

Second Session - Fortieth Legislature
of the
Legislative Assembly of Manitoba
Standing Committee
on
Justice

Chairperson
Mr. James Allum
Constituency of Fort Garry-Riverview

Vol. LXV No. 1 - 6 p.m., Wednesday, August 7, 2013

ISSN 1708-6671

MANITOBA LEGISLATIVE ASSEMBLY
Fortieth Legislature

Member	Constituency	Political Affiliation
ALLAN, Nancy, Hon.	St. Vital	NDP
ALLUM, James	Fort Garry-Riverview	NDP
ALTEMEYER, Rob	Wolseley	NDP
ASHTON, Steve, Hon.	Thompson	NDP
BJORNSON, Peter, Hon.	Gimli	NDP
BLADY, Sharon	Kirkfield Park	NDP
BRAUN, Erna	Rossmere	NDP
BRIESE, Stuart	Agassiz	PC
CALDWELL, Drew	Brandon East	NDP
CHIEF, Kevin, Hon.	Point Douglas	NDP
CHOMIAK, Dave, Hon.	Kildonan	NDP
CROTHERS, Deanne	St. James	NDP
CULLEN, Cliff	Spruce Woods	PC
DEWAR, Gregory	Selkirk	NDP
DRIEDGER, Myrna	Charleswood	PC
EICHLER, Ralph	Lakeside	PC
EWASKO, Wayne	Lac du Bonnet	PC
FRIESEN, Cameron	Morden-Winkler	PC
GAUDREAU, Dave	St. Norbert	NDP
GERRARD, Jon, Hon.	River Heights	Liberal
GOERTZEN, Kelvin	Steinbach	PC
GRAYDON, Cliff	Emerson	PC
HELWER, Reg	Brandon West	PC
HOWARD, Jennifer, Hon.	Fort Rouge	NDP
IRVIN-ROSS, Kerri, Hon.	Fort Richmond	NDP
JHA, Bidhu	Radisson	NDP
KOSTYSHYN, Ron, Hon.	Swan River	NDP
LEMIEUX, Ron, Hon.	Dawson Trail	NDP
MACKINTOSH, Gord, Hon.	St. Johns	NDP
MAGUIRE, Larry	Arthur-Virden	PC
MALOWAY, Jim	Elmwood	NDP
MARCELINO, Flor, Hon.	Logan	NDP
MARCELINO, Ted	Tyndall Park	NDP
MELNICK, Christine, Hon.	Riel	NDP
MITCHELSON, Bonnie	River East	PC
NEVAKSHONOFF, Tom	Interlake	NDP
OSWALD, Theresa, Hon.	Seine River	NDP
PALLISTER, Brian	Fort Whyte	PC
PEDERSEN, Blaine	Midland	PC
PETTERSEN, Clarence	Flin Flon	NDP
REID, Daryl, Hon.	Transcona	NDP
ROBINSON, Eric, Hon.	Kewatinook	NDP
RONDEAU, Jim, Hon.	Assiniboia	NDP
ROWAT, Leanne	Riding Mountain	PC
SARAN, Mohinder	The Maples	NDP
SCHULER, Ron	St. Paul	PC
SELBY, Erin, Hon.	Southdale	NDP
SELINGER, Greg, Hon.	St. Boniface	NDP
SMOOK, Dennis	La Verendrye	PC
STEFANSON, Heather	Tuxedo	PC
STRUTHERS, Stan, Hon.	Dauphin	NDP
SWAN, Andrew, Hon.	Minto	NDP
WHITEHEAD, Frank	The Pas	NDP
WIEBE, Matt	Concordia	NDP
WIGHT, Melanie	Burrows	NDP
WISHART, Ian	Portage la Prairie	PC
<i>Vacant</i>	Morris	

**LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON JUSTICE**

Wednesday, August 7, 2013

TIME – 6 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. James Allum (Fort Garry-Riverview)

VICE-CHAIRPERSON – Ms. Deanne Crothers (St. James)

ATTENDANCE – 11 QUORUM – 6

Members of the Committee present:

Hon. Messrs. Bjornson, Swan

*Messrs. Allum, Altemeyer, Caldwell,
Ms. Crothers, Messrs. Dewar, Eichler, Helwer,
Maguire, Wishart*

Substitutions:

Mr. Briese for Mr. Maguire

APPEARING:

Hon. Jon Gerrard, MLA for River Heights

PUBLIC PRESENTERS:

Bill 36–The Public Guardian and Trustee Act

*Mr. Kerry Anderson, private citizen
Ms. Margaret Anderson, private citizen
Ms. Bertha Travers, private citizen
Mr. Jeff Sinclair, private citizen
Mr. Daryl Wallman, private citizen
Mr. Errol Pinnock, private citizen*

*Bill 38–The Provincial Offences Act and
Municipal By-law Enforcement Act*

*Mr. Doug Dobrowolski, Association of Manitoba
Municipalities
Mr. Steve Strang, RM of St. Clements
Mr. Harold Dick, City of Winnipeg*

WRITTEN SUBMISSIONS:

*Bill 36–The Public Guardian and Trustee Act
A. Leonard Anderson, private citizen*

MATTERS UNDER CONSIDERATION:

Bill 8–The Provincial Court Amendment Act

*Bill 10–The Correctional Services Amendment
Act*

*Bill 16–The Department of Justice Amendment
Act*

*Bill 21–The Highway Traffic Amendment Act
(Impoundment of Vehicles – Ignition-Interlock
Program)*

*Bill 23–The Highway Traffic Amendment Act
(Increased Sanctions for Street Racing)*

*Bill 25 – The Statutory Publications
Modernization Act*

Bill 36–The Public Guardian and Trustee Act

*Bill 38–The Provincial Offences Act and
Municipal By-law Enforcement Act*

* * *

Clerk Assistant (Mr. Andrea Signorelli): Good evening. Will the Standing Committee on Justice please come to order.

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

Mr. Gregory Dewar (Selkirk): I nominate Mr. Allum.

Clerk Assistant: Mr. Allum has been nominated. Are there any other nominations?

Hearing no other nominations, Mr. Allum, will you please take the Chair.

Mr. Chairperson: Our next item of business is the election of a Vice-Chairperson. Are there any nominations?

Mr. Dewar: I nominate Ms. Crothers.

Mr. Chairperson: Ms. Crothers has been nominated. Are there any other nominations?

Hearing no other nominations, Ms. Crothers is the Vice-Chairperson.

This meeting has been called to consider the following bills: Bill 8, The Provincial Court Amendment Act; Bill 10, The Correctional Services Amendment Act; Bill 16, The Department of Justice Amendment Act; Bill 21, The Highway Traffic Amendment Act (Impoundment of Vehicles—Ignition-Interlock Program); Bill 23, The Highway Traffic Amendment Act (Increased Sanctions for Street Racing); Bill 25, The Statutory Publications Modernization Act; Bill 36, The Public Guardian and Trustee Act; Bill 38, The Provincial Offences Act and Municipal By-law Enforcement Act.

How long does the committee wish to sit this evening?

Mr. Dewar: I suggest we sit until the work of the committee is complete.

Mr. Chairperson: It's the suggestion to work until the work of the committee is complete. *[Agreed]*

We have a number of presenters registered to speak tonight as noted on the list of presenters before you.

On the topic of determining the order of public presentations, I will note that we will have out-of-town presenters in attendance marks—marked with an asterisk on the list. With this consideration in mind, in what order does the committee wish to hear the presentations?

Mr. Dewar: I suggest we listen to out-of-town presenters on Bill 36 and out-of-town presenters on Bill 38, then the other bills as listed.

Mr. Chairperson: Are we agreed to the suggestion made by Mr. Dewar? *[Agreed]*

Committee Substitutions

Mr. Chairperson: I also note that there's a substitution, Mr. Briese for Mr. Maguire.

* * *

Mr. Chairperson: Before we proceed with the 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 this evening, 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 that 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.

A written submission from Leonard Anderson, private citizen, on Bill 36, has been received and distributed to committee members. Does the committee agree to have this submission appear in the Hansard transcript of this meeting? *[Agreed]*

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 first have to say the person's name. This is the signal for the Hansard recorder to turn the mics on and off. So please wait for me before you begin to speak.

Thank you for your patience. We will now proceed with the public presentations.

Bill 36—The Public Guardian and Trustee Act

Mr. Ralph Eichler (Lakeside): Point of clarification, if you would, please. On the committee listing on Bill 36, you have a Kerry Anderson and the presentation was from a Leonard Anderson. Are these one and the same or are they two separate presenters?

Mr. Chairperson: Thank you. These are two different individuals.

So I would like to call on—*[interjection]*

There's a suggestion—if I could have the committee's attention. There's a suggestion that the person named Kerry Anderson, No. 2 on your schedule, would precede Margaret Anderson, listed as No. 1. Is that in agreement with the committee? *[Agreed]*

So with that, I will now call on Kerry Anderson to come to the podium, please.

Do you have any written materials for distribution, Mr. Anderson?

Mr. Kerry Anderson (Private Citizen): We do. I gave it to the front because we required help making copies.

* (18:10)

Mr. Chairperson: So you just bear with us a minute and we'll have those distributed.

While copies are being made, you're welcome to proceed, and then members, of course, will all have a chance to see the written submission once the copies are ready. Is that acceptable to you, Mr. Anderson?

Mr. Anderson: Yes, because I'm just summarizing from it anyways.

Mr. Chairperson: Okay. Mr. Anderson, the floor is yours. You have 10 minutes.

Mr. Anderson: I've been dealing with the Public Trustee and the fallout from their actions and those of the director of psychiatric services for almost 19 months, and with the Winnipeg regional health for 22 months, both of these entities under the umbrella of the Minister of Justice. It's ironic that these agencies fall under the Minister of Justice since there certainly has been no justice in what these departments have done to our family since 2011.

My aunt Dorothy Loewen suffered a heart—a massive stroke in December of '05. That stroke left her paralyzed on her left side. Since that date she's been confined to a wheelchair, requires assistance for her daily activities. She needs help getting in and out of bed, in and out of her chair, on and off the toilet. Other than that, she is totally self-sufficient in that she feeds herself, cleans herself, is capable of doing any activities that can be done with one hand. She's a bright, intelligent and astute individual with a quick wit and a sharp tongue, and who fully understands what's going on and what these people have done to her.

My uncle Les Loewen, her husband, was diagnosed with lung cancer in February of '11. At that time, we went over there to speak with my uncle about his situation and offer our assistance. He was going to be requiring chemotherapy, and given that they were already in a situation where they had a self-managed home-care program, he would need a lot of help.

What we didn't know at that time was that the flood, 300-year flood of 2011, was going to take

place simultaneous to his treatment. He started his treatment in April. I live in Cartier on the Assiniboine River and I was involved in a massive flood. My property was under water from April until September of that year. At the time he started his treatment, I was manning pumps in my basement, using a boat to get in and out of my house. We could not offer him the assistance he needed.

At that point, a friend of his stepped forward to help him. This friend took him to doctor's appointments, helped him out, helped with the home-care part of it, helped with managing the home-care workers. And during that time, that was—we were all grateful to have him there to help as much as he could.

What we didn't know at that time was that—and that we found out upon my uncle's death—is this fellow somehow managed to convince my uncle to give him a power of enduring attorney for himself, give him a power of attorney for my aunt, make him the health-care manager over my aunt and change both wills, making him the primary beneficiary of their estates.

When I found this out I went to my aunt. She was angry. She was upset. She wanted it stopped. She wanted us to get legal assistance for her, which we did. We took her to a lawyer. We had the power of attorney revoked. We went back to the house because one of the care workers that was in place was put in place by this fellow. She wanted her out of there as well. We served the revocation on that person; that person left the house. I contacted Brad and told him, you know, come back to the house, my aunt wanted to see him, and bring any keys that he had. He hung up on me because he already knew what we had done.

During the following week we had meetings with lawyers because she wanted to change her will. She wanted to get a new power of attorney. She wanted to totally rectify that situation. During this time, this fellow along with another member of my family and Winnipeg health authority case coordinator started to campaign to get rid of us, hence the Public Trustee. That's how they became involved. We had no idea this was going on until January of 2012, mind you. During that time the case coordinator had gone to my aunt's family doctor, convinced the doctor to write a letter to the trustee, a letter giving—stating that she was incapable of looking after herself and that she was in danger from us. This letter was filed with a trustee and the trustee

immediately filed an emergency order seeking guardianship of my aunt.

Now my wife will speak on some of the other things in a moment. But I wanted to talk about the trustee, in particular, because as soon as that happened the trustee walked into my aunt's house, early January 2012, told her she was mentally incapacitated and was now a ward of the trustee. This woman is not mentally incapacitated, by the way. They seized all her assets, took all the money out of her account, some \$150,000 that was in there, set up an account at Cantor's for her groceries, for \$75 a week, and a carton of cigarettes because she smokes, and proceeded to ignore everybody's complaints and questions to them. We went back to the lawyers that were involved with my aunt to see if, on her behalf, they could do anything. They suggested that we take this on and file on her behalf, which we did. So we had 30 days to file an appeal. We filed that appeal and then everything stalled. So that appeal was filed by February of 2012. This is now August of 2013 and we haven't been to court. There's been no solution to this problem.

Since that time the trustee has taken my aunt's money, doled it out as they see fit not as my aunt would wish. They reduced her to—they've accused us of isolating her. They've isolated her financially. They've made it impossible for her to do anything, to go anywhere, to be with her friends, to go out for lunch, to go for pedicures, to do the normal things that she always did.

We also had a situation with the Public Trustee where they set up this account at Cantor's—so Cantor's would deliver once a week, and I went over there one day because the care worker phoned me and said, you've got to see this. I went over there. There was fruit, there was cheese, those kinds of things, some meat. The fruit was too ripe; I mean, it was almost rotting. And the cheese, which was what really astounded me, was a packaged package of a locally manufactured cheese in Manitoba that was green. The package had not been opened, but it was green. So I took a picture of it with my camera phone. We phoned the trustee. We told him what was going on. They wouldn't return our calls. They would do nothing about it. I finally threatened to go to the media with the pictures. At that point, the trustee called us back and said, hold on, we'll do something about this, we'll—how about if we just put the money into her account, and she can do her own grocery shopping. That was fine. That's what they did. That still left her with \$75 a week to live on.

My wife, at this point in time, was also contacting the trustee on a regular basis. My aunt has a car. The care worker has to drive it, but she's a social person, she goes out. You know, she wants to go grocery shopping; she can't do it in just a wheelchair. Seventy-five dollars a week doesn't put gas in the car, so we were trying to get some money put into the bank for her. They agreed finally, in April, to put \$100 into her bank account. That money was for any other expenditures that she was to make over and above the groceries, so they did that. What would happen is they would phone us and tell us the money's there. We would phone the care worker and say, okay, you can go to the bank and take out the \$100. They would go to the bank, the money wasn't there. The bank informed us that there were NSF charges on the account. We'd phone the trustee. The following week, it was the same situation: We sent her to the bank, the money wasn't there. This happened three weeks in a row. You got this 80-year-old woman in a wheelchair trying to get a hundred dollars out of her \$150,000. She's sitting in a bank full of people, crying, and asking for a hundred dollars of her money, and she can't get it because the trustee can't get their head out of their butt and deal with the bank that they seized all the money from. But what they didn't do was deal with any of the expenditures going through those accounts that my uncle had set up on auto-pay. So all the auto-pays that were going through were being bounced NSF, and all those charges were in the account and they were eating up all the money that they were trying to put in for.

* (18:20)

This left us, now, with going into the spring of that year. She was still isolated; she was still unable to do anything. We constantly asked the trustee: How much money does she have? Can her lawyers probate the will? She's the total beneficiary of my uncle's estate. They would not allow it. They would not allow her lawyers to do it. They said they would do it. We just found out two months ago they haven't touched it. They haven't done a thing. They've gone through all of her money. We don't know what she has. They won't tell us. *[interjection]* Oh, sorry.

Well, if I have one minute, then the only thing I can say—and I hope you guys read the brief that I've given you—

Mr. Chairperson: Sorry, we're—you're losing your minute here, so I've added about 15 seconds.

Mr. Anderson: Okay, it's almost two years since dealing with these departments. After numerous letters and pleas to the Minister of Justice (Mr. Swan), both directly and through Dr. Jon Gerrard, we've been totally disregarded and ignored. I am now expected to sit back and let this bill pass without a fight. We are supposed to sit back and let situations like this happen and totally remove any accountability from the office of the Public Trustee. I think not.

This department has maligned our reputations, destroyed my aunt's life, eaten up all of her funds, and have offered no means to mediate and resolve the situation. They've ignored us, been rude to us and threatened us. They've deliberately stalled the legal process in the hope of making us give up or financially breaking us. I am forced, at the age of 60 years, to start cashing in my pension, as well as selling my assets, in order to fund this gross indecency to my own family.

If this bill is allowed to pass, it will be a complete travesty of justice. This is not what the Public Trustee should be about. I know that there is a place for the trustee in our society, but the amount of power they've exhibited should give pause to any right-thinking individual. The Public Trustee should be under more scrutiny, not less. They should be more accountable, not less. They should be more answerable to the government, not less. And the fact that you want to provide them with more protection against the very people that they're charged to protect is even more disgusting, not less—

Mr. Chairperson: I'm sorry to interrupt at this stage. The 10 minutes is—more than 10 minutes—is up. We do have five minutes for questions, and hopefully you'll get a chance to elaborate.

Thank you for your presentation. Are there questions from the committee?

Hon. Andrew Swan (Minister of Justice and Attorney General): Well, thank you, Mr. Anderson. Let me just thank you for coming out and presenting tonight. I understand from your presentation that you do have a matter that's still in before the courts, so I hope that whatever that result will be, in front of an independent judge, will give some closure to your family.

You should know that the amendments that are being included that we're discussing tonight will involve some additional protections to individuals who've signed valid enduring powers of attorney

prior to the Public Guardian and Trustee being appointed as the committee. I am aware, not talking about your specific case, but in other situations where people have made a power of attorney and either the Public Trustee wasn't aware of it or there was a problem with one other relative coming forward, we're—through this act, we're going to make it easier, where somebody has clearly stated their intentions, to put it bluntly, to get the Public Trustee out of the way, as long as there aren't other family members who have challenges or difficulties with that.

So, I'm not speaking about your specific fact situation. I hope you'll get closure when you proceed to court. I just want you to know that, though, that we are making some changes that I think could help to diffuse some situations. And again, I thank you for coming out and speaking to the various MLAs who are here tonight.

Mr. Anderson: Okay, that's fine, but in my reading of the act it is, from what I can read in it, you're also trying to provide the 'pruss'—the trustee with protection against being sued and being held accountable for anything that they do in good faith. Anybody can make that claim, that they did it in good faith. And most people do, in the court of law, say that they did it in good faith, whether they did it or not. That's why I'm here today because I don't think you should be doing that.

Mr. Reg Helwer (Brandon West): Thank you for your presentation, Mr. Anderson. Must be a very emotional, trying time to deal with this.

Prior to the trustee becoming involved—which was January 2012, if I—my notes are correct—I know you had a lot of things going on at that time, but do you feel there was anything that you could've done to prevent that from happening if you'd done it ahead of time, ahead of him becoming involved?

Mr. Anderson: We didn't know. But I doubt it.

Hon. Jon Gerrard (River Heights): It's really distressing what you and your family have been through. I think it's really terrible.

