients in surveys and otherwise will respond that, of course, I want to have an advocate to help in those discussions and with decision making if I can't make a decision.

I think it bears noting for our discourse this evening that there do exist situations, of course, where, in fact, that is not the case and not the desire of an individual. Oftentimes, but not exclusively, we know that this can fall into the realm of women's health where it might concern reproductive health choices, contraception. It might involve situations where a woman's been abused by a partner and it's for those reasons that we have to have in legislation privacy measures so that those very issues can be protected. While we've had a very good discussion tonight of what does indeed happen in the vast majority of cases, we do, of course, and I know the Institute for Patient Safety acknowledges that safety comes in a variety of forms, and if it's the safety of a woman who's being battered, that's indeed an important matter too.

The discussion that we will have going forward on 24, 48, and 72 is a lively and interesting one and we appreciate what you have brought to the debate this evening.

Thanks again.

Madam Chairperson: Just for the information of the–*[interjection]* Are there any further questions?

Seeing none, thank you very much for your presentation.

For the information of the committee, committees are the creation of the House– *[interjection]* pardon me, creatures of the House, and the House agreed for this committee to sit only until 10 p.m., and the committee cannot agree to alternative terms that have already been set by the House. Thank you.

As has been previously agreed to in the House, the time being after 10 p.m., committee rise.

Since our meeting is tomorrow, if members would leave their copies of all bills, that would be greatly appreciated. Thank you.

COMMITTEE ROSE AT: 10:10 p.m.

WRITTEN SUBMISSIONS PRESENTED BUT NOT READ

Re: Bill 15

Thank you, Mr. Chairperson and honourable members. My name is Gordon Forman and I am a representative of the Manitoba Association of Automobile Clubs (MAAC) and the National Association of Antique Automobile Clubs of Canada Corporation (NAAACCC). The groups, both national and provincial, are organizations of the automotive hobby. The tens of thousands of hobbyists represented are very concerned with legislation that often appears to jeopardize the hobby, a multimillion-dollar industry, and the preservation of automotive history.

I am here to address you with respect to Bill 15, The Climate Change and Emissions Reductions Act, Vehicle Classes.

While the bill reference to Importing Older Motor Vehicles Prohibited 108.1(1) clearly indicates that only a person with intentions of reselling has this restriction, the next section, Regulations Re Older Motor Vehicles 108.1(2), part (c), is to establish classes of motor vehicles which may be brought into Manitoba for resale. Specifically, antique motor vehicles, classic motor vehicles and vehicles with low emissions are the classes named.

As the Province has yet to establish these class definitions, we offer the following descriptions for antique and classic.

Antique:

- be at least 30 years old
- maintained as close as possible to its original condition with original parts
- restored to a condition that conforms as nearly as possible to the original manufacturer's specifications
- owned as a collector's item
- mechanically sound
- may have period accessories

Classic:

- at least 25 years old, or
- 15 - 24 years old and a limited-production vehicle; that is, 1,500 or fewer of that model were produced by the manufacturer worldwide for that model year, or
- at least 15 years old and the manufacturer has made no vehicles of any kind for at least five years

I would like to point out that these definitions come from the province of British Columbia where ICBC and the Collector Car Club Council, of which NAAACCC is a member, collaborated to produce.

I would also like to point out that a collector definition encompasses classic, muscle, modified, street rod, custom and replica/kit car classes. The bill's reference to classic should also encompass these descriptions.

Classic: a fine or distinctive automobile, either American- or foreign-built, produced between 1925 and 1948; generally high-priced when new and built in limited quantities. Classic Car Club of America maintains a registry.

Muscle: the model of a lower-cost regular-production vehicle powered by a large, powerful, V8 engine, resulting in a power-to-weight ratio of less than approximately 26 kilograms per rated horsepower and 13 or more years old.

Modified: at least 25 years old and of a model year after 1948; or was manufactured to resemble a vehicle 25 or more years old and of a model year after 1948; and has been altered from the manufacturer's original design; or has a body constructed from non-original materials.

Street Rod: a 1948 or older vehicle; or the vehicle was manufactured after 1948 to resemble a vehicle manufactured before 1949; and has been altered from the manufacturer's original design.

