

**LEGISLATIVE ASSEMBLY OF MANITOBA**  
**THE STANDING COMMITTEE ON LAW AMENDMENTS**  
**Wednesday, February 28, 1990**

**TIME — 8 p.m.**

**LOCATION — Winnipeg, Manitoba**

**CHAIRMAN — Mr. Helmut Pankratz (La Verendrye)**

**ATTENDANCE - 11 — QUORUM - 6**

*Members of the Committee present:*

Hon. Messrs. Connery, Cummings, Findlay  
Messrs. Evans (Fort Garry), Gilleshammer,  
Harapiak, Harper, Kozak, Lamoureux,  
Pankratz, Patterson

**WITNESSES:**

Mr. Frank Zador, Private Citizen  
Miss Lynn Martin, Social Assistance Coalition  
of Manitoba (SACOM)  
Charlotte & Mark DeCorby, Private Citizens  
Mrs. Joan Johannson, Private Citizen  
Ms. Maxine Hamilton, Private Citizen  
Mr. Alan de Jardin, Private Citizen  
Ms. Becky Barrett, Private Citizen  
Mr. Garth Whyte, Canadian Federation of  
Independent Business

**APPEARING:**

Messrs. Maloway (Elmwood), Cowan  
(Churchill)

**MATTERS UNDER DISCUSSION:**

Bill No. 63—The Consumer Protection  
Amendment Act

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**Mr. Chairman:** The Committee on Law Amendments  
is called to order. This committee last met on February  
6, 1990, to hear presenters on Bill No. 63.

I have a list of persons wishing to appear before this  
committee. I will read the list. Miss Lynn Martin, Ms.  
Alice Balsillie, Mr. Maury Bay, Mrs. Mavis Bleasdale,  
Mr. Len Roy, Ms. Maryann Mihychuk, Mr. Len Sawatsky,  
Mr. Lionel Orlikow, Mrs. Joan Johannson, Ms. Maxine  
Hamilton—that lady I believe will not be here until after  
nine, Mr. Alan de Jardin, Ms. Christine Burton, Ms. Bev  
Nicol, Dr. Wendy Josephson—that person might not  
appear, Mrs. Karen Burgoyne, Charlotte and Mark  
DeCorby, Ms. Becky Barrett, Mr. Frank Zador, Mr. Garth  
Whyte.

Mr. Frank Zador—and who is the other person? I  
believe Mr. Frank Zador is the person who requested  
to be one of the first ones because of a health problem.  
Is that the will of the committee that we would be able  
to take Mr. Zador first? (Agreed)

Then we have a few written presentations which have  
been received. We have written presentations by Ms.  
Patricia Morrison, Manitoba Anti-Poverty Organization;  
Mr. John Evans, The Trust Companies Association of  
Canada; M. L. Spence, Association of Financial  
Corporations; and Mr. Les Danielson, Private Citizen.  
Those are the written presentations and they have been  
circulated.

I now would like to ask what is the will of the  
committee, that we go through this list in this order?  
There has been one request made in respect to this,  
Mr. Frank Zador, who for some medical reasons would  
like to be appearing first. Is that the will of the  
committee?

**An Honourable Member:** Sit until we hear all  
presenters.

**Mr. Chairman:** Okay. Mr. Patterson.

**Mr. Allan Patterson (Radisson):** Mr. Chairman, I would  
suggest, or move, that we sit tonight until all presenters  
are—clean it up.

**Mr. Chairman:** Is that the will of the committee?  
Agreed.

**Mr. Jim Maloway (Elmwood):** Mr. Chairman, I would  
have to object to that because there is a possibility  
that a number of presenters will not be here tonight  
to present, and what do we do with those people?

**Mr. Chairman:** Mr. Maloway indicated that there might  
be some here who are not on the list and would like  
to present.

**Mr. Patterson:** What is this, our fourth or fifth or sixth  
meeting?

**Mr. Chairman:** The fourth meeting.

**Mr. Patterson:** I should think that with all the meetings  
we have had over the past month, there has been plenty  
of opportunity for any interested individuals or  
organizations to be here. It cannot go on forever. There  
has been reasonable notice and opportunity, and I think  
if we are willing to sit through to clean it up tonight—

**Mr. Richard Kozak (Transcona):** Mr. Chairman, I  
concur heartily with Mr. Patterson. If you need the  
formality of a seconder, I second the motion.