I notice that Len Anderson has talked about, you know, some other oversight process for the Public Trustee, whether it be a mediation process—that wouldn't necessarily—could go quickly instead of a long court process—to look at the situation, or an appeal process or a—something that wouldn't require it to get tied up in the courts. Do you think that that sort of approach might be helpful?

Mr. Anderson: I think that what he suggested, whether it was a tribunal that looks at these things if mediation doesn't work, would work. I think there has to be a mediation process. There has to be somebody that you can go to if you're not getting the answers that you need from the trustee. I don't understand why, when you're dealing with a family, the Public Trustee isn't keeping them fully informed as to what's going on. You know, this department seems to say, you don't count anymore. We're not telling you anything, we don't have to tell you anything, and don't bother us. And that's wrong. And that seems to me to be the only department in the government that is entitled to do that. And allowing them to do that is wrong. And that's the kind of thing that you guys should be looking at and trying to change in your legislation, whether making them accountable to somebody else, you know, making them explain their actions. When you have to explain your actions to somebody, you do things differently. It's human nature. I know I do.

Mr. Chairperson: Seeing no other questions at this time, I thank you so much for your presentation and coming here tonight. You can be sure that your written brief will be distributed to all members of the committee.

Floor Comment: Yes, thank you.

Mr. Chairperson: You're welcome.

Next to come to the podium is Ms. Margaret Anderson. Do you have some written materials for us tonight?

Ms. Margaret Anderson (Private Citizen): I gave them to the lovely gentleman there.

Mr. Chairperson: Understood. Ms. Anderson, you have 10 minutes. Welcome. The floor is yours.

Ms. Anderson: I'm talking fast.

Thank you for giving me the opportunity to speak to Bill 36 and to relay the nightmare that my family has been going through as a result of the actions undertaken by Winnipeg regional health, the office of the Chief Provincial Psychiatrist and the office of the Public Trustee.

It is interesting to note that all these agencies operate separately. They are all represented by the same lawyer. Where is the impartial body that should be investigating complaints against government agencies? As we have learned over the past two years, there is absolutely nowhere to go within the government to mediate or appeal decisions made by

those departments. Any member of the public that disagrees with the decision made has no alternative other than to take legal action through the court system.

My husband and I have been accused of financially abusing his aunt and of socially isolating her. These accusations have been made by Karen Lake, a case co-ordinator employed by Winnipeg regional health. We have been battling these departments since November 2011. We have been treated like pariahs by all three departments and have never been given the chance to present our position. The other family members supporting us have never been contacted, have had no means to present their own views or position on what has happened to our aunt.

Our Aunt Dorothy has ceased to be considered as a valued member of society. Her rights and wishes have been ignored. Her funds have been confiscated and rapidly depleted for no good reason. Her right to make any decisions as to how she wants to live out the remainder of her life have been taken away. In the eyes of the Public Trustee, she has become a nonentity, not worthy of consideration, just the means to further enrich their own coffers.

To date, we have racked up over \$20,000 in legal fees, fighting against agencies that have unlimited resources to stretch this case out for years. I have watched my husband, a former Winnipeg police department constable, an employee of the Department of Justice for the past 25 years, the most honourable and honest man I've ever met, be brought to his knees by strangers accusing him of horrible allegations of abuse against his aunt; abuse against an aunt that has been like a second mother to him for 60 years; an aunt that has always—refers to him as her son.

I have watched him react to all of these accusations, and, quite frankly, it's been heartbreaking. I have watched him grieve for the fate that has befallen his aunt, and, further, I have watched his frustration over his inability to protect his aunt. It is now my mission in life to make sure that no other Manitoban should ever have to go through what our family's gone through.

* (18:30)

Taking total control over anyone's life should be an absolute last resort, not the first course of action as demonstrated over and over again by this department. The power that we have already given

the Public Trustee is obscene. The way that they can destroy people's lives is unconscionable.

The fact that this bill is trying to remove yet another layer of accountability to protect the Public Trustee from being held financially liable regardless of their actions is ludicrous and, quite frankly, beyond comprehension in any civilized country.

This department is funded by the fees charged for services provided every time the Public Trustee steps in and takes control. Given that fact, one would assume that any and all measures would be taken to ensure that the Public Trustee would only step in when absolutely necessary. Otherwise, it should be considered an outright conflict of interest when they step in when it's not required and then charge fees to take control of someone's life in order to fund their own existence.

To summarize our experience: October 24th, my husband's uncle, Les Loewen, passed away from lung cancer.

October 31st, Dorothy had an appointment with Mr. Tomas Masi and Mr. Travis Webber, lawyers at D'Arcy & Deacon. Dorothy signed an 'irrevocation'—a revocation of power of attorney.

November the 9th, Dorothy met with lawyers again with no one else present to sign a new power of attorney and a health-care directive, listing her nephew, Kerry Anderson.

November 1st through the 30th, I made numerous calls and emails to Ms. Karen Lake related to the self-managed care program and they were all unanswered.

December the 1st, Karen Lake sent a letter to Dorothy's general practitioner, Dr. Hayward, asking him to give his opinion on whether Dorothy had the competency to choose her own power of attorney.

December 16th, Dr. Hayward does a 10-minute assessment on Dorothy, states that since Dorothy's husband became ill, he did not believe that she had the competency to choose a power of attorney at that particular time. However, in the same letter, he states that he has made an appointment with a psychiatrist to get a second opinion.

December 22nd, Karen Lake sends a letter to Dr. Hayward asking him to conduct a competency assessment and to complete a certificate of incapacity. This requested assessment was never done. Dr. Hayward completed the certificate of incapacity based on the 10-minute assessment

previously conducted on December 16th. Dr. Hayward booked an appointment for Dorothy in the third week of January to see a geriatric psychiatrist for that second opinion. That appointment never took place because a Public Trustee chose not to wait for the outcome and issued their order.

January 4th, Karen Lake sent her submission to the director of psychiatric services. She asked the director of psychiatric services to investigate the allegation of financial abuse and social isolation visited upon Ms. Dorothy Loewen by her nephew and his wife, and further suggested that the director of psychiatric services issue an emergency order with no notification to Dorothy or to the family because of the imminent danger to her. Ms. Lake's submission includes the name of two people she considers to be Dorothy's next of kin, one of them being Les's friend, Brad, and the other one alienated family member. She does not list any of the remaining seven nieces and nephews, nor does she mention that all seven support my husband. She deliberately misleads the director of psychiatric services to believe that this is one family member battling another, which was completely untrue.

January 5th, one day later, the director of psychiatric services issued the emergency Order of Committeeship. It is clearly evident that no investigation was ever done. No effort was made by this agency to confirm or negate the allegations or even to speak with the rest of Dorothy's family. The Public Trustee immediately took control.

February 2012, Dr. Barry Campbell, geriatric psychiatrist, does a one-hour assessment to determine Dorothy's capacity to choose her own power of attorney and states that Dorothy has the requisite capacity to choose her own power of attorney and also has the capacity to make any changes she desires to her will.

October 2012, our lawyers from D'Arcy & Deacon are forced to transfer our case to Mr. Michael Weinstein of Hill Sokalski so that they can now prepare their own affidavits on our behalf.

February 2013, Dr. Hayward, the original doctor that signed the certificate of incapacity, signs an affidavit stating that he believes Dorothy now has the capacity to choose her own power of attorney.

April 2013, a letter from the Public Trustee lawyer is delivered to our lawyer. The letter states that if we don't drop our court application within one week, he will take immediate steps to place

Dorothy in a nursing home and sell her house. Immediately, upon receiving this obvious threat, I contacted Mr. Tom Brodbeck, reporter for the Sun and a long-time advocate for people negatively impacted by the office of the Public Trustee. Once the Public Trustee was aware that the press was involved, they backed off on their threat of placing Dorothy in a nursing home.

It is now August 2013. No one from the Public Trustee's office or from the director of psychiatric services or from Winnipeg Regional have ever bothered to call Dorothy or visit her home since they took control in 2012. This emergency order was put in place to protect Dorothy against the financial abuse and social isolation being visited upon her by my husband and I, and yet they have chosen to leave her in our care for almost two years without even bothering to see if she is all right. So they considered her to be in imminent danger and yet they have left her with the very people that they have accused of putting her in that danger.

They have never come to a solution regarding Dorothy's home-care costs, rather they agreed to let us act as her—rather than agree to let us act as her family-care manager through the self-managed program, thereby being eligible to receive the funding for 50 hours per week of care that she was entitled to, they have chosen to pay all home-care costs out of Dorothy's finances. This has resulted in a loss of \$104,000 in Dorothy's account.

Without the Public Trustee's interference, Dorothy would be a \$104,000 richer; \$104,000 would go a long way towards keeping Dorothy in the community, as is her wish. The faster they go through her funds, the faster she'll end up in a nursing home.

How can any sane person believe that it is in the best interests of any citizen to have to pay out over \$104,000, simply because the Public Trustee feels it is their right to do whatever they want to do?

So what's the final outcome? Our aunt lost her husband. She was not allowed to grieve the loss of her husband, even though her own doctor requested a second opinion by a qualified geriatric psychiatrist. All agencies decided to ignore this request. Both the original doctor and the qualified geriatric psychiatrist have signed affidavits stating that Dorothy has the capacity to choose her own power of attorney.

Dorothy has lost \$104,000 because the Public Trustee took control without any investigations into

false accusations. My husband and I have been slandered and accused of unbelievable atrocities against a person that we both love and admire. My husband and I have accumulated over \$20,000 of debt trying to defend ourselves against false accusations and further to protect our aunt.

Again, this bill would prevent any action taken by us to recoup our losses. This bill will remove all accountability from the Public Trustee. So we want to give them the power to destroy lives, ignore facts presented, refuse to do proper investigations and walk away unscathed, free of any liability?

There is no opportunity for Dorothy to recover her losses or for us to recover our losses. No opportunity for us to be compensated for the damage to our reputations as a result of the slander and false accusations.

Please explain to me how this can happen in today's world? How is this protecting the rights of any Manitoban? And further, what gives the office of the Public Trustee the right to destroy lives, ignore evidence and then just walk away without any accountability?

Please do not pass this bill.

I know I'm upset, but this department has already exhibited their abuse of power over and over again. Do not give them more ammunition to destroy more lives.

Thank you.

Mr. Chairperson: And thank you, you made that under 10 minutes. Bravo.

Thank you for that presentation.

Do members of the committee have questions for the presenter?

Mr. Swan: Well, Ms. Anderson, thank you for coming down and sharing your story with us. And as I told your husband, I'm aware that there is a case that is in the courts. I hope that having that matter considered by a judge will give your family closure, whatever the result of that should be.

I guess we're following up on one of the questions and answers asked of your husband. You should know that within the court system, there is the ability to try to mediate things, to deal with things short of a contested hearing. Obviously, you'll be discussing that with your lawyers, but I encourage you and your husband to consider using those resources that are in our court system because I do

understand very clearly that having closure on this would be of great assistance to your family.

So I just want to thank you for coming down and speaking to us tonight.

Mr. Helwer: Thank you, Ms. Anderson, for your heartfelt and rapid presentation.

The minister has indicated that there is a mediation process. Now, as you have journeyed through your experience with the Public Trustee, can you see somewhere that there needs to be somewhere where you can go to discuss this with someone?

Ms. Anderson: I'm not aware of any current mediation process. Quite frankly, I don't know what else we could have done differently.

I mean, I agree with what Mr. Len Anderson has said that there should be a tribunal or somebody that's not involved in these agencies making—or meeting with the families involved. It should not be the same people that are taking the rights away. It just shouldn't be. There should be a totally unbiased person that looks at all the evidence, and they should look at that before they assume the rights and take over somebody's life. Even to the point where why didn't they at least even let the second psychiatrist—or let the second doctor assess her before they came in and grabbed everything?

* (18:40)

And like I say, because they've taken over, she's lost a substantial portion of her retirement funds. So without the Public Trustee, she'd be \$104,000 richer. How is that a benefit to her or any other citizen? I mean, there's no justification for that.

Mr. Gerrard: You know, I—it's terrible what you have gone through and the—to think that you've got the two psychiatrists, including the original one, saying that Dorothy has capacity but there has been total deadlock in terms of being able to move this forward to allow her to make her own decisions again, which two competent psychiatrists have ruled that she should be able to do.

I—it seems to me that there could be several steps here. One is a requirement that the Public Trustee actually talk to all the family members before making this sort of decision so that they have a better understanding of what's going on, that if there were a mediation process of some sort just like we do for other types of mediation in some circumstances there should be, you know, a finite deadline for decisions so that this doesn't drag on for 19 months without a

decision. I mean—give you a chance to comment and tell me your thoughts.

Ms. Anderson: I agree a hundred per cent. There has to be some way of dealing with this other than the way it's set up right now today. But I guess right from the very beginning before decisions are made like this, they should at least know how many relatives the person has before they slam through an order. I mean, they weren't even aware that there was eight nieces and nephews. They had no idea. Those facts were not presented. They didn't try to establish whether or not that was the case, they just made a ruling based on the wrong information, the incomplete information, and it just didn't seem to matter. Like it—they should—at least say—when they say please investigate the allegations, why don't they investigate the allegations? Not just—you know, obviously there was no investigation, just within 24 hours slam an order through.

If they were actually doing what they said they were going to do then maybe we wouldn't be in the position we're in today. If they'd actually taken the time to do an investigation or to even talk to the rest of the family that was involved to realize that the entire family was supporting us, we might not have ever gotten to this point. There might not have had to been the order in the first place. Dorothy wouldn't be out the money, she wouldn't have had her life thrown upside down for two years, and neither would we have, so.

Mr. Chairperson: There is 10 seconds left in the question-and-answer period. Really our period has come to an end.

I thank you so much for joining us tonight and coming.

I want to advise the committee that since we started our hearings tonight we have had an out-of-town guest register to speak. I would ask the committee if they would be willing to hear—add Ms. Bertha Travers to the list to speak next. Is that agreed? *[Agreed]*

Thank you.

Ms. Bertha Travers. Welcome. Do you have anything to distribute to the committee, any written material?

Ms. Bertha Travers (Private Citizen): No, I don't. I actually had very short notice about this meeting tonight.

Mr. Chairperson: Okay, thank you. Well, you have 10 minutes to make an oral presentation to the committee and then five minutes for question and after-answer after that. Please wait for me to recognize you before you answer any question so that Hansard can know which of us is speaking. So with that, the floor is yours.

Ms. Travers: I'm here on behalf of one of the people that I've been advocating for, and he was previously incarcerated, and the Public Trustee has been involved in the care of his son. Prior to that, his son went into care about approximately when his son was about 5 or 6 years old. His son is now 22 years old. He will be 23 next month. However, he has—one of the concerns that we have is that the Public Trustee is not doing a very good job in keeping this family—trying to keep a family together. As well, this young man is being looked after in a home that's not culturally appropriate, therefore he's losing out on his language and also losing his identity. He is already an adult. He was diagnosed—mildly diagnosed with autism, and he is now—his father now believes that he is heavily medicated. He has therefore put on a lot of weight because of the medication.

And another thing that has happened is that there are no family members that are allowed to visit with him or to have any contact, communication with him.

One of the things that—one of the things for that person that I'm advocating for is the discrimination that he feels and the—and being labelled.

He did see his son for a few minutes at one point, and his son had indicated strongly to him that he wanted to go back home with his dad. So, you know, if his—and his son remembers him. Now, if his son remembers him, I don't see why, you know, this young man should be under the care of the Public Trustee.

Yes, this gentleman that I'm advocating for has been incarcerated. However, he has paid his dues to society and therefore he shouldn't continuously be punished, and again, you know, by the Province using his son, you know, for punishment.

And another thing, too, is that, like I mentioned, that his son has put on a lot of weight due to the medication that he has been given. And his son was athletic, very fit, prior to being given this medication.

Another thing, too, is that this father has been asked to have a psychiatric assessment done, and yet

it costs thousands of dollars to have it—these assessments done. As First Nations people, as you all know, we live in extreme poverty. We cannot afford that kind of money to get assessments done.

And when this youngster—before he went into care, he was very lively. He used to sing songs, play the guitar with his father. If he heard a song once, then that was it; he knew it and he sang it and he played it. And him and his dad—he and his dad would play the guitar together.

And prior to his apprehension, he thrived—he thrived very well. And then, it's as soon as he was—he has been under care, he has—his abilities appeared to go down.

So, anyway, I guess one of the things is that, you know, that is something that I am concerned about, is that the Public Trustee needs to do a better job in keeping our families together. And this starts way back into the times when the child came under care, and the keeping our people under culturally appropriate homes, keeping with their identities and our language.

And this young man is an adult already and he should, you know, be able to make a decision, along with a worker who—or who is advocating for him on the provincial side, should be able to see his family.

And the family members—all family members are not allowed to see him, as I've said. The family was supposed to have started visits in July. That has never occurred. That never started and this was supposed to be last—this last month.

Thank you.

Mr. Chairperson: I thank you for your presentation. Are there questions for—is it Mrs. or Ms. Travers?

Ms. Travers: Ms.

Mr. Chairperson: Ms. Thank you.

Mr. Swan: Yes, Ms. Travers, thank you for coming down to speak to us today.

Obviously, you're advocating for someone and I'm not going to ask the name of the individual. But I will ask my assistant who's in the room, maybe if you want to speak to him after some other members are finished asking questions. We can let you provide more information on behalf of the family, if that's what they would like you to do, and I will make sure that that information and any requests you have are passed along to the Public Trustee's office.

Ms. Travers: Thank you. And yes, and I do have the gentleman with me this evening, so he—you know, the questions can be answered.

Mr. Chairperson: Okay.

* (18:50)

Mr. Helwer: Thank you, Ms. Travers, for your presentation. I think I followed the train going through there that—your train of thought. The challenges to the family, is it an extended family that is all resident in Winnipeg, or are there challenges of distance as well in this family? *[interjection]*

Mr. Chairperson: Ms. Anderson, sorry. I need to recognize you—*[interjection]* Travers. Ms. Travers. Forgive me. Please continue.

Ms. Travers: Okay. Most of the extended family is in the city with my—with a gentleman that I'm advocating for, and I think there are a few family members out of town, but the sisters and the father that are in the city would definitely like to have the visits, you know, with him.

Mr. Gerrard: Thank you for coming forward and being an advocate in this instance and, of course, in many others.

I think one of the things that you're trying to say is that in the bill there should be some clear languages of—in terms of the responsibility of the trustee with regard to families and in terms of, you know, maintaining the optimum health of individuals who become the guardian of the—or who—for whom the trustee takes over the guardianship or the control, and that's one of the things that perhaps could improve a bill like this. Let me ask you to comment on that.

Ms. Travers: Yes, I think there needs to be improvement, and I do—the—I did read up on the Public Trustee's duties, and they are very skimpy, and I think they—needs to—you know, there needs to be additions to it in terms of making it a little bit more responsibility, added responsibilities, on how they—you know, they look after the people that need to be under their care.

Mr. Chairperson: Thank you for your presentation and for coming down tonight. We much appreciate it.

Call next, Mr. Jeff Sinclair.

Mr. Sinclair, do you have any items, any material, to be distributed to the committee?

Mr. Jeff Sinclair (Private Citizen): I'd like to stand this matter down for a few moments while they're photocopying the material.

Mr. Chairperson: Sorry. Your material's being photocopied.

Mr. Dewar: Sorry, Mr. Chair, but I believe the committee agreed to listen to out-of-town presenters on both bills before we continue on with Bill 36.

Mr. Chairperson: Thank you for that correction. My mistake.