Custom: an altered vehicle manufactured after 1948; 25 or more years old.

Replica/Kit car: a vehicle reproduced to near appearance of another class of vehicle at least 25 years old and registered as the year of the vehicle copied.

Passenger vehicles, vans, light trucks and motorcycles are all included in these descriptions.

One last point: 108.1(2)(d) refers to "a person who holds a collector number plate" and, though we believe there is such a plate in Manitoba, we feel that a collector plate program is an excellent idea and will work to assist in its creation. British Columbia has this program.

Thank you.

Respectfully,

Gordon Forman

* * *

Re: Bill 31

Introduction:

The Manitoba Association for Rights and Liberties, MARL, has made presentations a number of times on The Freedom of Information and Protection of Privacy Act, including a submission on the discussion paper which led to the present act, a presentation to the legislative committee on Bill 50 and submission on the review of the act in 2000 and 2004. The recommendations which follow are largely consistent with these previous submissions.

Information and Privacy Adjudicator:

MARL has favoured the creation of an information and privacy commissioner with power to issue binding orders since our earliest presentations on the current act. We were encouraged when the current government committed itself to the concept in a 1999 pre-election survey, and were further encouraged by the Throne Speech announcement that legislation creating an information and privacy commissioner would be introduced this session. We regret, however, to have to say that the information and privacy adjudicator in the proposed legislation falls short of being a commissioner as exists in most other Canadian jurisdictions. Although the adjudicator would have order-making powers, they could only act if invited to do so by the Ombudsman. We are concerned that this adds another layer of bureaucracy and makes the complaint process more complicated, lengthy and inaccessible to the public.

When compared with the provisions of similar acts in other provinces, the process outlined in this bill would lengthen the request for access to information by at least another 90 days when a public body has denied access. In British Columbia, for example, a request for review of a decision by a public body is submitted to the information and privacy commissioner. The review process, including attempts to resolve through mediation and an inquiry should mediation fail, is 90 days. Where an inquiry has been necessary, the commissioner produces a written order with which a public body must comply. In Manitoba, the current complaint process prior to these amendments is 90 days. Added to this will be 15 days for a public body to respond to the Ombudsman’s recommendations and an additional 90 days if the matter is referred by the Ombudsman to the adjudicator for review. This, effectively, could more than double what is already considered by many to be a lengthy process when a public body is reluctant to release information.

Section 13 – Repetitive or Abusive Requests:

The section as proposed in this bill provides public bodies with a number of pretexts for denying requests for access, but offers no checks against the discretion to disregard requests that, in the opinion of the head of public body, abuse the right to access. In B.C., for example, if the head of a public body asks, the commissioner may authorize a public body to disregard requests that are frivolous, vexatious or of a repetitious or systematic nature.

Alternatively, amend the section to provide that where the head of a public body believes, on reasonable grounds, that a person or persons is abusing the right of access to information for the purpose of disrupting the work of the public body, the public body could apply to court for an order prohibiting the requesters from making further requests for information, for a specified period of time, without first obtaining leave of the court.

The current amendment in the bill does not provide an effective remedy in cases where there is a genuine case of abuse of the right of access. The proposed amendment would provide a strong remedy which could be invoked in extreme cases where the public body could satisfy a judge that the right of access was being abused.

Section 20 – Information Provided by Another Government, and **Section 21 – Relations Between Manitoba and Other Governments:**

The proposed new sections 20(1)(c.1) and 21(1)(c.1) shield documents from release that have been received from an organization that represents governmental interests of a group of Aboriginal people. Although examples are given, this clause is never clearly defined. As the clause is vague and overly broad, it would be preferable simply to say, as in the B.C. act, an Aboriginal government.

Section 19 – Cabinet Confidences:

While the amendments to section 19(2) improve the act by reducing the period for non-disclosure from 30 to 20 years, access to Cabinet documents would still be more restricted than in other jurisdictions. We continue to recommend replacing subsection 19(2) with the following: 19(2) subsection (1) does not apply if (a) the Cabinet for which or in respect of which the record has been prepared consents to the disclosure; (b) the record is more than 15 years old; (c) the record consists of background explanations or analysis to Cabinet its consideration in making a decision if (i) the decision has been made public, (ii) the decision has been implemented, or (iii) 5 years or more have passed since the decision was made or considered.