**Mr. Maloway:** My suggestion was that the people, not  
that we would have more people adding their names  
to the list, but that we hear those who are already on  
the list that could not be here tonight.

**Mr. Chairman:** What is the will of the committee?

**An Honourable Member:** The motion has been put, take a vote.

**Mr. Patterson:** The question here—the people who are on this list, I know, I see several names that have been on the list from Day One; how many of them are on here for the first time and have not had any previous opportunity?

**Mr. Harry Harapiak (The Pas):** Mr. Chairman, I think it was agreed with the other committee that the opportunity for a number of people to come and make presentations, and I think that we have to take into consideration the length of time this committee has been delayed, and people may not be aware of the meetings that were held.

I wonder if we can ask the Clerk, if all of the Members who were on the committee were informed that this would be the last night for the meeting.

\* (2005)

**Mr. Chairman:** Mr. Harapiak, I have been informed that everybody has been contacted, and they have all been notified of the meeting. We have before us a motion that we hear all of these today. It has been moved.

**An Honourable Member:** I guess we could just do it by the will of the committee.

**Mr. Kevin Lamoureux (Inkster):** Mr. Chairperson, on a point of order. How many of the -(interjection)-

**Mr. Chairman:** On a point of order, Mr. Lamoureux.

**Mr. Lamoureux:** I must apologize for not being here. I just want to get it clarified. It might not necessarily be a point of order but to follow up with what the Member for Radisson (Mr. Patterson) has asked, how many of the presenters—

**Mr. Chairman:** That is not a point of order if you are asking for information, but go ahead, Mr. Lamoureux.

**Mr. Lamoureux:** If I could be indulged, Mr. Chairperson, if you would. I am wondering how many of these presenters have been given the opportunity to speak and how many of the presenters have been on the list for some time or just newly on the list. Have they been given an opportunity to speak?

**An Honourable Member:** Some were not here before.

**Mr. Chairman:** Mr. Lamoureux, this is our fourth meeting in respect to Bill 63. I would think by the number of names on this list, that those would basically be the names that have been on the list pretty well for every time.

**Mr. Chairman:** Mr. Findlay—Mr. Cummings.

**Hon. Glen Cummings (Minister of Environment):** Mr. Chairman, I do not mind being confused with Mr. Findlay.

Everybody west of Winnipeg to the Member for The Pas (Mr. Harapiak), the longstanding tradition of these committees has been that very often they are called and called once only, and go to the end of the list. I do not think there is a will on the part of people around this table to cut off debate, but we have been reasonable. We have had a number of meetings and everybody has been notified, again.

I really believe that we should go until we have heard all of the presentations and then proceed to the clause by clause, if not tonight, at the next sitting of the committee.

**Mr. Chairman:** Okay, all right Mr. Maloway.

**Mr. Maloway:** Mr. Chairman, just to clarify a point here. When this committee started meeting, it met consistently on a twice a week basis for a couple of weeks. Then what the Government did was not call the committee again. This committee has not met now for two or three weeks, and what my colleague has suggested prior is that there are a number of people who have just perhaps forgotten about this committee, because the Government has not called the committee for the last two or three weeks.

**An Honourable Member:** They were notified.

\* (2010)

**Mr. Chairman:** Mr. Maloway, I think that is a valid point that you are raising, but I have been informed by the Clerk of the Committee that they have all been notified that have registered, that want to make presentation.

Mr. Patterson is moving that we go through this list, and so I will call for the question. All those in favour of—Mr. Patterson, are you prepared to write it out?

Moved by Mr. Patterson that the committee be prepared to sit this evening until all those presented have been heard for their presentation. Okay. All those in favour of this motion, please raise your hand. Eight in favour. All those against? Mr. Maloway, you cannot vote, you are not on committee. All those against? Two, okay.

I declare it carried. This committee will sit until all of these on this paper have been heard tonight regardless of time.—(interjection)—Mr. Harapiak is requesting a recorded vote. It was recorded. Mr. Lamoureux.