Mr. Sinclair—yes—you'll forgive me for this. I called your name when I should have been calling out-of-town guests first for any of the bills that we're considering tonight, not just the Public Trustee. So you'll forgive me for calling you, and then asking if you could defer momentarily while I have the other two out-of-town guests come first. Thank you.

Bill 38—The Provincial Offences Act and Municipal By-law Enforcement Act

Mr. Chairperson: Okay, call next to the podium, Mr. Steve Trang from the rural municipality of St. Clements. Mr. Strang. *[interjection]*

Is there any other curve ball that could be thrown my way in the next—if you have one, toss 'er up now, this would be a good time.

An Honourable Member: Well, go to Mr. Dobrowolski.

Mr. Chairperson: Fair enough. We'll call Mr. Dobrowolski from the Association of Manitoba Municipalities.

Welcome. You have materials that's going to be distributed, I see.

Mr. Doug Dobrowolski (Association of Manitoba Municipalities): Yes.

Mr. Chairperson: With that, the floor is yours.

Mr. Dobrowolski: Good evening, everyone. On behalf of the Association of Manitoba Municipalities, I would like to provide comments on Bill 38, The Provincial Offences Act and Municipal By-law Enforcement Act.

As the organization that represents all Manitoba municipalities, the AMM identifies and addresses the needs and concerns of its members in order to achieve strong and effective municipal government. The AMM has lobbied for several years to resolve a number of issues with municipal bylaw

enforcement. As a result, we would like to make comments specifically about The Municipal By-law Enforcement Act. We were part of a working group consisting of representatives from the Province of Manitoba, departments of Justice and Local Government and the Manitoba Municipal Administrators' Association.

The most important issue the group identified was the ability to effectively enforce bylaws to ensure that compliance was available and resources—municipal bylaws needed to have teeth with limited resources for enforcement. And this has been a challenge in the past.

The AMM supports the proposed change to the bylaw enforcement process for municipalities through an administrative scheme. The new scheme is significantly different from the existing process, and it is based on a successful model implemented in British Columbia. Initially, the new scheme was required for municipalities who wished to enforce parking bylaws. We are pleased that municipalities will now have the option to include other bylaws under the new enforcement process, as long as the penalty is under a certain amount. The AMM believes a faster and simpler bylaw enforcement process will save municipalities and the public both time and money. Most importantly, we hope municipalities will now be able to effectively enforce their bylaws. This is one of the core municipal responsibilities and is one of the main reasons why AMM has lobbied on this issue for so long. However, I also want to say that AMM and the City of Winnipeg share similar concerns about Bill 38.

The AMM does appreciate the amendment to The Drivers and Vehicles Act, requiring information to be shared with municipalities or local government districts, for the purpose of enforcing bylaws and collecting fines. We're also pleased with the additional powers of municipalities will have to collect fines, such as seizing property or placing liens. However, the AMM is concerned about a few of the differences between the BC legislation and the Manitoba proposed legislation.

First, Bill 38 allows the adjudicator to reduce the penalty for a bylaw violation if grounds do not exist under the municipal bylaw or if the adjudicator is satisfied with exceptional circumstances exist. The AMM feels this enables the adjudicator to allow the personal—to allow for their personal bias to influence their decisions. It also creates uncertainty about

outcomes, even if the adjudicator agrees that the bylaw violation was committed. In BC, the adjudicator can only confirm the penalty or compliance agreement or cancel the bylaw notice. The adjudicator does not have the power to reduce the penalty for a bylaw violation. These powers may be more appropriate for Manitoba as well.

Secondly, we are uncertain with—there is uncertainty regarding the training to be provided to the adjudicators. The AMM feels the adjudicator training cost should be covered by the Province of Manitoba. Municipalities should also have input into the content of this training and should be on the selection panel for the adjudicator rosters. It is especially important that these adjudicators be trained to make impartial decisions, particularly with their ability to reduce the penalties.

Also, there is no appeal process. The municipalities cannot appeal the decision of an adjudicator to reduce or cancel a penalty. Granting adjudicators powers they do not have elsewhere will act as a poor deterrent for violating bylaws. It also—it may also undermine the purpose of the bylaw and its enforcement, which is to achieve compliance. The existing process is already cost-prohibitive for many municipalities and allowing adjudicators these powers could potentially make the costs of the new enforcement process even higher.

Finally, the AMM—or the request of any—many AMM members, we strongly suggest to include the role of planning districts in the bylaw enforcement under Bill 38. The AMM made this request early to the Honourable Minister Swan, the Minister of Justice, when we met with him on June 5th, 2013. Planning districts are bodies responsible for the administration enforcement of the development plan and entire planning process. They're also responsible for secondary plan, zoning, building and maintenance, occupancy and standard bylaws. Their responsibilities extend to member municipalities and for their entire district under section 14 of The Planning Act. It is for this reason the AMM believes, planning board should also have the ability to enforce bylaws under this new administrative scheme. One option would be to allow building inspectors employed by planning districts to act as municipal screening officers in certain cases. Since bylaws dealing with the building and maintenance standards are meant to ensure safety, it is extremely important that these bylaws are in-'fectively' enforced.

In closing, the AMM does feel overall Bill 38 is a big step forward on solving an issue that has been stalled for some time. The AMM appreciates the opportunity for these comments and we thank you for your consideration.

Mr. Chairperson: Thank you so much.

Are there questions for Mr. Dobrowolski?

Hon. Andrew Swan (Minister of Justice and Attorney General): Yes, Doug, I want to thank you and your executive and your staff and AMM members for your guidance in bringing this bill forward. We think it is a long time coming and it's a good step.

Very quickly, I can tell you that the request with respect to having a role for planning districts is a very good one. No surprises, I'll be moving an amendment when we proceed to line-by-line consideration to do just that, to make it clear that planning districts will have that ability.

* (19:00)

And I want to thank the members we consulted with, but a little more consultation helped us, I think, even move things further along.

With respect to the adjudication process, the advice I've been given by my officials is that we are replacing a court process with a very different process, and in balancing fairness with effectiveness, the suggestion was made that we should still give adjudicators some ability to look at the particular facts of the case, and we may discuss that a bit more in line by line.

With respect to the choosing and the training of adjudicators, I think AMM should continue to play a role as we develop this. The deputy minister will be the one tasked with choosing adjudicators. Our intention is they would be people who are qualified to practice law in Manitoba. These hearings should be quite informal.

But I think the idea of, first of all, the Province being responsible for training, I can confirm that will be the case. And, as well, giving AMM members some role in deciding exactly how they should perform their duties seems like a very reasonable discussion that we can have in the time between passing this bill and proclaiming it into force.

So, again, thank you to you and your folks at AMM for your input in this bill.

Mr. Dobrowolski: Mr.—Minister Swan, I would like to thank you again and especially your staff for the hard work that they've done. We've—as I said in my presentation, we've been after this for several years to try and get it right for municipalities. This is going to be a great thing for municipalities, and I want to thank your staff again.

This is going to go a long way to enforce our laws, because in a lot of cases provincial courts or the city of Winnipeg courts do not recognize municipal bylaws as laws, so this goes to a long way to putting teeth to those bylaws. And we certainly appreciate the good working relationship and consultation we've had with you.

Mr. Stuart Briese (Agassiz): Thanks for the presentation, Mr. Dobrowolski. It's—the minister pretty well answered the question that I wanted to ask, wondering why the planning districts hadn't been included in this.

But the one question I would have, I think, would be with the requirement to have screening officers and so on, and I understand they could be shared by several municipalities. Do you think the collection of fines under the bylaw enforcement would offset the costs of extra personnel that you would have to have if the municipalities were the screening officers and compliance officers?

Mr. Dobrowolski: In a lot of cases, the way—when we worked through this process, an employee of the municipality can be the screening officer, so that cost is already there. We don't feel—or hoping that this is going to be an effective enough process that we will not have to use that screening officer very often. But those costs are there, and we feel that the fines—and again, those individual municipalities have to assign a fine to those individual bylaws, so I think they will take that into consideration when doing that schedule of fines.

Hon. Jon Gerrard (River Heights): Just a couple of items, one in light of the minister's comments about the planning districts. Do you still see a role for planning districts or could they play a role? And secondly, in terms of the role of the deputy minister, I think, to appoint the adjudicators, do you think that that's going to be workable or should the municipalities have some role in that?

Mr. Dobrowolski: On your first question, Mr. Gerrard, I think planning districts are essential part of this whole process because there are a lot of building infractions that go on every day

in municipalities. And so I think because of the building inspectors, as I mentioned in my presentation, could be appointed as one of the screening officers, because they have the knowledge of the building codes and everything else, so they could properly, you know, adjust the fine or do the fine so that it's correct, because they have the knowledge of the building and of the structures.

On the second part, I think with AMM involved, hopefully that we are on-part of the selection committee to appoint some of these adjudicators. And again, we're—we want to make sure that they're properly trained to the—to do this process.

Mr. Chairperson: Thank you. The time for questions and answers has come to a conclusion. You'll forgive me, Mr. Eichler. I thank you for taking the time to join us tonight.

Next is Mr. Steve Strang from the RM of St. Clements. Welcome. Do you have written material to distribute to the committee?

Mr. Steve Strang (RM of St. Clements): I do not, Mr. Chairman. I will give a verbal presentation.

Mr. Chairperson: Thank you, sir. The floor is yours. You have 10 minutes.

Mr. Strang: I think Mr. Dobrowolski spoke very well to Bill 38, so I would just make some further comments. First of all, I want to say thank you to the committee for the opportunity to speak to this bill and a special thanks to those who have taken the time to hear our concerns.

Three years ago, we had a meeting with the Premier (Mr. Selinger) to talk about our concerns regarding the ability to enforce as municipalities and the ability to enforce a—planning acts. The two go side by side. These two issues are the biggest things that municipalities face. There is an expectation by our citizens to be able to enforce the bylaws that we present, and I want to speak to the bill, that this bill will do that. This will—bill will allow municipalities to no longer be the little barking chihuahua at the door, but actually sit there and have some bite. So when we have to address issues, our residents can see that we are standing and do the jobs that we're elected to do.

I want to tell the committee that things such as people moving in mobile homes without permits, living in barns, building huge borrow pits which they use to build their homes and leaving them and they're unprotected for the children who 'lef—live next door

who could go in and fall into these things—all the issues that we face as municipalities and the challenges, they end up in court. And those costs to the municipalities represent charges of 35, 45, 50 thousand dollars. Those monies are monies that should be put toward roads and doing ditches and making better lives for the communities that we all represent.

I think Bill 38 will go a long, long way. I want to say thank you to all the MLAs who took the time to speak to me, and a special thanks to you, Minister Swan. I appreciate the opportunity. I really believe, as a municipal leader, as a region, as a capital region, that we have been heard. I encourage you to pass this bill.

If there was one—in—refinement that I would like to eventually see, and that would be the system change, so that when the municipality is dealing with these charges, that these charges are able to be put onto the property taxes. Because the system that's still in place, will allow us to create administrative penalty, and that penalty will have to go through a system where the adjudicator will make a decision if it's right or wrong, and if it's right, we'll be able to apply for a judgment.

But it still amazes me that we sit here in a province where we have the weed board, who can come in and say you have too many dandelions, we're going to cut them and put it onto your taxes.

At the end of the day, municipalities are grown up. The province is the creator of us as municipalities. But I want to say that your children have grown. We're adults. And it's time for you to give us the ability to enforce ourselves. We are good financial stewards of what we do. I think you need to allow us to be—to go further, and I'm hoping you all will support this bill when it comes to the floor. Thank you very much.

Mr. Chairperson: Thank you very much for your presentation. Questions for you—honourable minister.

Mr. Swan: Well, Mayor Strang, thank you for coming out and speaking to us tonight. As you probably heard me tell Mr. Dobrowolski, we will be moving amendments to include planning districts as bodies which can issue notices of this type. And I thank you for your comments as we keep moving forward and giving municipalities the opportunity to maintain law and order in a—at the neighbourhood sense, if you will. So, that's great.

There will be a fairly easy process when a certificate is obtained, to then turn that into a judgment in court which will have a number of remedies. And they will continue to work with the AMM and with individual municipalities to see what additional steps we can take in the future to keep making the system more effective while still allowing individuals who want to raise their defence, if you will, to give them an opportunity. But I think there's more we can do to continue to help out municipalities who are at the front lines in keeping order in the neighbourhood. And I really want to thank you for your advocacy on this.

Mr. Strang: What I would like to say, Mr. Minister, I appreciate all your hard work. But as municipalities, we shouldn't be looked upon as bill collectors, as somebody who is going to garnishee bank accounts, who will take repossession of vehicles or put liens on homes. I really think the most important way or the best way to deal with this is to give consideration to how the weed board was handled in the past. If there was a will then, there should be a will now. And that consideration, I think, should be happening. I think it would be—make it easier for all of us.

But I do, I truly do, appreciate the effort. Bill 38 will go a long way in helping municipalities to move forward for the future.

* (19:10)

Mr. Reg Helwer (Brandon West): Thank you for your presentation, Mr. Strang.

With respect to the adjudicators and the training, do you think that the municipalities will be able to put consistent training together so that their judgements will be consistent across the various municipalities, so that if you have an offence in one that you would get a similar result in another one?

Mr. Strang: My district is very close. We've worked very close together. We may be individuals but we all are tied together with the Selkirk and district planning board, or what we call now the Red River planning district.

I think because of the closeness that we have, we will all look for the same type of system. I think it's important to make it easy, it's important to make it simple and it's important that so those residents who have to respect this enforcement will understand it's the same thing time and time and time again.

Regarding having somebody there as appeal board, you know, my thinking is, is a council, we sit over many appeals. I think the responsibility should lie with the council. I think the council could be the one who gives consideration to any type of appeal, and then it moves forward. Those are my thoughts.

Mr. Gerrard: Yes, I—interested in exploring a little bit more the concept of putting the fine onto the property tax, as you suggested. And I'm interested in what the situation is in British Columbia, because some of this was modelled after them.

And also, in my sort of understanding of what you're saying, is that with an adjudicator there—and you've got a situation where this is been looked at a second time, as it were—that there shouldn't be need to look at it beyond that, that the simplest way then is just to put it on the property tax and then you don't have any other hassles after it. Is that right?

Mr. Strang: I'm sorry. I really feel there should be an appeal process, everybody deserves their day. But at the end of it, I think the process needs to be refined. Again I will repeat, I don't believe that should be the role of the 'municipality' to do that.

Like, I am truly grateful for this bill. I want you to understand that. And I'm asking you to support it. And if we are to look for refinements, let's look for them for the future.

I just want to say again, I have people who have huge holes beside them where their children play. I have mobile homes that have no building permits. I have people living in barns. I have squatters. I have unsightly yards. My residents are looking forward to this bill so that we will be able to, as a 'municipality', enforce the bylaws. I'm all for refining it, but we need this passed as soon as possible. Thank you.

Mr. Chairperson: Thank you so much. The time for Q and A is over. I appreciate you coming tonight and speaking with us.

That ends or concludes our out-of-town presenters, so we return now to the list and to speak on The Public Guardian and Trustee Act.

Bill 36—The Public Guardian and Trustee Act (Continued)

Mr. Chairperson: Call Mr. Jeff Sinclair back.

Mr. Sinclair, again, I apologize for the earlier miscommunication. I appreciate you stepping back, and now appreciate you having your 10 minutes. So the floor is yours.

Mr. Jeff Sinclair (Private Citizen): I was going to read from this, but I think I'm not going to do that now because I heard a lot in this room.

I knew two Public Trustees in this province. I knew J.D. Raichura and I knew Irene Hamilton. And right after, Irene Hamilton was promoted to Ombudsman of Manitoba.

I would like to say that my friend, he fell down some stairs in 2008. I was listed as emergency contact at Grace Hospital. He spent seven days there.

The Public Trustee's office attended with the WRHA and social workers from the Grace Hospital to his room when his glasses were broken. My friend was illiterate, he had no glasses to read forms. They intimidated him. They made him sign forms because he couldn't read them. He was illiterate. They placed him in Central Park Lodge on Edmonton Street. I didn't find out this until after he was moved

It took the Public Trustee's office five months to replace his glasses and nine months to replace his false teeth. This is very sickening to me.

He was not entitled to legal counsel. Under the Charter of Rights and Freedoms, he should have had counsel in the room when these people were there, in which he wasn't even offered. It just sickens me; this whole thing sickens me.

And I feel that this Bill 36, the public guardian trustee act, there should be an appeal process set and forth that people can at least go to Legal Aid and get assistance. And they're being denied, because the Public Trustee is handling their affairs and money.

And, furthermore, I think I'm just going to end that there. I think you've heard enough from people tonight.

But I think without the Legal Aid stepping in and representing them, you are denying their rights as Canadian citizens to legal representation. You're giving legal aid to murderers, rapists, people for domestic violence, drunk driving. But you're not giving representation to people that you're ripping off?

And I'd like to leave it at that if I may.

Mr. Chairperson: Thank you for your presentation.

Questions?

Hon. Andrew Swan (Minister of Justice and Attorney General): You know, Mr. Sinclair, thank you for coming down here. And you didn't have to

end early. I mean, people around here are listening to what you had to say and I want to appreciate you for coming down and presenting to us tonight.
[interjection]

Mr. Chairperson: Mr. Sinclair.

Mr. Sinclair: Okay?

Mr. Chairperson: No, there's more questions for you. Sorry, I need to recognize you, so that the people recording us know that you're speaking. So that's why I'm interjecting to say your name first before I give you the floor to speak.

Floor Comment: So you are the former Public Trustee?

Mr. Chairperson: No, I'm just the Chair of the committee.

Mr. Helwer has a question for you.

Mr. Reg Helwer (Brandon West): Thank you, Mr. Sinclair, for coming and presenting to us tonight and your document you have here.

Floor Comment: You do have the brief?

Mr. Helwer: Yes, we have it in front of us here and I've read through most of it as you were discussing it. And I appreciate your presentation to us.

You were obviously involved—somebody with this individual, your friend. And at what point would you have liked to have some intervention on your behalf to deal with it?

Mr. Sinclair: I even confronted Central Park Lodge about their practices. He was allowed \$5 a week. If he didn't request the \$5, the Public Trustee's office wouldn't send it. Now, that's up to the social workers of Central Park Lodge to send that money automatically.

People in jail even have to request five—they get more money than that. And the Public Trustee is charging money to handle his affairs on top of it? And they can't even send the \$5 over to the nursing home after he had a brain injury?

And he got that brain injury from falling down a rental agency, where he could have sued the landlord, and the Public Trustee laughed about it—didn't do anything about it. That's pathetic.

Hon. Jon Gerrard (River Heights): Thank you very much.

Just a couple of items. One, when you say that your friend felt bullied and coerced into signing the document, was that by the Public Trustee? And—

Floor Comment: By the WHR–RHA. See, a physician has to notify the Public Trustee's office. And when they do an assessment, there's such a shortage of psychiatrists in Manitoba, to even get a second opinion is ridiculous. You can't even—even at Health Sciences Centre right now, you see a psychiatrist for five minutes, you're placed with a mental health nurse for six months and you're thrown on the street. And you never see a psychiatrist again. And you only seen that psychiatrist five minutes. How can he assess you in five minutes? No assessment can be done in five minutes.

* (19:20)

Mr. Gerrard: And the other question that I want—I'm having trouble understanding why it should have taken five months to replace the glasses and nine months to get a replacement for the dentures. *[interjection]*

Mr. Chairperson: Mr. Sinclair.

Mr. Sinclair: Because the social worker at Central Park Lodge, who no longer works there, never informed the Public Trustee's office.