Comment: The period of non-disclosure is further reduced from 20 years. Proposed paragraph 19(2)(c) is taken from paragraph 12(2)(c) of the B.C. act.

Section 44 – Disclosure of Personal Information:

New section 44(1)(j.1) permits the disclosure of personal information to another public body for the purpose of delivering a common or integrated service, program or activity. There is no requirement that the individual be notified and there are no checks and balances built in to this blanket permission as are provided in other jurisdictions. In the interests of protecting personal information, we suggest that the Ombudsman review such proposed disclosures before they are permitted.

New sections 44.1(1) through 44.1(5) provide for the disclosure of information to an information manager. However, the act does not comment on the storage or processing of information outside Canada. It is conceivable that information could be contracted out to a corporation based in a foreign country, carrying with it whatever access to information that jurisdiction allows under its own legislation. It would be desirable to require that public bodies store personal information in Canada as required in B.C.'s act to avoid this possibility and breach of privacy of Manitobans.

The following are recommendations we made during the review of the act in 2004 that have not been addressed in Bill 31.

Section 10 – Access to Records in Electronic Form:

Recommendation 1: Repeal the entire section 10(1).

Comment: There is no justification for placing extra restrictions on the obligation of a public body to disclose records kept in electronic form. All public bodies should be encouraged to maintain electronic records in a form which permits public access in a form which does not unduly disrupt the functioning of the public body. If a request for access requires some custom programming to make the records available, the appropriate remedy is not to deny access but to require that the requester pay the reasonable cost of producing the record.

Recommendation 2: Add a provision to subsection 10(2) that, where a record exists in the format requested, the public body shall provide a copy of the record in that format.

Comment: There has been some federal case law which has permitted federal public bodies to refuse to produce records in electronic format, even though the records existed in that format.

Section 23 – Advice to a Public Body:

Recommendation 3: Replace paragraph 23(1)(a) with the following: (a) an opinion, advice or recommendation submitted by an officer or employee of a public body or a member of the staff of a minister to a public body or a minister.

Comment: This amendment would limit the scope of the exemption from disclosure to advice provided by employees of the public body. The wording is based on paragraph 39(1)(a) of the old Access to Information Act.

Recommendation 4: Repeal paragraph 23(1)(b).

Comment: The paragraph is vague and over-broad. Any consultations and deliberations which should be kept confidential are already protected by paragraphs (a), (c), (d), (e) and (f).

Recommendation 5: Change "30 years" to "15 years" in paragraph 23(2)(a) rather than the 20 years in Bill 31.

Comment: This makes the period of protection for advice to a public body consistent with the proposed period of protection for Cabinet records.

Recommendation 6: Add the following to the end of section 23(2): (i) a report prepared by a consultant, who was not at the time the report was prepared, an employee of the department or a member of the staff of the minister.

Comment: This is a provision of section 39(2)(f) of the old Access to Information Act which was not included in the new act.

Recommendation 7: In subsection 23(3), replace the words " a tax policy or other economic policy of a public body" with "a proposed tax or budgetary change which has not yet been made public."

Comment: Once a tax or budgetary change is announced, there is no further justification for not disclosing the background research which led to the change.

Section 25 – Disclosure Harmful to Law Enforcement or Legal Proceedings:

Recommendation 8: Amend paragraph 25(1)(c) by adding the word "legal" before "investigative techniques" and paragraph 25(1)(d) by adding the word 'legal" before "gathering."

Comment: The exemption should not be used to conceal information relating to unlawful activities by law enforcement agencies.

Section 32 – Information that is or will be Available to the Public:

Recommendation 9: Add the words "at a cost to the applicant which does not exceed the fee which the public body would be entitled to charge for disclosure of the information requested by the applicant under this act" to paragraph 32(1)(a).

Comment: This amendment is intended to prevent public bodies from packaging information for sale at a price which is beyond the reach of ordinary citizens. A citizen who requires access to one or two records from a public office should not be required to purchase an entire database from a private publisher.