**Mr. Lamoureux:** Mr. Chairperson, the motion, from what I understand and how I read it or heard from that you have said it, that those that are present here this evening will be allowed to—

**An Honourable Member:** No, all those on the list. That is it. This is it for presenters.

**Mr. Chairman:** I will clarify once more because I made it very clear that all those that are on this sheet of paper that I have read out, whether they are in the audience at the present or not, if they will appear tonight they can make their presentation.

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Once more, it has been clarified to me by the Committee Clerk that they have been notified that they will all be heard tonight. Like I indicated before, all these people, the names that I have read out, if they will appear tonight they will be heard.

We will go through this list from the top down, and then we will start from the beginning again. We do that until everybody that is present will be heard. Mr. Lamoureux, you asked me to read out the motion, which I would like to do at this time, first.

Moved by Mr. Patterson that the committee be prepared to sit this evening until all those present have made their presentation, whether they come now or later. All those present will be heard this evening.

Go ahead, Mr. Lamoureux.

**Mr. Lamoureux:** Yes, Mr. Chairperson, the intent of the motion that was moved by the Member for Radisson (Mr. Patterson) was for those that are here this evening be given the opportunity to speak so when 10:30 comes by, if they are here, that we sit until whatever time so that all of those that are here, for those that are on the list, if they are not here, that they can still be able to have the opportunity.

**Mr. Elijah Harper (Rupert Island):** Yes, Mr. Chairman, can you clarify those people who are not here tonight, they will lose that opportunity to speak before the committee? Is that the intent of this resolution?

\* (2015)

**Mr. Chairman:** I will ask once more, Mr. Patterson, is this what your intention was with this motion, the way I have spoke out and the way I read it out?

**Mr. Patterson:** I move that everyone here be heard tonight. When that is finished, we can look at it and see how many are left and what, if anything, we will do.

**An Honourable Member:** He wrote out the motion.

**Mr. Patterson:** No, I wrote it out.

**An Honourable Member:** That the intent of the motion is what we are just explaining.

**Mr. Chairman:** Mr. Patterson, with this motion and with the list that I read out, I would like to just clarify for my own sake and for the committee Members. The way I took it from you and the way this motion reads to me is that, let us assume half of these people are here right now, that I read out on the list, and an hour later, the other half would walk in, we would hear all of them as well.

**Mr. Patterson:** We would hear them all.

**Mr. Chairman:** That is right. Do we all understand that? But today is the last day to hear the presentations; we are going to sit until all of them have been heard. That is how I understand it. Is that correct, Mr. Patterson?

**Mr. Patterson:** I had initially implied that. When they suggest that we just take the motion, we go through it and hear everyone who is here. It might be all of them for all we know, and when the last one has been heard, see where we stand. Then if we want to go clause by clause or—

**Mr. Chairman:** Okay. But, Mr. Patterson—

**Mr. Patterson:** I would move to go clause by clause when they have all been heard then.

**An Honourable Member:** When they have all been heard, we will move to go clause by clause.

**An Honourable Member:** Mr. Chairperson—

**Mr. Chairman:** I want to get Mr. Patterson's clarification on this, that we understand what we have been talking about.

Mr. Patterson, we have roughly, let us say, 20 names on this list, and there are roughly seven or eight people there in the back in the audience at present. Now, if I read out this list and we hear those seven, in the meantime another seven that are on this list walk in, I am under the impression that we will hear those seven as well.

**Mr. Patterson:** That is right.

**Mr. Chairman:** And if then another two walk in a little later, we will hear those two as well.

**Mr. Patterson:** That is right.

**Mr. Chairman:** Until we have heard everybody who is on this list tonight, or who wants to present.

**Mr. Patterson:** Yes.

**An Honourable Member:** But we are not denying anyone.

**Mr. Chairman:** We are not denying anybody tonight.

**An Honourable Member:** We are not denying anyone the opportunity.

**Mr. Lamoureux:** Mr. Chairperson, from what I understand and what was meant by the motion, and the Member from Radisson (Mr. Patterson) can correct me if I am wrong, but I believe that we are not limiting anyone who wants to speak on this Bill to speak on this Bill. If the Government would like to limit the actual number of members of the public to speak on the Bill, then they can feel free to move a motion that they feel is appropriate. Unless I have read the motion or heard the motion wrong.