Mr. Chairperson: Okay, seeing no further questions, I thank you so much for your presentation here tonight.

And next, call Mr. Daryl Wallman. Mr. Wallman, welcome. Do you have any written material to distribute?

Mr. Daryl Wallman (Private Citizen): No, I don't.

Mr. Chairperson: Okay, then, sir, the floor is yours.

Mr. Wallman: I'd just like—with the Public Trustee, is to try and help my mother out. My father's been put into an old folks' home. They won't release money to her to help her out. It took five minutes to get shaving cream—five months to get shaving cream for him, blades, stuff he needs in the old folks' home. She hasn't done nothing but argue, fight with us, and that's just a little sickening. Like, help these people out. Work all their life—they get nothing, treated like this. I really don't have much to say. The trustees do nothing. You try to get help. The only one that's helped me is Mr. Gerrard. He's been on my side here. I don't know what else to say. I'm just looking for help for my father in the old folks' home and my mother. She's 85 years old, staying by herself. I've

got to take time off work. I can't work right now; I'm taking care of her, and I can't get nowhere with this trustee. So trustees, I don't know; they're no good. I can do better than they can. I got nothing else to say.

Mr. Chairperson: Okay, thank you, sir.

Questions for Mr. Wallman.

Mr. Swan: Well, Mr. Wallman, you're very efficient in what you're telling us tonight. If I can—if you would like to speak to my assistant who's in the back of the room, we can take down some information and I'll make sure I pass that on to the Public Trustee's office. I'd appreciate if you can do that tonight. Thank you.

Mr. Wallman: Thank you.

Mr. Helwer: Yes, Mr. Wallman, thank you for your presentation tonight.

Just to go back to—you describe the conversation—that was with the trustee that was confrontational?

Mr. Wallman: The trustee, yes. I tried to get help from her with my father, my mother; she's an 85-year-old lady staying by herself. Just asked for her—them to help out, take a little money out of his to help her out because she only gets a thousand dollars a month paying rent, food, bills. You can't get nowhere with her. So, you know, I don't know what to say.

Mr. Gerrard: Yes, I'd like to get clarification on a couple of things. Why has the Public Trustee taken over? Is there nobody in the family who could've?

Mr. Wallman: I was power of attorney; they took that away from me because they sent bills that went NSF that no one was notified about. Next thing you know, it's NSF in the account, which would've been covered if they would've notified me, told me about this from the Golden Door criteria where my father is staying. But they done stuff, charge him, and no one was notified about it. So the money was used by my mother to pay his wheelchair, his cable TV, the rent and everything, and it was gone. So they NSF'd us and they went to this and got the power—or trustee involved. So that's how it all started.

Mr. Gerrard: When it started, did you try and approach the Public Trustee and say, you know, we can clear this up and—

Mr. Wallman: I tried talking to her. She won't phone back. She phones back once in a while, and

it's just back and forth. She won't talk. I don't know. I can't get through to her.

Mr. Gerrard: Yes, one more thing. You mention that they took five months to get shaving cream for your dad—

Mr. Wallman: Sorry. Yes, it took five months to get shaving cream from her to buy for him, stuff he needs in there. It took five months to get that.

Mr. Gerrard: He's whereabouts now, and maybe you can—*[interjection]*

Mr. Chairperson: Mr. Wallman—sorry, I feel like I'm playing tennis here, but I'm trying to make sure that Hansard knows who's speaking here.

Mr. Wallman: Okay, he's in the Golden Door criteria old folks' home. So, ever since the Public Trustee's taken over, he's been there. They've taken over his rent; it's been late. They—she hasn't paid. The cable's been cut off once already. She hasn't paid. And *[inaudible]* I asked them to get T-shirts and stuff for him they won't do nothing. That's all I got to say. Thank you.

Mr. Chairperson: Seeing no more questions, I thank you for making a presentation tonight and for speaking with us.

Next I will call Mr. Errol Pinnock to join us. Mr. Pinnock.

Welcome, sir. Do you have written material to distribute? Thank you.

And, with that, Mr. Pinnock, the floor is yours, sir.

Mr. Errol Pinnock (Private Citizen): Thank you. As—already know, my name is Pinnock, but most refer to me as Sonney.

I have had a concern after viewing the bill, *[inaudible]* best I can, and I have some major concerns regarding this bill. My concerns are based on what has happened and continues to happening to a Manitoban, so this is Olga Cumberbatch. Olga is a very good friend of mine who entrusted me and my wife Lorraine enough to take care of her affairs, particularly when her mind and her brain would not function as well as it once did. We have been very good friends for year—over 30 years. My wife and I were basically the only people Olga has trusted.

Olga is a very sweet, caring woman. She was born in Barbados. In 1968, she came to Winnipeg to provide care for a child and a mother of a doctor.

After her first few years in Canada, she works for many years with Child and Family Services in Manitoba, providing care for children in group homes. Here is a woman who works for the government, provided exceptional service to the care of children, wards of Manitoba, that she received an award of excellence in service in 1986, '87, recognizing her service out of the home—her own home in Elmwood.

Olga made decision for me to care to take care of her affairs and gave me the power of attorney, as she realized her son in the US was no—was not sufficiently mentally capable of doing so. She initially tried to *[inaudible]* in England to have this power of attorney, but that did not work out. So that is in—so that is when she approached Lorraine and myself to take care of her when being an interest in this regards. We agreed to this for Olga because we care for her and love her, are friends very deeply.

When she contacted me to do this, she decided for us to meet with a lawyer to make these arrangements, for which we did. In early 2010, Olga was starting to need some home care, and the Public Trustee became involved without having a discussion with myself or Lorraine, my wife.

The Public Trustee moved in, took over the power of attorney and shortly move into—moved Olga into Central Park Lodge personal care home in Edmonton Street. This initial action by the Public Trustee disregards any attempt to collaborate and plan with me or Olga.

Later years, planning—Olga entrusted me to take the care of her affairs, and this has been documented. When the power of attorney took over, without any consultation with us, it was done in a manner that we had no say on what has transpired. We answered—we were planning to put Olga in a list to get into River East nursing home so that we could visit frequently and knowing the personal care home, we were happy with the quality of, most importantly, knowing Olga on a very personal basis. We knew that Olga needs would be met there. The action of the power of attorney prevented us from visiting on our own, other senior citizens' resident personal care home, to at least have had a chance to view other facilities so that we could make an informed decision for Olga based on her needs.

Regardless, at this point, that opportunity was taken away from Olga and by us, the power of attorney, when they so quickly and unilaterally took Olga out of her home and put her into Central Park

Lodge. In fact, at that time, the Winnipeg Regional Health Authority came-home-care service, officially went to Olga's home and told her that they were taking her to visit a friend. Olga had no idea that this government had—official actually taking her to visit Central Park Lodge permanently, and she had been there ever since. Olga tells me lots of times she has been there, she's not being—been outside, only to look out the window. Every day, Olga would call me telling me that she did not want to be there. It is plain to see that she is extremely unhappy.

* (19:30)

As the loved ones, we are sickened by how this was handled by the WRHA, Public Trustee office. If we would have had the opportunities and right, as invested upon us by Olga from the beginning, we would have been able to have placed Olga in a home we knew that she would be happier in and have all physical, mental and emotional needs met. She has a right to this in her later years.

She has worked all her life, was a good, law-abiding and caring, contributing citizen to the province and, therefore, deserves and had a right to have her decisions followed through on—for her last years of life so she would live in dignity, happiness.

Her well-being was totally disregarded by this province's policies and legislations. The bill, as currently written, does not adequately represent the needs, nor best interests, of Manitobans. Both are vulnerable, and our families had loved ones who have been identified as decision maker and care giver for an individual.

From my experience in dealing with the WHR, the Public Trustee—but, most of all, Olga experienced the manner in which the government invented—demonstrated a lack of regard of—for Olga's emotional and mental health—'intrusive' eliminating any opportunity for operating collaboration and consultation with myself and complete disregard for Olga's wishes.

This bill, therefore, requires democratic improvement and in accountability and meaningful processing to ensure good 'consultation' and discussion and partnership with family and friends of vulnerable persons. Mechanisms and opportunities need to be available and provide for mediations and appealing decisions without having to go to court.

These include ensuring that financial agreement arrangement with respect to health and quality of life of the vulnerable person are optimal—in event of the

Central Park Lodge, never to be found. No one knows where these were involving.

I asked for Olga's affairs. I would have—and, by the way, now I—she has lost her glasses and the dentures, and they've never been found since. And I search where—is about this—if I would have had involvement or say, Olga figures I would have followed up with replacing the dentures so she would eat her food she wants and requires.

My concern is that the Public Trustee is not acting in her best behalf to address these difficulties in her day-to-day functioning.

I sincerely urge the government to ensure these critical areas and implementing in legislation so that all Manitobans have their voice and decisions heard and—intended listen to in their seniors years so that they are affordable and quality of life deserved. Thank you, sir.

Mr. Chairperson: Thank you, Mr. Pinnock.

Are there questions for him?

Mr. Swan: Yes, well, Mr. Pinnock, thank you for your patience in coming and presenting to us tonight.

And this—I don't know the specifics of this case, so what I'm going to say is more general, but you did raise a situation where you say that there's a power of attorney that was prepared beforehand. And I have no knowledge of the details of that, but what this bill will do is it will give improved protections to people who prepare a valid enduring power of attorney prior to the Public Trustee becoming involved.

In some cases, I'm aware that the Public Trustee may not even know the power of attorney exists. And we think it is very important when somebody has made a choice of who they would like to manage their affairs—as long as it's properly prepared and created and as long as there aren't any concerns about the person who's been appointed, this bill will actually make it easier for the person who has the power of attorney to act as the public—as the power of attorney and have the Public Trustee step back, because when I met the Public Trustee's office, in hearing from Manitobans, I understand that is an issue. So, I want you to know that the bill we're talking about tonight is actually going to deal with situations where there's an existing power of attorney.

Mr. Helwer: Thank you, Mr. Pinnock, for your presentation tonight and for waiting through the evening to come and talk to us.

Can you tell me what caused the Public Trustee to become engaged in this case?

Mr. Pinnock: I believe it's both—I think it's a conflict of interest and also because she has a very good economic strength of finance that she can handle and they probably would like to get hold of that particular finance from her, because there was no reason. She was never abused. She never been elected—neglect by us. And they take it upon themselves to inform the trustee and, as I said, conflict of interest, and they came in and they have never even contacted us to discuss what they could do and what we could do for this lady. And she has her own home that she lives in for all these years. And I was there for every step of the way, to assist her, and that was her reaction and that is wrong and that should change and this legislation needs to change that.

Mr. Gerrard: Thank you for your presentation. It's heartbreaking to hear what has happened to Olga under these circumstances. And I wanted to—you to clarify how long she'd been without the dentures, but I also want you to talk for a moment. You had the power of attorney when the Public Trustee took over. Did you make an effort to tell the trustee that there was a power of attorney and you had it?

Mr. Pinnock: I gave them—we gave them the power of attorney from—we had from the lawyer and [*inaudible*]. We gave them that. We read letters to them. We phoned them. They did not want to hear of it. They disregard of all of that and take her bodily and move her out of her house and bring her down there. So, there's no lack of communication. It was available between my wife and I, but that is no—that doesn't mean anything to them.

They said that she need to go in a nursing home. We choosed to look another somewhere for her. Where she is right now, it's a piece of dump. And this is a piece of dump. You go there—spit on the floor, food on the floor, people lay on the floor, people walking half-naked up there, men and women together. That's disgusting for a woman who live her life and worked in this country and pay her taxes and save her two pennies for later years today—to take care of herself and the government walks in and take it away from her. This is not democracy.

Mr. Gerrard: Yes, and how long did she—was she without her dentures? And was there no effort to get her dentures back?

Mr. Pinnock: She out about probably since about over a year. Just guessing, over a year. And I went up and asked the nurses and the staff what happened to her dentures. She says they can't find it. I said, what do you mean you can't find it? She said, well, probably lost in the wash, I think. I said, why would it be in the wash? They don't know where it is. And up to this day, she has no dentures. She can't eat solid food no more. Her glasses disappear—cannot be found. She now become in a wheelchair—restrained in a wheelchair ever since then, and now she's unable to walk, understand. These are the type of things that happen to our seniors in this country.

Mr. Chairperson: Thank you, sir. Our time for questions and answers has come to a conclusion. I appreciate you coming down here tonight and speaking with the committee and making the presentation.

**Bill 38—The Provincial Offences Act and
Municipal By-law Enforcement Act**
(Continued)

Mr. Chairperson: Next, I will call Mr. Harold Dick from the City of Winnipeg. Welcome. Long time, no see. Glad to see you again. You have material to distribute—I see that you do. And with that, sir, the floor is yours.

Mr. Harold Dick (City of Winnipeg): Well, as noted, my name is Harold Dick. On—I want to correct, though, that on your program it said that I'm the city solicitor. I'm not. I am with the Legal Services Department of the City. The city solicitor is out of town and unable to make it.

Thank you for the chance to make a presentation this evening on behalf of the City, and I'm here to share some of the City's comments respecting Bill 38.

* (19:40)

First, the City appreciates the intent of this bill, as Minister Swan told the House on May 21st, to modernize the way we deal with provincial regulatory offenses and, in our case, the most important, the enforcement of municipal bylaws. We appreciate that the intention of the legislation is to ensure that the system is fair, effective and efficient. And if I may add, it's—it is overdue.

The City does have some key concerns with this legislation as it was drafted and presented to the House. We believe that this legislation may not do all that it is intended to do. We wonder if it may have

unintended consequences for municipal policy, for bylaw enforceability and for the practicality of our system of bylaw enforcement.

Mayor Katz wrote to Minister Swan to express these concerns and to make some suggestions for improvement on July 24th, and these issues have, as well, been raised at the staff level. And I want to express my appreciation for having had the opportunity to raise these issues at the staff level, and we were given a fair and thoughtful hearing.

Unfortunately, although the City was consulted in advance about The Municipal By-law Enforcement Act, the City did not have any opportunity to contribute to the formation of The Provincial Offences Act. Both pieces of legislation will have a significant impact on the City's work, and given the scope of these effects and the considerable experience that the City has with dealing with these matters, we believe an earlier consultation could have been helpful. That being said, we are committed to working with the Province to continue to improve the legislation, to assist with its implementation and, if I may add, to monitor how it is—once it is in effect.

It's important to note, and I want to note, that there are aspects of both statutes proposed under this bill which the City finds positive. And you'll find that my presentation echoes some of the comments made by the AMM and by Mr. Strang. Under the proposed Municipal By-law Enforcement Act, for example, we see serving of documents by mail, settling matters on a balance of probabilities, as positive developments. We hope these measures will help make the system more effective and more timely. Under the proposed Provincial Offences Act, we appreciate the extension of time during which prosecution of a bylaw offence can be initiated. We—from that is, from six months to one year. We believe that access to information held by the Registrar of Motor Vehicles will be helpful to enforcement staff. We also appreciate the limitation of the timeframe and circumstances for setting aside of default convictions under both of the proposed statutes. And, if I may add, we also note and appreciate the improved collection mechanisms provided in the legislation.

Still, as noted, we have a number of concerns, and I would like to spend some time focused on them. The City believes that The Municipal By-law Enforcement Act should extend the time for

initiating prosecutions from six months to a year, just like The Provincial Offences Act does. The principle is the same; the result would be the same, improving the effectiveness of our enforcement process. And if you're interested, I can provide, perhaps, some examples of why that would be important for the City.

The City is also concerned that its current practice of permitting early payment of fines at a discounted rate, not merely for parking offences, but also for a variety of municipal bylaw offences, may not be adequately accommodated in The Provincial Offences Act. In many situations, early payment discounts, so to speak, make sense for all concerned, reducing the cost to citizens, the City and the court system. Early payment discounts are an incentive to payment and a cornerstone of the City's bylaw enforcement strategy. We believe that the City's use of early payment options is guaranteed to it under the City of Winnipeg Charter. And so it may not necessarily be fatal for The Provincial Offences Act not to refer to that power, but it is important that—to the City that this feature of its enforcement practice be accommodated in the—at least the implementation of The Provincial Offences Act. As Mayor Katz advised Minister Swan in his letter, the City would be happy to work with provincial officials in designing a system where the City takes sole responsibility for the administration of early payments under the act.

Another concern the City has regarding The Provincial Offences Act is that it provides for guilty pleas before a Judicial Justice of the Peace with no notice to the City or representation from the City. This raises for us a serious concern with respect to fairness whether the appropriate facts will be heard and taken into consideration. It also raises a concern about potential payment delays.

The City is concerned that both The Municipal By-law Enforcement Act and The Provincial Offences Act impose serious cost inequities on municipalities. They impose the full cost of fine collection on municipalities without giving commensurate collection tools, like the denial of driver's licence and renewals or vehicle registration renewals or the ability to add unpaid fines for, especially, property-related offences to property taxes, as is done, I would note, in Ontario. And you'll recollect that the—that that particular concern was raised by my friends with the Association of Manitoba Municipalities.

The City believes that these discrepancies will make enforcement less effective and not to be addressed, if not now, then perhaps with future amendments. The City is also very concerned that several aspects of The Municipal By-law Enforcement Act will weaken enforcement. Under the proposed act, adjudicators would be empowered to ignore a pre-set fine, either reducing it or issuing a reprimand instead. We note that this differs from BC's version of the adjudicator model for municipal bylaw enforcement, where the adjudicator is not entitled to take exceptional circumstances into account when imposing a fine. We are concerned that this provision will act as a disincentive to settlement and also curb council's capacity to make effective public policy for the City. Fines are important deterrents which curb behaviours that elected representatives identify as community problems. This legislation weakens council's capacity to enforce its policy priorities.

The Municipal By-law Enforcement Act also sets the fee for seeking an adjudicator's hearing very low, at \$25, which may be less than 10 per cent or even 5 per cent of the fine being challenged. This, too, we believe, will discourage settlements, delay payment of fines and ensure that the City bears an unreasonable proportion of hearing costs.

So, yes, the City does have serious concerns about Bill 38, in terms of cost and practicability, its effects on bylaw enforceability and its effects on making public policy at the municipal level. We would welcome the opportunity to work with the Province to improve the legislation to correct these oversights. In particular, we would like the chance to be involved in the development of regulations that affect the City's enforcement of its bylaws. As a city, we would like to work with you to see better collection powers for municipalities so that, where appropriate, the City could deny driver's licence or vehicle registration renewals and add unpaid fines to property taxes.

We would like to see higher fee paid by defendants applying for adjudication under The Municipal By-law Enforcement Act, so there's greater fairness in the distribution of costs for adjudication.

We would like to see a reduction in an adjudicator's power to ignore pre-set fines under The Municipal By-law Enforcement Act. This would reduce the incentive to avoid settlement, where settlement is warranted, and seek adjudication.

We would like to ensure that the City's ability to utilize a reduced payment option for tickets is not undermined by The Provincial Offences Act. We would like to see the limitation period under The Municipal By-law Enforcement Act extended to one year, as it is under The Provincial Offences Act.

These are the City's key suggestions for improvement of the bill. Once again, we are happy to participate in any work to improve the legislation. We'll provide any help or information we are able.

Thank you for your time and the opportunity to present the City's comments on Bill 38.

Mr. Chairperson: Well, I thank you for making the presentation. I need to advise you that it appears we only had two of what looks like a four-page document. And I'm not quite sure how that happened, but I just wanted you to know that, as we were following along, we encountered the odd gap.