Section 44 – Disclosure of Personal Information:

Recommendation 10: Repeal paragraph 44(1)(g).

Comment: This paragraph permits the government to use personal information, without the consent of the subject, for the purpose of managing or administering personnel of the Government of Manitoba or a public body. There is no reason why employees of public bodies should not have the same rights to privacy with respect to their personal information as anyone else.

Mandatory Publication of Information:

Recommendation 11: FIPPA should contain a provision that specifies that all public bodies subject to the act are required to post the following information on their Web site:

1. List of statutes and regulations administered by the department.

2. Documents published by the public body in the *Manitoba Gazette.*

3. Spending estimates and public accounts specific to the public body, for example, specific to a department.

4. Manuals and internal policies adopted by the public body for use by its employees, subject to other exemptions in FIPPA.

5. List of the programs offered to the public by the public body, including application forms and a summary of eligibility rules and benefits for each program.

6. Audit reports undertaken by or for a public body, subject to other exemptions in FIPPA.

7. Description of requests received by the public body for access to information. This would not include requests for one's own personal information.

8. List of contracts for a value in excess of $10,000 concluded by the public body, and the name of the contractor.

9. Description of public opinion polls conducted for or purchased by the public body, within 90 days of receipt of the results of the polling results.

10. List of grants or contributions for a value in excess of $10,000 provided by the public body, and the name of the recipient.

Comment: In the U.S. amendments to the Freedom of Information Act in 1996, called the E-FOIA amendments, it became a statutory requirement for all federal U.S. government institutions to create an electronic reading room, and

to put in each reading room the following: (1) final opinions and orders in the adjudication of administrative cases, (2) agency policy statements, (3) administrative staff manuals, and (4) records disclosed in response to a FOIA request that the agency determines have become or are likely to become the subject of subsequent requests for substantially the same records.

In the E-Government Act enacted in 2002, each U.S. federal government institution is further required by statute to publish electronically the mission and statutory authority, the organizational structure of the agency, the strategic plan of the agency, all agency information required to be published in the Federal Register, all public submissions and agency documents related to rule-making (e.g., related to regulations, policies and interpretations of the agency that were released for public comment), and detailed information about research and development funded by the agency. In addition, each agency is required to solicit public comment on which government information the agency intends to make available, to develop priorities and schedules for making government information available and accessible, and to post on the Internet final determinations on which information would be made available and when it would be available.

In Canada, the federal government now posts on its Web site travel expenses of ministers and their exempt staff, and its internal audit policy provides that internal audits should be published.

All major jurisdictions in Canada now use the Internet to make a variety of information available. However, there is still a role for legislation to ensure that every public body must provide proactive access to a minimum standard of information.

Recent federal events have demonstrated the importance of ensuring that government expenditures are as transparent as possible and that the public accounts are not sufficient. A recent decision from the federal Court of Appeal has highlighted again the importance of disclosure of information about contracts.

Mandatory Disclosure in the Public Interest:

Recommendation 12: Add a new section providing that information must be disclosed if in the public interest:

34.1 (1) Whether or not a request for access is made, the head of a public body must, without delay, disclose to the public, to an affected group of people or to an applicant, information (a) about a risk of significant harm to the environment or to the health or safety of the public or a group of people, or (b) the disclosure of which is, for any other reason, clearly in the public interest.

34.1(2) subsection (1) applies despite any other provision of this act, provided that the head of a public body shall not disclose personal information unless it essential to meet the objectives of subsection (1) and shall take reasonable steps to restrict the use or further disclosure of any personal information which is disclosed under subsection (1).

34.1(3) Before disclosing information under subsection (1), the head of a public body must, if practicable, notify any third party to whom the information relates.

34.1(4) If it is not practicable to comply with subsection (3), the head of the public body must mail a notice of disclosure in the prescribed form to the last known address of the third party.

Comment: The section is based on section 25 of the B.C. act. It provides for a general "public interest" override of the exemptions from disclosure under the act. A decision of a head of a public body made under this section is subject to appeal to the commissioner.

The section applies to all forms of information, including personal information. However, personal information shall be disclosed only when essential and the public body may take steps to prevent its further disclosure. For example, the public body could require that the person requesting the information agree only to use the information for the specific purpose for which the request was made and to destroy or return all copies of the personal information, once the purpose has been fulfilled.