Hon. Andrew Swan (Minister of Justice and Attorney General): Mr. Dick, thank you for coming down on behalf of the City of Winnipeg. Of course, I do have Mayor Katz's letter from July 24. I'm not—first of all, are you aware that I wrote back to the mayor on October—sorry, August the 2nd, to deal with the issues that were contained in the letter? *[interjection]*

Mr. Chairperson: Mr. Dick.

Mr. Dick: Oh, sorry. I'm not aware of the contents of that letter.

Mr. Swan: Okay, well, then we can go through the checklist, I think, and perhaps address some of the City's issues, and I'll end with a question for you. I do believe that the request to extend the limitation period from six months to one year is reasonable. I'm aware of situations where the City might not—or other municipalities might not be aware of a situation and be able to issue a notice within six months. So I will be moving an amendment once we move to line-by-line consideration of the bill.

I did ask about the City's use of early payment systems, and the very smart people that give me advice tell me that section 3(3)(a) of The Municipal By-law Enforcement Act will expressly continue to allow for that early payment discount to administrative penalties.

* (19:50)

So we don't see anything that would stand in the way of the City continuing to do what they do. And,

if the City is of the view that that gets greater compliance in people paying their fines, there is nothing in this act that will stop the City from being able to do that.

So I advise the mayor, I'm aware that—and, from the earlier presenters, some municipalities would like to be able to use some other measures such as tax liens. We've strengthened the collection mechanisms. We think that will be a step forward, but that is a discussion that we're prepared to have with the AMM and individual municipalities as we go forward.

This bill will move things a long way, but I'm not averse to coming back and looking at this, in a reasonable time, to see if there's some other measures that could happen.

With respect to the adjudication process, of course, we're replacing a court procedure with a very different system. First of all, of course, it'll be a City employee, likely, at first, employees of the Parking Authority, that will serve at the first instance.

The advice I've been given is that we should have an independent adjudicator, and that independent adjudicator should be given the ability to vary the fine based on extraordinary circumstances. That will be the same—that's the same test as under The Provincial Offences Act that relies—that responds to provincial offences.

So we've tried to balance fairness with convenience and efficiency. We think that the \$25 fee will serve as a disincentive for people who are simply appealing for no valid reason, yet, at the same time, give people the ability to have a valid case heard by that adjudicator.

And, as I committed to AMM, I think we can continue the discussion on whether there's particular training for adjudicators that would be very helpful. We want to make sure the adjudication process can be as informal and as creative as possible, yet also give people an opportunity to, if not have their day in court, at least have their day by having an independent person who's not an employee of the municipality, hear their case.

As part of the ongoing consultation process, I certainly welcome the City's input on the draft regulations. So I will certainly take you up on that offer.

The other point you made is you were concerned about The Provincial Offences Act. Mr. Dick, is

there anything in particular in The Provincial Offences Act that creates a concern for the City? Is it a conversation we can also have as we move towards regulations and getting the bill proclaimed?

Mr. Dick: Yes, well, if I may address a number of the points.

I understand your comment about early payment being accommodated by section 3(3)(a) of the MBEA. My concern is more about whether it can be accommodated under The Provincial Offences Act. Now, we think that it may well be able to be accommodated, but that we wanted to place that concern on the table.

In terms of the adjudicator's discretion, we would prefer, as I think the AMM would prefer, that there be less discretion, or at least that it be more carefully circumscribed. So it may be a question of monitoring to see how things are working out.

In—oh, the question about concerns. I—we have, I think, some questions or concerns about the general framework of the act, in terms of that—now is the—I'm speaking about The Provincial Offences Act—about essentially breaking the—breaking all offences into two categories, one being with pre-set fines, and another system for anything else. That it may unduly constrict us in some specific ways. It would have been helpful, I think, for us to have been able to raise some of those questions earlier, if—we were, unfortunately, not advised of the—that even a review was under way until it was introduced into the Legislature.

Mr. Chairperson: Thank you. Owing to the extended discussion between two lawyers, I want to be sure that Mr. Eichler and Mr. Gerrard have the opportunity.

Mr. Ralph Eichler (Lakeside): Thank you for your presentation.

We heard from AMM in regards to the appeal process that was a concern there. Is there concern from the City of Winnipeg in that same regard? And, if so, what changes would you like to see made in that regard?

Mr. Dick: Thanks. Yes, I think we are somewhat concerned about the fact that adjudicators and also Judicial Justice of the Peace. The adjudicators will have no capacity to be appealed. A Judicial Justice of the Peace dealing with a ticket, will have some limited capacity to be appealed on a question of law or mixed fact in law.

So we do have some concerns about that. There have been occasions when, in the past, we have filed appeals of Judicial Justice of the Peace decisions and found the Queen's Bench to be quite supportive of our concerns. So we would like to have that capacity at some level. That being said, I understand that there has to be a balance between wanting to make the system efficient and not overly cumbersome. So I haven't highlighted that as a particular concern of the City but it would have been helpful, I think, to be able to have some discussion about that.

Hon. Jon Gerrard (River Heights): Yes, it has always seemed to me that the City's approach to parking fines, which is to have an escalating fine if you're not paying it early, is an incentive to pay quickly and is probably a smart move on the City's part. Maybe you can give us some experience, do you think it has helped in people paying early and do you think this is actually a good system which really needs to be continued?

Mr. Dick: Yes, we're advised that over half the parking fines are paid early which, of course, saves a lot of time and money for both, I would argue, the defendant as well as the City and the court system, of course. The—we have introduced that kind of a system for a variety of bylaw offences; for example, the fine for failing to license a dog right now involves an early payment option which—I don't know what the percentages are but some people are taking advantage of it. And there is some effort, and I don't know to what extent it's concerted, among departments that I deal with to move to that kind of system more significantly.

Currently, most of the fines are minimum fines and under this—these two acts, they would have to be pre-set fines. They would have to be settled, as opposed to minimum fines. But I can tell you under the parks bylaw, the traffic bylaw and a variety of other bylaws, there are efforts made to set out—here's the minimum fine but if you pay within, I think, it's 15 days, you can pay a lower fine. And it's usually half or two thirds.

Mr. Chairperson: I thank you, Mr. Dick, for your presentation here tonight and for waiting to be the final presenter and much appreciation.

That concludes the list of presenters I have before me. Are there any other persons in attendance who wish to make a presentation? Seeing none, that concludes public presentations.

* * *

Mr. Chairperson: In what order—oh, Mr. Eichler?

Mr. Eichler: Mr. Chair, I ask leave that the presentation by Mr. Dick, even though we didn't have the total presentation, that it be recorded in Hansard as he presented it. And also I ask leave of the committee that Mr. Kerry Anderson's presentation, written presentation, be recorded in Hansard, as well.

Mr. Chairperson: Does the committee agree to the two suggestions? *[Agreed]* Thank you.

Thank you for the opportunity to tell my story. I have been dealing with the Public Trustee and the fallout from their actions and those of the Director of Psychiatric Services for almost 19 months and with Winnipeg Regional Health for almost 22 months—2 of these entities under the umbrella of the "Minister of Justice". It is ironic that these agencies fall under the "Minister of Justice" since there has certainly been no justice in what these departments have done to our family since Nov 1, 2011. They have not looked after the best interests of the vulnerable people in our society and they certainly have not protected the innocent but rather have prayed upon their vulnerability.

My aunt, Dorothy Loewen, suffered a massive stroke in December 2005. The stroke left my aunt paralyzed on the left side of her body. Since that date, she has been confined to a wheelchair and requires assistance for her daily activities. She needs help getting in and out of bed, in and out of her chair and on and off the toilet. Other than that she is self-sufficient in that she feeds herself, cleans herself and is capable of doing any activities that can be done with one hand. She is a bright, intelligent, astute individual with a quick wit and a sharp tongue who fully understands what is going on and what these people have done to her. My uncle, Les Loewen, her husband was diagnosed with lung cancer in February 2011.

Now there is no way for you to totally understand our situation without giving you some background history about my aunt and uncle. Dorothy and Les owned and operated a number of successful businesses throughout the years and lived a fairly opulent lifestyle. However, they were never fortunate enough to have children of their own. It became commonplace throughout the years for various individuals to befriend Dorothy and Les and take advantage of their generosity. Dorothy could always read people better than my uncle and she would frequently say that although Les was a savvy

businessman, he was extremely gullible and easily conned by people with ulterior motives.

Les was especially susceptible to people that showed admiration for him, and further, treated him as a father figure. Given that they never had their own children, Les welcomed this type of attention. A number of these people would start calling Dorothy and Les "mom" and "dad" which absolutely thrilled Les. These relationships could go on as long as a year or more. Les and Dorothy would often go to a lawyer and change their wills, taking out family members and replacing them with their new found children, which of course was their right to do. However, I also know that once these relationships soured, Dot and Les would be back at their lawyers changing their wills again.

How do I know this? For the past 40 years, I have been the executor of their estates and they always made it a practise to review their wills with me every time they were changed. I was like a son to them having lived with them on 2 separate occasions when I was young as well as being their friend in my adult life. My wife and I were their friends, We hung out together, partied together, travelled together and even worked together.

It became a running joke with the rest of the family. Every time new people would come into their lives, it would be a matter of months before I was called over to look at a new will that included these new people. Dorothy and Les also made it a practise of telling these people that they had changed their will to include them. Whether this was their way of holding onto relationships, no one ever knew but we could only speculate. Everyone knows that you can't buy friends but in their case, I believe they really thought they could. I was never removed from the wills but I did see various other relatives removed and replaced by the current group of friends. I can tell you that they changed their wills frequently sometimes more than once a year.

So now, after my uncle's cancer diagnosis, a friend of his, Mr. Dueck, becomes a daily visitor to their home, insisting that he could take time off from his carpet laying business to drive Les to doctor's appointments, and provide any assistance required during Les's treatment. Even though friends and family have never liked Brad and had suspicions about his motives, we all decided to give him the benefit of the doubt until he proved otherwise.

In April, Les felt that he needed more assistance especially in the area of managing the health care

staff. He said that he needed someone to deal with the daily issues of running a home, as well as take over scheduling and managing the staff. Les made it very clear to us that this was a temporary solution to assist them during his treatments. He had not been told, at that time, that his cancer was terminal.

During this same time period, my wife and I were dealing with the 2011 flood. We were on emergency evacuation standby for weeks on end, we were manning up to 7 sump pumps continually to keep the water out of our house and were reduced to boating in and out of our property. Given our personal situation, we could not commit to providing the daily assistance that Les felt he needed. Therefore, we agreed with Les that Mr. Dueck, would be the best candidate to take over the day to day responsibilities and the homecare manager responsibilities while Les was undergoing treatment. It even made more sense since Mr. Dueck lived 5 minutes away from my aunt and uncle, while I lived 35 minutes away.

If we had not been under water, Mr. Dueck would not have been put in this position but given our situation, it was the only other course of action that was acceptable to Dorothy and Les. If Kerry and I did not take on this role, the only other person they felt comfortable asking was Mr. Dueck.

Ms. Karen Lake was the Case Coordinator from Winnipeg Regional Health assigned to my aunt and uncle. Her relationship with the Loewens consisted of an annual visit to the home and monthly phone calls with Les. Ms. Lake did not know any of the Loewen's family or friends or any of their personal history. She came to the house to meet with Les, Dorothy and Mr. Dueck to discuss Mr. Dueck becoming the Care Manager on the plan. Ms. Lake admits in her Affidavit that she did acquire Dorothy's approval for having Brad Dueck assume the role of Care Manager but she also admits that Mr. Loewen did not want Dorothy to know how serious his illness was; to further ensure that Dorothy was left in the dark, Ms. Lake met with Mr. Loewen and Mr. Dueck in a separate room.

Any agreement or documents signed by Dorothy were not signed with all of the information provided to her. She believed she was agreeing to temporary solutions to assist them during the treatment phase. At no time was Dorothy ever told that this would be a permanent solution if Mr. Loewen passed away.

As time went on and Les became sicker, we all realized that Les was not going to win the battle. Dorothy was not told that her husband was

terminally ill until September 2011 and he passed away on October 24, 2011.

During the last weeks of Les's life, Brad Dueck and I talked frequently and shared many stories. We talked about what would happen to Dorothy when Les passed away and we also talked about our individual families. I told him about the relationship we had with one of my sisters, Shawne Lister. I told Brad about Shawne claiming to be abducted by aliens on not one but two different occasions. I told Brad that she did nothing without consulting with her psychic and basically told Brad what she had done to our father after our mother died, which was to convince my father to build a manufactured home on her property in St. Norbert. She convinced him not to tell the rest of the family because we would try to stop him. This was absolutely true. We would have tried to stop him. We did not want him making any drastic moves for at least one year after my mother's passing. My father gave my sister power of attorney to deal with any issues while he was away as he winters in Arizona and now admits that while living on her property, he believes that his accounts were short by approximately \$80,000. These actions, along with other things she had done over the past ten years have alienated her from the rest of the family. My father let it go and continued a relationship with Shawne however he did sell the manufactured home in St. Norbert because he was not happy living in Shawne's backyard and realized he had made a huge mistake. This caused a further rift between them when my sister threatened to sue him.

My uncle's friend, Brad Dueck, had never met my sister, Shawne Lister, until the day my uncle passed away. Two weeks before he passed, when my other sister, Melissa, appeared at the hospital at the same time as Brad, he introduced himself and asked her if she was "Shawne". Why am I telling you this? Simply to show you that there was absolutely no relationship between Mr. Dueck and my sister, Shawne and to point out that Mr. Dueck was fully aware that we had only one family member who was alienated from the rest of us.

While my uncle was still at the Victoria Hospital in September before being moved to Palliative care at the St. Boniface, he began to ask for private meetings with me at the hospital. I worked out a visiting schedule with Mr. Dueck so that we would not be at the hospital at the same time—thereby providing Les with round the clock visitors/support while giving me the private time to spend with my uncle as he

requested. Twice my uncle told me he had to talk to me and I arranged to go back early the following morning. Both times, when Mr. Dueck found out that I was going to see Les in the morning, he appeared at the hospital at the same time, preventing any private conversation between my uncle and me. It was very obvious to me that he did not want me having private conversations with my uncle without him being present.

I finally decided not to tell Brad when my wife and I were going to see my uncle and on that day, in the few moments of privacy we had with him, he made it very clear that he no longer trusted Brad.

My uncle called my aunt from his hospital bed that same day and told her that he no longer trusted Brad and he didn't want her to trust him either.

Two days later my uncle told his best friend, Ray St. Germaine, that he no longer trusted Brad.

By the time my uncle passed away on Monday, October 24th, 2011, we were all suspicious of Brad's intentions but unfortunately, Les became critically ill sooner than he expected and any changes he wanted to make were left undone. My uncle was extremely upset about this and we promised him that we would make sure Dorothy was looked after. At the time, we did not know what decisions Les regretted specifically. All we knew was that he had made an error in judgment and that he was sorry that he had done it. We could only assume at the time that his regret related to having Mr. Dueck take over the role of Family Care Manager.

My aunt and uncle had 2 caregivers—Catherine Benson and Barbara Thorarinson. Barbara was the day shift worker and worked Monday through Friday from 8:00 am to 4:00 p.m. Catherine was the evening and weekend worker. She worked from 4:00 pm every weekday until 8:00 am in the morning and she worked 24 hours a day on Saturday and Sunday. She not only cared for my aunt, she cared for my uncle in the last months of his life.

On the very day that my uncle passed, Mr. Dueck removed Catherine from evening shift and put Barbara on 24 hour duty—Monday through Friday informing us that she would be moving in as the live-in care worker and that Catherine would be relegated to week-ends only. Mr. Dueck gave us no reason for doing this and since he was in charge of the caregivers, we had no choice but to accept his decision. It should be noted that Catherine has many years of experience working in the health care

industry and her resume and training records reflect that training and experience. Barbara's experience was in the food industry as a waitress; she had no training or experience in the health care industry.

On the day that my uncle died, Monday, October 24th, 2011, Mr. Dueck insisted on reviewing my uncle's will that was located in a lock box that Brad had brought to the house. In that lockbox were two copies of a Power Attorney signed by my aunt Dorothy, giving Mr. Dueck and the daytime caregiver, Barbara, Power of Attorney. Also included in that lockbox were two copies of a Power of Attorney signed by my uncle giving Mr. Dueck Power of Attorney. Barbara Thorarinson was not listed as a joint Power of Attorney on my uncle's but was listed on my aunt's Power of Attorney. In addition, there were original copies of both Les's and Dorothy's wills, along with 2 photocopies. I took the photocopies of all documents, leaving all of the originals with Brad, in his "lockbox" for which he had the only key.

Although I was shocked to see the Powers of Attorney, I also knew that when the documents were signed in February 2011, neither my uncle nor my aunt knew that my uncle's cancer was terminal. I assumed the paperwork was signed to give Brad and Barb the authority required to look after the day to day requirements of running a household during my uncle's treatment.

It became very clear to all of us that this was the decision that my uncle expressed regret over while he was in the hospital.

I was further surprised to find that both Les and Dorothy's wills had also been changed in February 2011. Although my status hadn't changed and I was still a beneficiary in their will and still listed as an executor, all of Les's family had been removed from the will and replaced by Mr. Dueck and by the caregiver, Barbara Thorarinson. So we now have the situation of a caregiver being put in the position of Power of Attorney and also in the position of gaining financially if her client dies. This in itself raised huge red flags for all Dorothy's family and friends. There are some provinces, such as BC, where a caregiver cannot be placed in the position of Power of Attorney for obvious conflict of interest reasons and it's certainly not recommended that any careworker stand to prosper financially on her client's death. So now we have a waitress, turned caregiver, who has total access to Dorothy's estate, and also will inherit if she passes.

I did not speak about this power of attorney or the wills with my aunt until Saturday, October 29th. After Brad removed Catherine from her evening/overnight shifts on October 24th, Dorothy was left with Barbara as her 24 hour per day caregiver.

Catherine Benson came on duty for her weekend shift on Saturday, October 29th. She immediately observed, as did my wife and I, that Dorothy seemed somewhat disoriented. The first time she took Dorothy to the bathroom, other more serious things were observed. She called my wife in to view the severe diaper rash that Dorothy had, along with the open oozing sores as a result of being left in soiled diapers too long combined with not properly being cleaned.

Although we had no way of knowing that she was not being kept clean during that week while in Barbara's total care, we did notice, as did many other family members and visitors, that Barbara was not only allowing Dorothy to smoke in her recliner in the living room, which she never had before, she was also providing Dorothy with numerous alcoholic beverages. Dorothy has been on anti-depressants since her stroke in December 2005. It is clearly stated on her medication that alcohol should not be consumed with the drug. Barbara chose to ignore the warnings and gave her a number of drinks. Not only did she provide alcohol to my aunt, she joined my aunt in consuming several beverages. So now I have an inebriated caregiver looking after my totally handicapped aunt who has been given alcohol when warnings clearly state no alcohol should be taken. Further, Barbara called Dorothy's general practitioner to complain that Dorothy was extremely depressed and wasn't sleeping. He told Barbara to increase the anti-depressants to 3 per night. Barbara did not tell Dr. Hayward that she was providing alcohol to Dorothy nor did she tell Dr. Hayward that she was leaving Dorothy all night in soiled diapers which very probably was the reason that Dorothy couldn't sleep.

I also received a phone call during the week from Chrystal Roy, an extremely close friend of Dorothy's, who was visiting Dorothy only to hear Barbara tell Dorothy that people should be allowed to commit suicide when they lose a spouse and then went on to say to Dorothy "just don't do it when I'm on duty". Chrystal found this extremely upsetting and phoned me that night to discuss it.

Once we were made aware of the condition of Dorothy's body on Saturday, Oct 29th, combined

with what we had all seen and heard about Barbara's conduct during the week, we were extremely upset.

I talked with my aunt on Saturday regarding the Power of Attorney and she insisted that she had only signed it because Les told her it was to help them during his treatment. She did not want either Brad or Barb listed as her Power of Attorney and further, she did not want Brad acting as her Care Manager. Her exact comments were "Brad was Les's friend—not mine—why would I choose him over my own flesh and blood". She also said that Les told her she could change her Family Care Manager whenever she wanted. It was at that point that we asked her if she wanted to see a lawyer and she emphatically stated that she did.

She asked to see Les's will, as well as her own will, and we provided copies to her. She insisted that she never signed that will. She said that she signed anything Les gave her to sign because she trusted him and if that was in fact her signature, then he simply presented the signature page to her to sign. Whether she has forgotten that she signed it or in fact didn't sign it, the fact remained that she was upset when she saw it. She was further upset to see that my sister Melissa and my cousin Greg had been removed from the will. She wanted immediate changes to the will and she did not want either Brad Dueck or Barbara Thorarinson listed as beneficiaries in her will.

The following day, Sunday, Oct 30th, I called Mr. Dueck and told him that we wanted Catherine put back on evening shifts and explained the condition of Dorothy's body and what had been going on all week with Barbara. We also told him about the phone call we had received from Chrystal discussing the suicide conversation she overheard between Barbara and my aunt Dorothy.

I told Brad that Barbara was not providing the level of care that we wanted for our aunt and that we knew Dorothy was well looked after while in Catherine's care. Not only did Catherine actually have the qualifications to be providing care, she also doesn't smoke and she doesn't drink alcohol. I told Brad that it was also Dorothy's choice to have Catherine return to evening/overnight shifts. Brad stated that "he was not changing anything" and refused to take Barbara off evening shift even though Dorothy asked Catherine be put back on evening shift. We then discussed our issues with having Barbara listed as a Power of Attorney and Brad's comment was "just don't tell her".

When Brad refused to remove Barbara from evening shift duty, Dorothy was very angry and asked to see a lawyer and get Brad removed as her care manager immediately. It was at that point, that we started making phone calls to friends and family to see who knew a lawyer personally—someone that they could contact Sunday and make arrangements to see Dorothy on Monday, October 31st. Something needed to be done before Barbara returned to 24 hour duty on Monday, October 31st. I was not prepared to leave my aunt in her care and I made that very clear to Brad. A number of phone calls were made to various friends and family trying to find someone that knew a lawyer that would take a call from us on Sunday.

I got the name of a lawyer that my son was acquainted with and we spoke with him on Sunday. At Dorothy's request, we made arrangements to take her to their offices Monday, Oct 31st, 2011.

The lawyers were from D'Arcy Deacon and met with Dorothy privately for over an hour. They were adamant that neither me or my wife Margaret be in the room with Dorothy during these meetings. They wanted to make sure that she had the capacity required under the law to revoke the current Power of Attorney and the end result was that she was very clear in her request to have the Power of Attorney changed. They did not write up a new Power of Attorney that day. The only transaction that occurred was to have the Power of Attorney listing Brad Dueck and Barbara Thorarinson revoked.

We brought Dorothy home, and Dorothy handed Barbara the "Irrevocation of Power of Attorney" and asked her to leave the premises since Catherine would be coming back on evening shift that night. Dorothy did not want Barbara to return as her caregiver. Even though Barbara was a contractor and submitted invoices every payday and therefore wasn't technically an employee, we did suggest to Dorothy that she give Barbara two weeks pay as notice but Dorothy refused. She said Barbara was a contractor, not an employee and she did not want her back in the house.

I then called Brad and asked him to come over to the house because Dorothy wanted to see him and to bring any keys to the house he had with him. Since Barbara had already called Brad, he knew that his Power of Attorney had been revoked so he hung up on me and wouldn't answer the phone. It was at this point that we had the locks changed in the house, at Dorothy's request.

Catherine took a leave of absence from her regular day job and moved in to the house to become Dorothy's live in homecare provider.

The next day, I picked up my aunt to take her to the Royal Bank to deliver the "Irrevocation of Power of Attorney". It was obvious from the minute we walked in that Mr. Dueck had started a campaign. The Account Manager was extremely abrupt and rude to both me and my aunt. When we told her that no funds were being requested and that Dorothy was simply presenting them with the "Irrevocation of Power of Attorney", she seemed to calm down somewhat.

What we found out later that week was that Mr. Dueck had called the Loewen accountant, the bank and Karen Lake with a number of accusations of wrongdoing against both me and my wife. Accusations such as stating that I took my aunt into the bank and demanded that I be allowed access to withdraw funds. This never happened and the account manager has never been contacted to confirm these accusations.

My wife Margaret called Karen Lake to complain about the treatment Dorothy had received at the hands of Barbara but Ms. Lake did not come to the home to do a personal examination to either verify or refute the claims of abuse. Ms. Lake had already received phone calls from Mr. Dueck.

She appeared at Dorothy's home and was extremely confrontational with Dorothy over why she had signed the "Irrevocation of Power of Attorney" and further why she had fired Barbara. She was upsetting my aunt and Catherine called me to come to the house.

It was clear that I was walking into a hostile environment when I arrived at the house and it was further evident that Ms. Lake had already formed an opinion of what had transpired. She was not prepared to give me the time of day.

Based on the comments made by Ms. Lake, my wife tried to get Ms. Lake to call her. She left various messages, including a request for Ms. Lake to actually do an examination of Dorothy to see the evidence of the poor care being provided by Barbara. Further my wife left messages asking Ms. Lake for a meeting to discuss removing Mr. Dueck as the Family Care Manager but Ms. Lake did not return any of our phone calls. Ms. Lake did not do a physical examination to confirm our accusations of poor care by Barbara. She never had any conversations with me or my wife.

The lawyers met with Dorothy again, privately, one week later to discuss who she wanted to act as her Power of Attorney. It needs to be made very clear that the lawyers from Darcy Deacon came out to Dorothy's home and asked us to stay away to further validate the fact that we were not with Dorothy or influencing her words or decisions while she met with the lawyers. It was always evident that since Dorothy suffered her stroke, she needed assistance in managing her affairs but the lawyers felt, under the law, that she had sufficient capacity to choose who she wanted to act as her Power of Attorney, and further, if she so desired, could make any changes to her will that she wished. Changes to her will were not made at that time but a new Power of Attorney was drafted listing me as her POA.

By mid November, we knew that we were under fire. We do not know if Mr. Dueck contacted the one family member who was alienated from the rest of the family—Shawne Lister—or whether she contacted Mr. Dueck. However we do know that Shawne became Mr. Dueck and Ms. Thorarinson's staunchest supporter against me, my wife and the rest of Dorothy's friends and family.

Shawne called her father, Len Anderson, and told him she had contacted a friend of her's, Mr. Real Cloutier who just happens to be the Director with the WRHA, to have him get involved and have Dorothy taken over by the Public Trustee. Our father was very upset by this. Shawne had been a previous neighbour and friend of Real's for a number of years but my father also knew Real personally. He called Real to find out what he had done. Real asked my father who he supported, his daughter Shawne or me, his son Kerry. My father made it very clear to Real that he supported me because Dorothy had made it very clear to him that she wanted Brad and Barbara out of her life and wanted me as her Power of Attorney. My father was supporting the wishes expressed very clearly by my aunt. Real Cloutier never called me to get further information. He had only heard one side of the story. After speaking with my father, Real told him that he would look into the situation. On a later phone call with my father, Mr. Cloutier admitted that it was too late to stop anything and that the wheels were already in motion.

Karen Lake refused to return phone calls to meet regarding the "Self Managed Care program" so we were forced to deal with the careworkers' paycheques directly from Dorothy's finances. We did the payroll and Dorothy signed the cheques. WRHA continued for the month of November to deposit the

allowable funds into Mr. Dueck's bank account even though they were fully aware of the situation and that Mr. Dueck was no longer involved in the care of Dorothy or her careworkers.

In December, after running out of diapers, our careworker Catherine contacted Ms. Lake to order more diapers and was told that Dorothy had been cut off from homecare and that she was no longer eligible for funding or for any medical supplies. When asked why she would have been cutoff, Ms. Lake advised that Dorothy herself said she didn't want funding from WRHA. This is an outright lie. Ms. Lake called Dorothy and offered to send out WRHA workers but that would mean Catherine would no longer be taking care of Dorothy. Dorothy made it clear to Ms. Lake that she did not want careworkers from Winnipeg Regional Health and that she was quite happy with her current caregivers. Even though this was an approved and funded homecare program through WHRA Ms. Lake used this as an opportunity to cut off Dorothy's funding leaving her to pay for her care out of her own pocket.

My wife tried for 2 weeks to get Ms. Lake to at least provide the name of the supplier that provided the diapers. There was only one type of diaper that Dorothy was comfortable in and we couldn't find that brand in any of the regular outlets in Winnipeg. We were not asking Ms. Lake to provide the diapers—all we were asking for was the name of the supplier. Ms. Lake would not return the phone calls and did not respond to the emails.

The next incident was a phone call to me from my cousin Greg Dick, my aunt Dorothy's nephew. He said that he had received a phone call from Ms. Lake, looking for his support in having me removed as Dorothy's Power of Attorney. My sister, Shawne Lister, had provided Ms. Lake with his contact information somehow thinking that he was in support of her. Ms. Lake began the conversation with my cousin by asking him how he felt about the "deplorable" things that I had done to our aunt. Greg made it very clear to Ms. Lake that she was not being given all of the facts and that he in fact supported me.

Ms. Lake presented false accusations to my aunt's doctor, Dr. Hayward. She wanted him to have my aunt declared "mentally incompetent". My wife will go into further details related to the letters and documentation that went back and forth, however, the end result was that Dr. Hayward did sign the "Certificate of Incapacity" but also stated that he

wanted Dorothy to be examined by a geriatric psychiatrist in order to get a second opinion. Dr. Hayward made the appointment for the 3rd week of January.

Ms. Lake sent a letter to the Director of Psychiatric Services on January 4th asking them to "Please assess and investigate the allegation of financial abuse and social isolation visited upon Mrs. Dorothy Loewen by her nephew and his wife"

It is very hard to understand how she can comment at all regarding Mr. Dueck, who she never met until spring of 2011, or on Shawne Lister who she had never spoken to until after my uncle's death. It is further confusing as to why she didn't list Greg Dick, Dorothy's nephew, as a next-of-kin since she had spoken to him and knew that he was fully in support of my actions to protect my aunt.

Further in her letter to the Director of Psychiatric services, Ms. Lakes goes on to say that "a nephew, Kerry Anderson, and his wife, has arranged to be the new Power of Attorney and is the source of concern. Collateral information suggests that his intentions are not in the best interests of Dorothy and his actions suggest same. I have not listed him as a next of kin because I do not believe he has Dorothy's best interests at heart and notifying him about these concerns via the letter of notice may further compromise Dorothy".

So what about the other 6 nieces and nephews that don't exist in Ms. Lake's viewpoint? If she was unaware of the rest of the nieces and nephews, why did she not make the initial effort to find out if there were other nieces and nephews and why did she make to attempt whatsoever to contact any of them. Ms. Lake intimates that she has a close relationship with the Loewens and is fully aware of all of their family dynamics, and further, she is the best judge to decide who has "demonstrated past positive involvement with the Loewens". How arrogant and assuming is that statement.

I can only assume that she has embellished her statements after being told by Mr. Real Cloutier to take this to the next level. Nowhere in Ms. Lake's submission to the Director of Psychiatric Services does she even mention that there are a total of 8 nieces and nephews nor does she state the fact that 7 of those nieces and nephews all support me and my wife in what we have done to protect my aunt.

So the Director of Psychiatric Services grants an Emergency Order of Committeeship based on the collateral information gathered by Ms. Lake to

support her allegations of financial abuse and social isolation by me and my wife visited upon my aunt.

The Director of Psychiatric Services does no investigation whatsoever but grants the emergency order one day after receiving Ms. Lake's documentation.

Two days later on January 9th, the Public Trustee shows up at the door of my aunt to inform her that she has been declared "mentally incapacitated" and that she is now under the control of the Public Trustee.

All of her funds have been removed from her account. All of her mail is now being sent to the Public Trustee and they will pass along only that mail that they feel is acceptable for her to receive.

She has no funds. She has been used to going on outings in her car with Catherine. She has been accustomed to meeting friends for lunch. She has been accustomed to doing her own grocery shopping. She has been accustomed to going for a pedicure/manicure with her friends. That has now ended.

She can no longer have any funds to do her own shopping. The Public Trustee set up an account at Cantors and allowed Dorothy \$75.00 a week for groceries and allowed her one carton of cigarettes per week because Dorothy is a smoker.

She has been allowed no money for gas for her car to go out on outings. She has been allowed no funds for anything. For the month of January, I provided my aunt with gas for her care, as well as money to meet her friends for lunch and try to maintain a sense of normalcy—all of this happening with 3 months of losing her husband.

It should also be noted that Dorothy was left totally in our care. The very person accused of abusing her financially and socially isolating her has been left looking after her needs. My wife continued to press the Public Trustee to allow Dorothy additional funds to carry on life as she knew it. Margaret asked them to put \$100.00 per week back into Dorothy's RBC account to cover gas for her car, lunches, clothing, manicures/pedicures and all other items that could not be purchased at Cantors. The Public Trustee finally agreed after having me report all financial transactions done with Dorothy from November 1st, 2011 until the day that the PT took over. It was obvious that there had been no financial abuse since every penny could be accounted for in the very detailed records that we kept. It was also obvious

that we had purchased a number of items for Dorothy out of our own money so the charges of financial abuse were totally false, which would have been evident if the Director of Psychiatric Services or WRHA had even bothered to investigate.

The Public Trustee agreed to start depositing \$100 per week into Dorothy's RBC account to cover the additional expenditures. On 3 different weeks, Margaret was advised that the \$100.00 had been deposited. Margaret would then call Catherine and tell her that she could take Dorothy to the bank because the \$100.00 was in her account. For 3 weeks in a row, Dorothy would be taken into the bank, in her wheelchair and totally humiliated after trying to take out \$100.00, only to be told that she had no funds. It turns out the Public Trustee did not have a handle on all of the auto payments that were coming out of that bank account and did not account for weekly NSF charges for payments that came through and bounced because there were no funds. The meagre \$100 per week was continually eaten up by NSF charges. This left my aunt, who had been a business woman all her life, crying in the bank from humiliation, while other customers looked on at her with sympathy because all they heard was that she was trying to take out \$100.00 but she had no money.

To be reduced from her previous lifestyle to begging for money in the bank was horrible.

Finally, after a month, the Public Trustee seemed to get a bit of a handle on what payments were going through the account and made the arrangements to have those bills sent directly to them.

We then began dealing with Cantors and the way that they treated Public Trustee clients. I can only assume that the majority of their clients do not have family members supporting them because on more than one occasion, the food that was delivered to Dorothy was not fit for consumption.

Fruit was delivered that was rotten. Cheese that was delivered was molding in the plastic wrap. Catherine ordered a 5 pound bag of flour – they delivered a 25-pound bag of flour. On top of receiving expired products, the \$75.00 weekly allowance was further reduced by the delivery charge incurred by Cantors so now Dorothy doesn't have \$75.00 a week – she has \$65.00.

After many complaints and threats to send pictures of this food to the media, the Public Trustee relented and agreed to put the food and cigarette money into Dorothy's bank account so that Dorothy could do her

own grocery shopping, eliminate the delivery charges, and have the ability to take advantage of various sales between her three favourite grocery stores. So now, the PT was depositing a total of \$275.00 per week into the Royal Bank to cover her groceries, her cigarettes and the allowance of \$100 for Dorothy's entertainment.

Dorothy began to get collection calls from Royal Bank Visa. There was a \$600+ visa bill owing outstanding since January 2011. I don't know why this bill wasn't paid but my wife contacted the Public Trustee on at least 4 different occasions tell them that Visa was harassing Dorothy with collection calls. The Public Trustee blamed this on Visa. The next thing we know, Dorothy goes to the bank and once again, is denied her funds. It appears that, even after 4 months, the Visa bill has still not been paid so they have put a hold on Dorothy's bank account and they will not release any funds.

How much humiliation is my aunt going to have to deal with?

Although we were forced to have all of our documentation into the courts within 8 weeks of this happening, the Public Trustee did not submit any opposing Affidavits until the end of September 2012.

In the interim, my aunt has been assessed by Dr. Barry Campbell, a leading geriatric psychiatrist in Winnipeg and he has signed an Affidavit stating that although Dorothy requires assistance in managing her affairs, he believes she has the capacity to choose her own Power of Attorney as well as to make any changes she wishes to her will.

In addition, the original doctor, Dr. Hayward, has also stated that she has the capacity to choose her own Power of Attorney. He is very clear in stating that any comments he made regarding Powers of Attorney were made because Dorothy's husband had just died and he didn't feel that Dorothy was capable at that specific time of choosing a Power of Attorney. He has now signed an Affidavit stating that he believes Dorothy has the capacity to make her own choice.

None of this seems to matter to the Public Trustee. They continually refer to the fact that Shawne Lister opposed our application and has given unlimited time for her to file her own application. Finally, the court imposed a deadline on Shawne to file her own application. They gave her a deadline of May 31, 2013 – well over one year after the Public Trustee took control.

To summarize all of the above:

Mr. Real Cloutier, a senior officer with Winnipeg Regional Health, got involved in this case as a personal favour to a friend, Shawne Lister.

Ms. Karen Lake, Case Coordinator with Winnipeg Regional, either acted on Mr. Cloutier's direction or simply chose to ignore all other family members and work solely with Mr. Dueck and Shawne Lister. Ms. Lake deliberately chose not to include the fact that she had spoken to another nephew who supported our actions. Ms. Lake chose not to include the fact that this was not one family member battling another – this was 7 family members battling against one family member. Ms. Lake chose to rule out my aunt's ability to make her own choices and decided that she didn't have that right.

The original doctor requested a second opinion by a psychiatrist. The Director of Psychiatric Services decided that his request was not worth consideration and did not wait for the appointment made by the doctor but instead granted an emergency order within 24 hours of reading Ms. Lake's submission. No attempt was made whatsoever to verify the allegations and to this very day, have had no proof or evidence to support Ms. Lake's allegations of financial abuse and social isolation. And lastly Ms. Lake made a request to Dr. Hayward to do a psychological assessment but to not tell my Aunt what he was doing or why he was doing it. This is a clear violation of the law that the Public Trustee does not seem to care about.

I have been forced to pursue this through the legal system. My wife and I, at the request of Dorothy, have now spent over \$20,000 in legal fees fighting this injustice.

It is now almost two years since my uncle has passed away and my aunt has had her life turned totally upset down.

My uncle's will still has not been probated because the Public Trustee would not allow my Aunts lawyers to do so.

I have had my reputation slandered as has my wife.

The very people that have been accused of financial abuse and social isolation, have been left totally in charge of her care, the caregiver schedules, signing off on caregiver timesheets, delivering the timesheets in person every 2nd week to the office of the Public Trustee, picking up the staff paycheques every other week because the Public Trustee will not accept emailed invoices or faxed invoices.

What's very important to note is that no one from the Public Trustee's office has visited Dorothy in her home. These allegations go back to November 1, 2011. It's been almost 2 years now and no one has even bothered to visit Dorothy or ask her how she is. It's evident that the allegations of social isolation are either not believed by the Public Trustee or they simply don't care.