Submitted by the Manitoba Association for Rights and Liberties

May 2008

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Re: Bill 13

The Manitoba Trucking Association appreciates the opportunity to present to the standing legislative committee on Social and Economic Development regarding Bill 13. Bill 13, Damage to Infrastructure was introduced because of a rash of incidents where vehicles had collided with road and bridge

infrastructure, resulting in damage to the infrastructure.

This bill will provide the legislative authority to fine vehicle owners and vehicle operators if a vehicle damages a highway, road or bridge infrastructure. While the Manitoba Trucking Association does not condone damage to highway infrastructure, we are concerned about the approach the government is taking in its attempt to resolve this issue.

Over the last two years, there have been incidents where vehicles have struck bridges and overpasses. In some cases, the vehicle and/or load were in excess of the maximum allowable height or width and should have been transported under a special permit. It is our understanding that at least in one occasion, a special permit was issued but the operator did not comply with its conditions. In such circumstances, the MTA supports the imposition of penalties for such operations.

In other instances, vehicles of legal height or width have been operating on our roadways and have struck road and bridge infrastructures. In these instances, the structure struck tended to be very aged infrastructures that were built 40, 50, 60 years ago. Most probably, those structures were built with the then current vehicles in mind. However, since then, the dimensions of commercial trucks and trailers have changed significantly.

Modern trucks and trailers are designed and built to the North American standard maximum height of 4.16 metres and maximum width of 2.6 metres. These vehicles operate legally, without special permits, on roadways throughout Manitoba, Canada and North America.

Today we consider these aged bridge infrastructures substandard when we consider the maximum legal allowable vehicle height and width of modern equipment. While there are few of these structures on the provincial road system, there are a number within Winnipeg and other urban areas. In many instances, these structures are grade separations between railways and roadways.

Under Bill 13, if a driver operating a vehicle and load within the legal allowable maximum height strikes a structure that is lower than the allowable maximum height under current laws, the driver and owner of the vehicle can be fined. The Manitoba Trucking Association is opposed to the implementation of any legislation that will permit this to happen. Having said that, we also recognize there is a liability on the part of the carrier or owner of the vehicle if and when this does occur.

It has been stated that the government must protect its infrastructure and while we do not disagree, we fail to see how a $5,000 fine will protect our infrastructure.

However, the government should recognize that the minimum public liability insurance requirements in Manitoba are not adequate in some cases and are also not the same for all trucks. Currently, minimum levels of liability insurance for trucks in Manitoba can vary from no requirement to a maximum of $2 million and variations in between. We cannot understand why the government of Manitoba would allow such differing levels of minimum liability insurance when trucks of different licence classes, in many instances, are hauling the same goods on the same roadways.

If the government truly wants to ensure protection of its infrastructure, it should introduce a higher level of minimum liability insurance requirements on all classes of trucks and vehicles. This limit should not vary dependent on the class of truck licence but should be the same for all trucks.

The challenge of old and deteriorating roadway and bridge infrastructure is well known. Manitoba, like many other jurisdictions has collected taxes from road users for decades and did not invest all of those tax dollars into our roadway and bridge infrastructure. In fact, at times, very little of those road user taxes were invested into our road and bridge infrastructure. Today, our deteriorating and substandard infrastructure is our reward for not making the proper investments.

Manitoba and the other levels of government should be focusing on bringing our bridge and roadway structure up to 21st century standards. Road users and taxpayers should not be satisfied with having to exist with horse and buggy bridge infrastructure.

One only has to look about the city of Winnipeg to identify a number of bridges and underpasses that are substandard in today's world: McPhillips Street underpass, Main Street underpass, Louise Bridge, Redwood Bridge, bridge over Red River on Bishop Grandin Boulevard. Some of these structures appear to be rotting on their foundations and ultimately will become a safety risk.

In spite of these substandard structures, no consideration is given to land use in close proximity

to these structures. As an example, in the neighbourhood of the McPhillips Street underpass, there are no less than eight to 12 businesses that require truck services on a regular basis. Perhaps better urban planning with consideration to the existing substandard structures should be undertaken.

In the long term, it would be better if these ancient structures were replaced with structures that can accommodate today and tomorrow's vehicle. At a minimum, consideration should be given to upgrading these old grade separations by excavating and lowering the roadway under these structures.

Give the number of instances that have occurred with vehicles striking roadway infrastructure, we would have anticipated that a thorough investigation would have been conducted on each instance. Matters such as the driver's knowledge and understanding of allowable vehicle dimensions, the driver's responsibilities in regard to vehicle dimensions, this issue of dealing with a combination of imperial and metric measurements, roadway signage, and where information regarding substandard structures can be readily found should have been investigated.

We are not aware of any investigation that has been undertaken to answer those questions. Therefore, at the end of the day, we still do not know why these incidents occurred. So how can we address the problem if we do not know the cause? It would appear, instead, the government is going to attempt to address the system without identifying the cause.

While the government is eager to implement punitive actions, we see little done in regard to training requirements for commercial drivers. There are no requirements in Manitoba to ensure vehicle operators, including commercial vehicle operators, are taught the maximum allowable dimensions and weights of their vehicles. In fact, there are no mandatory minimum training standards for commercial drivers in Manitoba.

Many Manitobans are not tested on their level of knowledge in regard to legal vehicle dimensions. When we were experiencing the rash of collisions, it became known that there is only one question in the bank of questions for the commercial driver's written test with MPI. As the questions for each applicant are computer generated, only some of the applicants are even asked this one question. We believe there is need for further emphasis on this subject area. This may prove more beneficial than introducing more fines.

It is ironic, in spite of these training and testing deficiencies, commercial drivers are expected to be knowledgeable of and understand these subject areas once they have been issued a licence.

This legislation also does not take into consideration due diligence conducted by the vehicle owner. Regardless of the efforts undertaken by the owner to ensure the driver is provided with the proper information and knowledge and this has been validated and documented, under this legislation, the owner will still be subject to penalty.

As we indicated earlier, those drivers and vehicle owners who operate vehicles without special permits when such permits are required or operate in contravention to any conditions of a special permit and in the process strike highway infrastructure, should be subject to penalty.

However, Bill 13 should not permit punitive action to be taken against a driver and vehicle owner who operate a vehicle within the legal maximum dimensional requirements and while doing so, strikes a structure.

Rather than to attach the symptom, the government should introduce the appropriate and same minimum levels of public liability insurance for all truck licence classes and address the training and testing deficiencies that currently exist. More importantly, the government should conduct or cause to be conducted comprehensive investigations to identify the root cause of these incidents.

We hope our concerns and recommendations have been heard and will be acted upon.

Respectfully submitted,

Geoff Sine

Manager

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Re: Bill 36

The AMM is pleased to provide support for Bill 36 – The Municipal Assessment Amendment Act. The AMM believes the proposed changes will be of significant benefit to municipalities.

Bill 36, and the subsequent regulation, will move Manitoba to a two-year assessment cycle, which is beneficial to municipalities as property taxes are the single largest municipal revenue source. Reducing

the time between assessment cycles will provide a more realistic and predictable revenue stream for municipalities. As municipalities look toward addressing the ever-growing municipal infrastructure deficit, a more predictable revenue stream will be required. A two-year cycle will also make property taxes more realistic while avoiding the large fluctuations that can exist with the current four-year cycle. More frequent assessments will smooth both increases and decreases in property value, removing some of the volatility that is inherent in the current system for both municipalities and taxpayers.

The AMM is also pleased to see included in the bill the ability for the assessor and taxpayer to come to an agreement on changes to a property's assessment prior to the start of the board of revision process. The bill also allows the Municipal Board to assist in resolving issues. Finding workable solutions for parties without having to move into a formal process not only will save time and money, but undoubtedly will benefit community relations.

The AMM is pleased to see Bill 13 before this committee and looks forward to it passing in the House.

Sincerely,

Ron Bell

President, Association of Manitoba Municipalities

The Legislative Assembly of Manitoba Debates and Proceedings
are also available on the Internet at the following address:

http://www.gov.mb.ca/legislature/hansard/index.html