Now, after almost 2 years of dealing with these departments, after numerous letters and pleas to the Minister of Justice, both directly and through Dr. Jon Gerrard we have been totally disregarded and ignored, and I am now expected to sit back and let this bill pass through without a fight? We are supposed to sit back and let situations like this happen and totally remove any accountability from the office of the Public Trustee? I don't think so. This department has maligned our reputations, destroyed my aunt's life, eaten up all of her funds, and have offered no means to mediate or resolve this situation. They have ignored us, been rude to us and threatened us. They have deliberately stalled the legal process in the hope of making us give up or financially breaking us and I am forced, at 60 years of age, to start cashing in pension funds and selling assets in an effort to protect my family.

If this bill is allowed to pass, it will be a complete travesty of justice. This is not what the Public Trustee should be about. I know that there is a place for the Public Trustee in our society but the amount of power that they've exhibited should give pause to any right thinking person

The Public Trustee should be under more scrutiny – not less. They should be more accountable – not less. They should be more answerable to the government – not less. And the fact that you want to provide them more protection against the very people that they are charged with protecting is even more disgusting – not less. You people need to do the right thing. You need to start listening to the people with the stories about the Trustee instead of always listening to the trustee explain away the stories of the people.

Respectfully submitted,

Kerry Anderson

Mr. Chairperson: In what order does the committee wish to proceed with clause-by-clause consideration of these bills?

Mr. Dewar: I suggest as listed on the order paper.

Mr. Chairperson: Okay, thank you. Is that agreed? *[Agreed]*

During the consideration of a bill, the table of contents, the preamble, the enacting clause and the title are postponed until all other clauses have been considered in their proper order. Also, if there is agreement from the committee, the Chair will call clauses in blocks that conform to pages, with the understanding that we will stop at any particular clause or clauses where members may have comments, questions, or amendments to propose. Is that agreed? *[Agreed]*

We will now proceed to clause-by-clause consideration of the bills.

Bill 8—The Provincial Court Amendment Act

Mr. Chairperson: Does the minister responsible for Bill 8 have an opening statement?

Hon. Andrew Swan (Minister of Justice and Attorney General): Very briefly, as I think members of the committee are aware, this bill will amend The Provincial Court Act. It'll add a section to facilitate the use of electronic documents in the provincial court. This amendment will meet requirements contained in federal legislation, the Criminal Code of Canada, that allows the use of electronic documents, provided their use is in accordance with either an act or a rule of the court. And this amending act will be a further measure, as we continue to streamline and modernize court proceedings and improve efficiency of our police service. Thank you.

Mr. Chairperson: Thank the minister.

Does the critic from the official opposition have an opening statement?

* (20:00)

Mr. Reg Helwer (Brandon West): Yes, I see tomorrow evening in Public Accounts we will be dealing with information technology security management practices. And there are a number of items in that report from the Auditor General that I brought up during my discussion of the bill in second reading. And I want to make sure that the minister is aware of some of the shortcomings the Auditor General has seen in security, and I'm sure that will apply to this bill as it moves forward.

Mr. Chairperson: Thank the member.

Clauses 1 and 2—pass; clause 3—pass; enacting clause—pass; title—pass. Bill be reported.

**Bill 10—The Correctional Services
Amendment Act**

Mr. Chairperson: Does the minister responsible for Bill 10 have an opening statement?

Hon. Andrew Swan (Minister of Justice and Attorney General): Yes, thank you. This bill will improve the safety and the security within correctional facilities in Manitoba. It will also enhance the safety of victims, witnesses and the general public, and it will do that by clarifying the conditions under which inmate communications, including telephone communications, may be restricted, intercepted and monitored.

And the bill will also include provisions setting out more detailed regulations with respect to the control of inmate communications.

This is really a bill about protecting public safety, ensuring that people who spend time in our correctional institutions do not either attempt to conduct illegal activities or attempt to influence or threaten or intimidate people on the outside. Of course, privileged communications with counsel for inmates will be guarded within this legislation.

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

Mr. Reg Helwer (Brandon West): Yes, we recently saw the effect of something like this had in the United States with the closing of the embassies with some chatter that was heard, I guess, by the security services there. So they acted. And I believe something of this nature is also—could occur in Manitoba, not certainly closing of embassies but certainly looking at how we might intervene and prevent crimes. So I think the bill is a good step.

Could have been done quite a bit earlier I'm sure, but, nonetheless, I'm pleased to see that the Province is moving forward with things they're already doing.

Mr. Chairperson: Thank the member.

Clauses 1 through 3—pass; clause 4—pass; clause 5—pass; enacting clause—pass; title—pass. Bill be reported.

**Bill 16—The Department of Justice
Amendment Act**

Mr. Chairperson: Does the minister responsible for Bill 16 have an opening statement?

Hon. Andrew Swan (Minister of Justice and Attorney General): Yes, this is our shortest bill of the bunch tonight.

There's two key provisions that are being dealt with by Bill 16. The first is to provide a procedure to retain and compensate lawyers who are appointed by the courts for people who are not eligible for Legal Aid.

Second, it'll provide a procedure to retain and compensate lawyers who are appointed by the courts to perform certain limited functions in a trial. For example, in a domestic violence case, an unrepresented accused may be provided with a lawyer so that that accused does not wind up cross-examining the victim, which could be seen as revictimizing somebody.

The amendments will clarify the practical and financial aspects of court-ordered lawyers. Because we're moving along so well tonight, I will not use this opportunity to talk about the absolute lack of federal support for Legal Aid because I think we want to get through a lot of bills tonight.

Mr. Chairperson: Thank the minister.

Does the critic from the official opposition have an opening statement?

Mr. Reg Helwer (Brandon West): Access to the justice system is an important part, of course, of being able to go through the whole system, and, certainly, this bill does speak to that, and I think that's about all I need to say on that.

Mr. Chairperson: Thank the member.

Clauses 1 through 3—pass; clause 4—pass; enacting clause—pass; title—pass. Bill be reported.

**Bill 21—The Highway Traffic Amendment Act
(Impoundment of Vehicles—
Ignition-Interlock Program)**

Mr. Chairperson: Does the minister responsible for Bill 21 have an opening statement?

Hon. Andrew Swan (Minister of Justice and Attorney General): Yes, thank you. Of course, we are always moving ahead, and I think every member of this committee is interested in taking on the dangers of impaired driving, and this is another step along the way.

Bill 21 will amend The Highway Traffic Act to clarify that operating a motor vehicle in contravention of ignition interlock requirements is not only driving while disqualified, but also carries all of the other consequences that can flow from the offence of driving while disqualified, which can include vehicle impoundment.

It'll also give the registrar of motor vehicles the narrow authority to modify or restrict your driver's licence to allow a driver to operate for the course of their employment an employer's vehicle that's not equipped with an ignition interlock device, if the use of that vehicle is necessary to maintain a driver's employment. A situation would be where an employee drives one of a large fleet of vehicles. The employee is under an obligation to use ignition interlock. Although it's quite reasonable to force somebody to have an interlock on one vehicle or any vehicle they intend to drive personally, we—obviously it would be impossible for an employer to equip an entire fleet of vehicles with interlocks. So, for the purposes of employment, it is possible, then, to waive that restriction so someone doesn't need interlock during their work hours for the course of their employment. We think that's a good step.

There were a couple of questions that were raised in debate on Bill 21, and I think I will just briefly deal with those. I think I've addressed the first one about the use of company vehicles. There was a question at committee about what happens if the device malfunctions, and drivers in the Ignition Interlock Program, they have to comply with all program requirements, including have a functioning device and having it regularly inspected. I'm told that if there's a malfunction on the interlock devices that are used, the system goes to an immediate recall mode and the driver's immediately told that it requires servicing. So, when that happens, should that happen, a driver who's 'resticted' from driving will bear an onus to use all reasonable steps to get their vehicle brought in for servicing when they're advised that the device has stopped functioning or is malfunctioning.

So there's no intention to catch anybody just because their device is on the blink, but there is an obligation to move as quickly as possible to make sure that the device is serviced and working properly. So I think that that addresses some of the questions that came up in the course of our debate at second reading.

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

Mr. Reg Helwer (Brandon West): Yes, I—interesting to see the—this move forward. The—impaired driving is, of course, something that we do need to deal with as a critical issue. This does not address, of course, any of the causes of that or have any—it deals with the symptom. So we're dealing with

one particular aspect, but it does not remove the economic opportunity for someone to move ahead with employment, and I think that's an important part so that they continue to be a productive part of society and they're not penalized in that regard, nor is the employer penalized by having to overly accommodate that individual. They're usually very productive, so thank you.

Mr. Chairperson: Thank the member.

Clauses 1 and 2—pass; clauses 3 through 5—pass; clauses 6 and 7—pass; enacting clause—pass; title—pass. Bill be reported.

Bill 23—The Highway Traffic Amendment Act (Increased Sanctions for Street Racing)

Mr. Chairperson: Does the minister responsible for Bill 23 have an opening statement?

Hon. Andrew Swan (Minister of Justice and Attorney General): Yes, Bill 23 deals with increased sanctions for street racing. Currently The Highway Traffic Act provides that police can impound a vehicle for 48 hours if they have reason to believe it is being or has been driven on a highway or road in a race.

* (20:10)

We've had a look at what some different jurisdictions across the country are doing and we think it's appropriate to increase that vehicle impoundment period for street racing to seven days. It'll also give police the authority to impose a seven-day roadside driver's licence suspension and driving disqualification as a consequence for street racing. The bill would also clarify that the Manitoba Licence Suspension Appeal Board process does not kick in. It doesn't apply to a seven-day driver's licence suspension and driving disqualification. This bill adds to existing penalties. There are other penalties and sanctions under The Highway Traffic Act and also the Criminal Code of Canada.

Again, there are a couple of questions that were raised during a second debate that I'll deal with quickly. One question that came up is: Well, why would you suspend somebody from having a driver's licence if they don't have a driver's licence in the first place? What it will do, it's necessary to impose the equivalent of a driver's licence suspension by prohibiting that driver from obtaining a driver's licence during the entire period of disqualification or otherwise driving in Manitoba. As we look at the rest of The Highway Traffic Act, driving while

disqualified actually has a higher range of penalties than driving without a licence, and it is wording that's already used in The Highway Traffic Act for other short-term suspensions.

Second question was: Well, what happens if somebody is from outside of Manitoba? Does this follow the individual back to their province? Of course, Manitoba only has jurisdiction to do with Manitoba licences, but I am pleased to say that we have reciprocal arrangements with other provinces and territories and notification would be given. Whether it would be given within seven days is another question, but when there are longer suspensions, that information is now shared not just among Canadian provinces but with American states as well.

And finally, the question is: What will the driver's licence reinstatement cost be following a seven-day suspension for street racing? Will there be demerits? The driver's licence cost-reinstatement cost and related issues will be determined in consultation with Manitoba Public Insurance as part of—as part of implementing Bill 23. I know that it will take some months after this bill is passed before we can proclaim it into force. We'll be discussing the appropriate cost and the other factors.

So I hope that answers questions that some honourable members raised during second reading.

Mr. Chairperson: Thank the minister.

Does the critic from the official opposition have an opening statement?

Mr. Reg Helwer (Brandon West): Yes, this is, of course, a serious concern. There has been—have been deadly occurrences not just to the individuals involved in street racing but also innocent bystanders and that is perhaps even more troubling. We do question whether it is severe enough. Perhaps it could have gone a little bit further, and the minister did address that a little bit in his opening comments. Thank you.

Mr. Chairperson: Thank the member.

Shall clauses 1 through 3 pass? Oh, Mr. Eichler, forgive me, please. Yes.

Mr. Ralph Eichler (Lakeside): In regards to the reciprocity with other provinces, would the minister care to elaborate which provinces those are?

Mr. Swan: I am advised that all provinces now have reciprocal arrangements with Manitoba.

Mr. Chairperson: Clauses 1 through 3—pass; clauses 4 and 5—pass; enacting clause—pass; title—pass; Bill be reported.

Bill 25—The Statutory Publications Modernization Act

Mr. Chairperson: Does the minister responsible for Bill 25 have an opening statement?

Hon. Andrew Swan (Minister of Justice and Attorney General): Yes, indeed. Well, we've—we're going to be replacing a fairly old act with two new acts. We're going to replace The Regulations Act with the new statutes and regulations act.

Since 2002, the government has provided the public with free online access to the acts and regulations of Manitoba through the Manitoba Laws website. Most Manitobans, we find, prefer to access laws in this way. Right now, it doesn't enjoy that same official status as the print version. In the new act, we give official status to this online and bilingual version of the acts and regulations, and unless there's some evidence to the contrary, that official version will be considered to be accurate and there's no additional proof that would have to take place.

It'll continue the existing system for registering regulations. It'll really shift the focus from print publication to electronic publication. Currently, regulations have to be published in the Manitoba Gazette, and publication in the Gazette, which is not a bestseller, is official notice to all persons. Under the new act, the publication of a regulation on the Manitoba Laws website will be official notice and its publication will no longer be required.

It'll give Legislative Counsel the power to make minor corrections and changes to acts and regulations that don't change the legal effect, which we think will be more efficient. And, again, notices will, in most cases, be provided on the Manitoba Laws website.

The old public printing act will be replaced by a new Queen's Printer act, and the new act will now enable electronic publishing of statutory publications. The goal, obviously, is to modernize how we let citizens know what the laws and regulations in the province are, and also reflect that the vast majority of Manitobans prefer to deal online, while still making allowance for Manitobans who prefer to have a hard copy of various acts and regulations.

Mr. Chairperson: Thank you.

Does the critic from the official opposition have an opening statement?

Mr. Reg Helwer (Brandon West): Yes, indeed, many Manitobans expect not only electronic access but immediate access to things of this nature, and I think it's an important step to take. And, as I mentioned earlier, the security is an important issue that the Auditor General addressed in her report, so I'm sure the minister will take that in consideration as he moves ahead with this.

Mr. Chairperson: Thank the member.

Due to the size and structure of this bill, the Chair would like to propose the following order of consideration for the committee's consideration. For your reference, we will provide copies of this outline for committee members.

With the understanding that we may stop at any point where members have questions or wish to propose amendments, I propose that we call the bill in the following order: Schedule A, pages 4 through 51, called in blocks conforming to the eight parts of Schedule A; Schedule B, pages 53 through 56, called in a block conforming to the entire schedule; bill clauses, page 1, called in a block conforming to the page; the table of contents for Schedule A, pages 2 and 3; the table of contents for Schedule B, page 52; the enacting clause, page 1; the bill title.

Is that agreed as an appropriate order of consideration for Bill 25? *[Agreed]*

We will begin the eight parts of Schedule A, pages 9 through 140.

Part 1, pages 4 and 5, clause 1 through 3—pass; Part 2, pages 6 and 7, clauses 4 through 7—pass; Part 3, pages 8 through 15, clauses 8 through 22—pass; Part 4, pages 16 through 20, clauses 23 through 26—pass; Part 5, pages 21 through 24, clauses 27 through 33—pass; Part 6, page 25, clause 34—pass; Part 7, pages 26 through 50, clauses 35 through 96—pass; Part 8, page 51, clauses 97 through 99—pass.

We will now consider Schedule B, pages 53 through 56.

Clauses 1 through 15—pass.

We will now consider the bill clauses, page 1.

Clauses 1 through 3—pass.

We will now consider the remaining items in the bill.

Table of contents for Schedule A—pass; table of contents for Schedule B—pass; enacting clause—pass; title—pass. Bill be reported.

* (20:20)

Bill 36—The Public Guardian and Trustee Act *(Continued)*

Mr. Chairperson: Does the Minister responsible for Bill 36 have an opening statement?

Hon. Andrew Swan (Minister of Justice and Attorney General): Yes, thank you. You know, we've heard from some Manitobans tonight talking about the Public Trustee, and I think it's probably useful just to put a few comments on the outset about the office of the Public Trustee, or when the bill passes The Public Guardian and Trustee Act.

I think it's fair to say that, in many cases, nobody is that happy when the Public Trustee takes over an estate. That's not because of anything the Public Trustee does or doesn't do. In many cases, the Public Trustee steps in as the trustee of last resort in cases where, for one reason or another, there is not a family member that other family members believe is appropriate. There's no one named in a will; there's no power of attorney; there's no health-care directive.

The Public Trustee does have an obligation to look out for the best interests of Manitobans who find themselves in that situation, and, I guess—you know, I am a lawyer by trade, but I want to tell everybody around this table that, as MLAs, one of the greatest services I think we can do is to help out the promotion for Manitobans to make sure that every Manitoban has a valid will, that every Manitoban has a valid power of attorney, and that every Manitoban has a valid health-care directive, because having those documents in place will reduce the likelihood that the Public Trustee will ever become involved in administering somebody's estate.

That will not deal with every situation because of the wide range of things that the Public Trustee's office does. But I think anything that we can do collectively to make Manitobans aware that these documents exist and that they can help people to manage their affairs, I think, is very helpful.

This bill would replace the existing Public Trustee Act. It would change the name of the Public Trustee to the Public Guardian and Trustee to reflect the role of the office, as both the guardian and the trustee of mentally incapable adults and children. It clarifies in a list the Public Guardian and Trustee's

roles. It updates provisions to better reflect current practices and policies that are now being undertaken by the Public Trustee's office.

It also takes measures which are intended to reduce the expense and delay in the administration of estates in trust, and, as members know, the Public Trustee's office is a special operating agency and has been so for a long time. The Public Trustee's office does pay for its activities out of the estates it administers, so I think we're all looking for ways that the office can reduce expense and delay to make sure that as much money as possible is kept for the estates.

The bill would amend The Mental Health Act to allow the Public Trustee–Public Guardian and Trustee to apply to court to end its authority over mentally incapable adults where an appropriate alternative exists, which I think is a theme that some members have wanted to talk about. It also protects the authority of powers of attorney conferred before the Public Guardian and Trustee becomes involved in any case.

And, as you know, I won't speak about any particular case that we've heard about tonight or that has perhaps come up, except to say that where somebody has validly expressed a desire to have a certain person or people act as the power of attorney, as long as that person is, in the view of the Public Trustee's office, someone who is able to fulfill those duties and to acknowledge that the person has made a choice, we want to make it easier for the Public Trustee to allow that to take place.

Additionally, it clarifies circumstances when the Public Guardian and Trustee has to apply to court to determine the best interests of the person in question.

So the change to now the Public Guardian and Trustee's office is in keeping with what several provinces across the country have done. I think it more fully reflects the role that the Public Trustee's office takes on behalf of Manitobans who, for one reason or another, need the support of this special operating agency to manage their affairs.

Mr. Chairperson: I thank the minister.

Does the critic for the official opposition have an opening statement?

Mr. Reg Helwer (Brandon West): The early review of this particular bill did seem to give greater powers to the trustee—and now the Public Guardian—at the cost of the estate to the family. And there were

several concerns about that, and we heard a number of concerns this evening from the public about that environment. I think throughout all of those presentations the main item of concern is the lack of communication. And, as we all know, communication and—is very important, and you are dealing with very emotional issues in this regard and is—if there is any way we could enhance that communication with the families, I think that that would be an important movement and important step in this bill. Thank you.

Mr. Chairperson: Thank the member.

Clause 1—pass; clauses 2 through 4—pass; clause 5—pass; clause 6—pass; clause 7—pass; clause 8—pass; clauses 9 and 10—pass; clauses 11 through 13—pass; clause 14—pass; clause 15—pass; clause 16—pass; clauses 17 and 18—pass; clauses 19 and 20—pass; clause 21—pass; clauses 22 through 24—pass; clauses 25 and 26—pass; clauses 27 through 32—pass; clauses 33 and 34—pass; clauses 35 through 37—pass; clause 38—pass; clauses 39 through 44—pass; clause 45—pass; clause 46—pass; clauses 47 through 49—pass; schedule—pass; table of contents—pass; enacting clause—pass; title—pass. Bill be reported.

**Bill 38—The Provincial Offences Act and
Municipal By-law Enforcement Act**
(Continued)

Mr. Chairperson: Does the minister responsible for Bill 38 have an opening statement?

Hon. Andrew Swan (Minister of Justice and Attorney General): Bill 38 is really going to create two new pieces of legislation.

The Provincial Offences Act will replace The Summary Convictions Act, which we believe is somewhere in the nature of 50 years old. It'll modernize the way we deal with provincial offences by providing a clear and effective process. It will make it easier for Manitobans to deal with their provincial offences, whether that is simply by wanting to pay the amount of the fine or to challenge the fine and the conviction or to—what we used call plead guilty with an explanation.

I know in the briefing, I gave the member for Brandon West a lengthy description; I didn't mean to suggest that you would ever speed on your way back to Brandon West. But we talked about some of the complications under the existing piece of law if you were given a speeding ticket on the way home. We think that we can make a better use of our court system, better use of our police and better use of

Manitobans' time by modernizing the way that we deal with those offences.

The Municipal By-law Enforcement Act will assist Manitoba municipalities by establishing an effective administrative system for the enforcement of municipal bylaws. This bill would start out dealing with parking offences. Really, if you want to think of it conceptually, if you get a parking ticket from the City of Winnipeg or another municipality, it's really a breach of contract is what it is. When you pay your—drop your nickels or your loonies into a parking meter, you're really renting the space from the City. And the idea of using provincial courts, which we would like to use for moving criminal matters through the system more quickly, has led us to decide that there's some better ways to do things.

* (20:30)

So the first step will be allowing municipalities—or requiring municipalities now to use this new system which will avoid recourse through our courts to collect their parking fines.

Municipalities who wish to do so can also move to have other bylaw offences dealt with in the same way. And, of course, with the last bill, Bill 36, I gave a pitch for lawyers, why everybody should have certain documents in place. I suppose with Bill 30 I am taking that away from lawyers. Very few municipal leaders, very few CAOs, very few people in the general public would think that it's a good use of taxpayer dollars to be paying a lawyer 200 or 300 dollars an hour to collect 10- or 20-dollar parking tickets through the court system.

And so we're moving ahead to set up a system which will allow municipalities to have employees of that municipality serve as a hearing officer, if you will, at the first level, to decide whether it's appropriate that the offence fine be paid. If somebody is unhappy with that decision, they have the right to take it to a—the next level, being an adjudicator. There'll be a \$25 fee to do that, which the person will get back if they're successful.

We've heard some comment tonight, and we respect some of the things that the AMM and the City of Winnipeg have said about what that adjudicator should and shouldn't do. The best advice that I have within my department is that by taking away the recourse to provincial courts, we do need to have a system in place which allows people still to have their opportunity to present their case in front of an independent adjudicator.

So we think we've struck the right balance in terms of adjudicators who will be non-political appointments chosen by the deputy minister. They will be people with legal training that will then be able, in certain limited circumstances, to give people relief if they have—well, to be blunt, a really good story as to why they shouldn't have received the parking fine or why they shouldn't have received a different kind of fine. So I think we've struck a good balance.

I do, again, want to thank the City of Winnipeg and AMM, as well as other individuals, other leaders of municipalities, for coming forward and giving us not just the ideas on putting the bill together in the first place but to make sure, as we sit here tonight, that we've got it right.

I will be moving six amendments to deal with some of the things that we've been talking about tonight, and I can put on the record that we will look forward to dealing with the AMM and municipalities—first of all, on how the regulations should work, certain details respecting the adjudicators, and also, as we go forward, after the bill gets in place and municipalities start to come online on using this new procedure for more and more bylaw enforcement, whether there are other steps that should be taken, whether that means allowing fines to be added to the tax bills or other steps to even help municipalities a bit more.

But we've certainly been helped, and I do want to comment on the great relationship between my department and AMM and its members in allowing us to move forward.

Mr. Chairperson: Thank the minister.

Does the critic from the official opposition have an opening statement?

Mr. Reg Helwer (Brandon West): Yes, indeed, I am encouraged by the minister's approach to listening to the municipalities, and we heard some great presentations tonight. Thank you to the presenters, and I understand that the minister is attempting to accommodate some of those concerns they had through his amendments, so that's very encouraging.

The appeals process is something that is probably going to be outstanding, I imagine, and not just for the individual who has committed the offence but also for the municipality. As we heard tonight, they would also like to see a process to appeal a decision.

And I think there are some learnings to take away from this tonight. Listening to municipalities is a great thing because they have some great ideas. And maybe in some of the other bills—there's a Bill 33, that might be something we could take away from tonight and show how we can work together with municipalities to create better legislation.

Thank you, Mr. Chair.

Mr. Chairperson: Thank the member.

Due to the size and structure of this bill, the Chair would like to propose the following order of consideration for the committee. For your reference, we will provide copies of this outline for committee members.

With the understanding that we may stop at any point where members have questions or wish to propose amendments, I propose that we call the bill in the following order: Schedule A, pages 8 through 93, called in blocks in clauses conforming to the 12 parts of Schedule A; Schedule B, pages 97 through 114, called in one block, conforming to the entire schedule; bill clauses, pages 1 and 2, called in blocks conforming to pages; the table of contents for Schedule A, pages 3 through 7; the table of contents for Schedule B, pages 95 and 96; the enacting clause, page 1; the bill title.

Is that agreed as an appropriate order of consideration for Bill 38? [*Agreed*]

We will begin the 12 parts of Schedule A, pages 8 through 93.

Part 1, pages 8 through 12, clauses 1 through 5—pass; Part 2, pages 13 through 22, clauses 6 through 21—pass.

Part 3, pages 23 through 28, shall clauses 21 through 31 pass?

Some Honourable Members: Pass. [*interjection*]

Mr. Chairperson: Shall clause 22 through 31 pass?

Some Honourable Members: Pass.

Mr. Chairperson: Shall—clauses 22 through 31 are accordingly passed.

Part 4, pages 29 through 39, clauses 32 through 46—pass; Part 5, pages 40 through 44, clauses 47 through 50—pass; Part 6, pages 45 through 54, clauses 51 through 67—pass; Part 7, pages 55 through 58, clauses 68 through 78—pass; Part 8, pages 59 through 62, clauses 79 through 85—pass; Part 9, pages 63 through 70, clauses 86 through 95—pass;

Part 10, pages 71 through 79, clauses 96 through 117—pass; Part 11, pages 80 through 90, clauses 118 through 139—pass; Part 12, pages 91 through 93, clauses 140 through 147—pass.

We will now consider Schedule B, pages 97 through 114.

Shall clauses 1 through 31 pass?

Mr. Swan: I move that clause—I have an amendment on clause 2.

Mr. Chairperson: Clause 1—pass.

Shall clause 2 pass?

Mr. Swan: Mr. Chairperson, I move

THAT Clause 2 of Schedule B to the Bill (The Municipal By-law Enforcement Act) be amended as follows:

(a) *in the definition "by-law enforcement officer", by adding ", and includes a designated employee or officer under The Planning Act" at the end;*

(b) *in the definition "municipality", by adding "and a planning district under The Planning Act" at the end.*

* (20:40)

Mr. Chairperson: It has been moved by Honourable Minister Swan

THAT Clause 2 of Schedule B to the Bill (The Municipal By-law Enforcement Act) be amended as follows:

(a) *in the definition "by-law enforcement officer", by adding ", and includes a designated employee or officer under The Planning Act" at the end;*

(b) *in the definition "municipality", by adding "and a planning district under The Planning Act" at the end.*

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

Mr. Swan: This is one of the amendments necessary to allow planning districts to use the new administrative penalty scheme under The Municipal By-law Enforcement Act.

Under The Planning Act, municipalities can and do join together to form planning districts. Once formed, the planning district has authority to enforce

its own bylaws and the building and zoning bylaws of its member municipalities.

This amendment gives planning districts the same power to enforce bylaws under the new Municipal By-law Enforcement Act as municipalities have. Again, Mayor Strang is here and I want to thank him for his advocacy in moving this forward.

Mr. Chairperson: Thank you, Mr. Minister.

Is the committee ready for the question?

An Honourable Member: Question.

Mr. Chairperson: The question before—

Amendment—pass; clause 2 as amended—pass.

Shall clauses 3 through 31 pass?

Mr. Swan: Mr. Chairperson, I have an amendment to clause 3.

I move

THAT Clause 3 of Schedule B to the Bill (The Municipal By-law Enforcement Act) be amended by adding the following after subsection 3(3):

Authority of planning districts

3(3.1) In addition to requiring administrative penalties to be paid in respect of the contravention of its own by-laws, a planning district may require penalties to be paid under this Act in respect of the contravention of the by-laws of its member municipalities referred to in section 14 of *The Planning Act*.

Mr. Chairperson: It is been moved by Honourable Minister Swan

THAT Clause 3 of Schedule B to the Bill (The Municipal—

An Honourable Member: Dispense.

Mr. Chairperson: Dispense. Is the committee ready—the amendment is in order. The floor is open for questions.

Mr. Swan: This is the other amendment necessary to allow planning districts to enforce the zoning and planning bylaws their member municipalities using the new administrative penalty regime in The Municipal By-law Enforcement Act.

Mr. Chairperson: Amendment—pass; clause 3 as amended—pass.

Shall clauses 4 through 31 pass?

Mr. Swan: I have an amendment to clause 6.

Mr. Chairperson: Clauses 4 and 5—pass.

Shall clause 6 pass?

Mr. Swan: Yes. I move

THAT Clause 6(3) of Schedule B to the Bill (The Municipal By-law Enforcement Act) be amended by adding "if it has one or, if not, the vehicle identification number" at the end.

Mr. Chairperson: It has been moved by the Honourable Minister Swan

THAT—

An Honourable Member: Dispense.

Mr. Chairperson: Dispense. The amendment is in order. The floor is open for questions.

Mr. Swan: Yes, just to explain this provision we have arranged that if municipalities are aware of, for example, vehicles that are improperly parked, derelict vehicles, MPI will provide information on the registered owner. Of course, if there's a derelict vehicle that doesn't have licence plates on it, that can make it more difficult for municipalities.

This will confirm that if they can obtain the vehicle identification number, like the identification number for that vehicle, they can report that to MPI, and then the owner of such a vehicle can then be located through MPI. It's intended to give a little bit more ability for municipalities to find out the owners of vehicles. This amendment is being made at the request of the City of Winnipeg and seems like another reasonable enhancement to the bill.

Mr. Chairperson: Amendment—pass; clause 6 as amended—pass

Clauses 7 through—shall clauses 7 through 31 pass?

Mr. Swan: Yes, I have an amendment to clause 8.

Mr. Chairperson: Clause 7—pass.

Shall clause 8 pass?

Mr. Swan: I move

THAT Clause 8 of Schedule B to the Bill (The Municipal By-law Enforcement Act) be replaced with the following:

Limitation period—one year

8 A penalty notice may not be issued more than one year after the designated by-law contravention for which it is issued is alleged to have occurred.

Mr. Chairperson: It has been moved by the Honourable Minister Swan

THAT Clause 8 of Schedule—dispense?

An Honourable Member: Dispense.

Mr. Chairperson: Dispense. The amendment is in order. The floor is open for questions.

Mr. Swan: Thank you. This amendment will allow a penalty notice to be issued up to one year after a contravention has occurred, which is the same length of time the Province will have to issue a ticket under the new Provincial Offences Act. And it will allow municipalities sufficient time to investigate situations they don't learn about until some time after they occur. For example, of course, our lovely Manitoba winters can themselves leave the ground covered in snow for six months, and we want to make sure that enough time is given to municipalities to investigate and then move.

This amendment's being made at the request of the City of Winnipeg, and, again, I think it's a reasonable approach to allowing municipalities to strengthen their enforcement.

Mr. Chairperson: Amendment—pass; clause 8 as amended—pass.

Shall clauses 9 through 31 pass?

Mr. Swan: Yes, I have an amendment to clause 27.

Mr. Chairperson: Clauses 9 through 26—pass.

Shall clause 27 pass?

Mr. Swan: I move

*THAT Clause 27(3) of Schedule B to the Bill (The Municipal By-law Enforcement Act) be amended in the proposed section 178.1 of **The City of Winnipeg Charter** by striking out everything after clause (b) and substituting "may not be enforced under *The Summary Convictions Act*."*

Mr. Chairperson: It has been moved by honourable—dispense?

An Honourable Member: Dispense.

Mr. Chairperson: Dispense. The amendment is in order. The floor is open for questions.

Mr. Swan: The reason for this amendment is to make it very clear that issuing a penalty notice will not affect the municipalities' ability to use other enforcement tools. So it's a technical amendment. It really does two things; it makes it clear that once a

penalty notice is issued to a person under the new Municipal By-law Enforcement Act, the person can't also be charged with an offence for that same contravention under provincial law, to prevent someone from really being pursued in two different ways for the same action.

But also it will make it clear that a municipality can use other enforcement tools. For example, the provision the bill could have been interpreted in a way that would prevent a municipality from taking other municipal actions to deal with a situation. So, for example, we didn't want somebody to meal—to take the argument that no other enforcement action, such as entering a person's yard for the purpose of cutting down an offending tree or for the purpose of weed control, would be prevented.

So a municipality can take action under penalty notice, it can also take other actions that they are entitled to as a municipality.

Mr. Chairperson: Amendment—pass; clause 27 as amended—pass.

Shall clauses 28 through 31 pass?

Mr. Swan: Yes, I have an amendment to clause 28.

Mr. Chairperson: It has been moved by honour—oh, sorry.

Mr. Swan: Yes, and I move

*THAT Clause 28(3) of Schedule B to the Bill (The Municipal By-law Enforcement Act) be amended in the proposed subsection 236(3) of **The Municipal Act** by striking out everything after clause (b) and substituting "may not be enforced under *The Summary Convictions Act*."*

* (20:50)

Mr. Chairperson: It has been moved by honourable Minister Swan

THAT—dispense?

An Honourable Member: Dispense.

Mr. Chairperson: Dispense. The amendment is in order. The floor is open for questions.

Mr. Swan: This is a technical amendment which follows up what I spoke about with the last amendment. It makes it clear that you cannot be pursued both under a bylaw and a provincial offence, but you certainly can be pursued by the municipality under the penalty notice. And a municipality's also

allowed to take other actions within their power to get compliance with their bylaws.

Mr. Chairperson: Amendment—pass; clause 28 as amended—pass; clauses 29 through 31—pass.

We will now consider the bill clauses, pages 1 and 2.

Clauses 1 through 3—pass; clause 4—pass.

We will now consider the remaining items in the bill, pages 3 through 7.

Table of contents for Schedule A—pass; table of contents for Schedule B—pass; enacting clause—pass.

Shall the title pass?

Mr. Swan: I know he's going to hate me doing this, but I just want all of you to know that in 48 hours my deputy minister will be retired. Jeff Schnoor was appointed Deputy Minister of Justice and Deputy Attorney General of Manitoba just over five years ago, on August 2, 2008. It follows a distinguished career, first of all in private practice. In 1986, Jeff joined the provincial government as executive director of the Manitoba Law Reform Commission and served as director of prosecutions in criminal justice policy and executive director of policy development and analysis for Manitoba Justice.

He spent some time over at Treasury Board Secretariat he doesn't talk about very much, and became assistant deputy minister for Courts Division in 2005, before being elevated to deputy attorney general. I won't get into all the many incredible things he's done. I think if you asked him to look back, he would tell you that some of his proudest moments are the efficiency and technology measures that we are now seeing coming to fruition within the court system.

If you ask him to look ahead, I think you'll hear him saying he would like to do a lot of travelling and a lot of eating. So, Jeff, I know you're hating me doing this, but, in front of all these people and on the permanent legislative record, I want to thank you for your public service. *[Applause]*

Mr. Chairperson: Enacting clause—pass; title—pass. Bill as amended be reported.

I want to thank members of the public for their participation, and I want to thank staff for their patience and, of course, I want to thank all members of the committee for their co-operation.

The hour being 8:55, what is the will of the committee?

Some Honourable Members: Committee rise.

Mr. Chairperson: Committee rise.

Thank you all.

COMMITTEE ROSE AT: 8:55 p.m.

WRITTEN SUBMISSIONS

Re: Bill 36

I would like to say a few words about Bill 36.

I think it is necessary for government to have the Public Trustee Department that can serve the public with compassion and common sense, not greed.

I thought in this age and in the year 2013 that the government would be more transparent. Mr. Churchill once said "he could see the Iron Curtain coming down". It took many years for it to fall . . . are we not a free country now?

The Bill 36 seems to give more law and power to the Public Trustee Act. It seems to me if a person has had a stroke or other ill health and is a wealthy person, your name is passed on to the public trustee; you become their prey even if they have family to care for them.

Bill 36 seems to like the words incapable, commit and incompetent. The Public Trustee seems to have their own definitions. The Standard Funk and Wagnall Dictionary: is not up to their standard.

I would like to say a few words about my family. I had an older sister who lived in a small Manitoba town and at the time she was 62 years old. She suffered a stroke and was paralyzed on her right side and was hospitalized for 3 weeks. When I spoke to her doctor, he said her kidney was failing so I wanted to bring her to the St. Boniface Hospital. My sister had one child who lived in the states so I phoned my nephew to come back to Canada ASAP because we needed to get his mom out of the hospital she was in and get her to the city. As soon as my nephew arrived, we hired an ambulance and had her taken to the St Boniface Hospital. My sister was there for about 2 years. When she was discharged from there, my older brother and his wife took her to live with them in Winnipeg for about 9 months. His wife was an RN and my sister had the best of care at the St Boniface Hospital and at their home. My sister's son asked me to be her power of attorney and I did that.

After almost three years, my sister wanted to go back to her own little home in the country. She was still paralyzed and incapable of doing some things and incompetent of doing other things. I know the tongues of that town were working overtime for bringing her out there to live on her own. I am also sure the Public Trustee looked into that but there was no money in that estate so they looked the other way . . . My sister lived to be 2 months short of her 90th birthday and lived by herself; with the few hours she got from homecare each week.

I was proud that we did not put her in a nursing home and I also know that if her estate was of wealth, the Public Trustee would have been there. They would have used the words mentally unfit, they would have taken her home, put her in a nursing home and taken her wealth. As is the case with my departed wife's sister – Dorothy Loewen – she had

money, her name was given to the Public Trustee's office. She is unfit in their eyes. She is "under their care" and now is doing horrible. She has lost her right to homecare being covered under the WRHA and has had her bank account drained by the Public Trustee's office paying for her homecare. Now that she is out of money – they want to put her in a home – take her home away from her – sell her home and gain from HER wealth.

Bill 36 - Softer landing and approach must be made before the Public Trustee can grab and seize. There has to be a Public Tribunal, a Lawyer and a Layman of Independent. No government employee can sit on the Tribunal. The Tribunal must be called within the first year of the dispute. The Estates are not acquired for the Public Trustee to hand out or use.

Thank you, Mr. A. Leonard Anderson

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>