**Mr. Patterson:** We hear everyone who is here, and when we come to that final one, when it is over, let us see what is left and make any appropriate motion to—

**Mr. Chairman:** Mr. Patterson, what I under—

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**Mr. Patterson:** We are not moving to stop at eleven o'clock or twelve o'clock. We are going to go right through to give everyone the opportunity to be heard.

\* (2020)

**Mr. Chairman:** That is right. That is on our list today, because they have all been notified and these are the presenters who indicated that they might be out making their presentation tonight.

**Mr. Patterson:** Yes.

**Mr. Chairman:** They have all been notified. So, Mr. Patterson, to clarify once more for the committee, that these names that are on this list, we will hear as many as are here tonight until whatever hour of the night it will be, we will hear them, and then we will be through with hearing on Bill 63 presentations. That is what was read out, and that is what we voted on in my opinion. Mr. Harper.

**Mr. Harper:** Mr. Chairman, I had to ask you a question. Whether those people who will not be heard tonight, will they lose that opportunity to be before this committee? That is what I asked.

**Mr. Chairman:** Mr. Harper, I want to clarify again that everybody—the Legislative Clerk has indicated they have contacted everybody and indicated to them that those who wanted to should be out tonight to be heard on Bill 63.

**Mr. Harper:** Yes, what I asked is, those people who are not here tonight, will they lose that opportunity before the committee? That is what I asked you.

**Mr. Chairman:** In my opinion, the way this motion reads and what we voted on, tonight is the last night to make your presentation on Bill 63.

**Mr. Harper:** So they will lose that opportunity to be heard before the committee.

**Mr. Chairman:** Mr. Harper, the vote was that today is the last night to make your presentation. Mr. Maloway.

**Mr. Maloway:** Mr. Chairman, on a point of order. One of the presenters, Joan Johannson, who is here tonight, was phoned by the committee and was told that she could come tonight but most likely would not be on tonight because she is too far down the list. By this motion being passed, it is quite possible that she would have stayed home as many of the others have. Also, I am told that Becky Barrett was not notified of the meeting either. So there are two presenters in this room who are in conflict with what you have said.

**Mr. Chairman:** Mr. Maloway, that is not a point of order, but for clarification I would like to respond to you that these people have both been notified. The Clerk has indicated that they have both been notified that they would be here tonight and be able to be heard tonight. Mr. Findlay.

**Hon. Glen Findlay (Minister of Agriculture):** I just wanted to clarify, there is a different discussion coming from the other side of the table after the motion came from that side of the table. My understanding is that the people who are left to present are all on this list; there will be no additions. We will proceed to hear everybody who is here tonight no matter how long it takes, provided they are on the list.

**Mr. Chairman:** That is right. Mr. Minister.

**Hon. Edward Connery (Minister of Co-operative, Consumer and Corporate Affairs):** Let us be quite aware that—is this mike on? We must be aware that this is the fourth meeting that we have had of this committee. Many times a committee is called there is going to be only one meeting of the committee, and those who want to present have to be there. I have come to committee, and I have had to make all kinds of changes in other years when I have presented to a committee of Government.

There have been four meetings. These people were notified today that this would likely be the last meeting they would be at. Those people, who Mr. Maloway (Elmwood) referred to, were notified that they would be here tonight. We will sit until all of the people on this list who come tonight will be heard. After that we would move to go clause by clause. That has been fair to the people who want to present. There is nothing wrong with four meetings. That is very, very liberal in the sense of the number of meetings.

\* (2025)

We are not trying to cut off anybody from presenting their case, but if people—that is the process, and if people do not want to come tonight, we could be hearing people for two months from now. That is unrealistic. People have an opportunity to present; we will stay until they have all had an opportunity.

**Mr. Laurie Evans (Fort Garry):** Mr. Chairman, I think we have an issue here; we have 20-some odd on this list. I think they should all be given the opportunity to be heard tonight. If there are a significant number of this list who are not heard tonight, they should be given one more opportunity to appear before the committee, but add no further names to this list. Now if it turns out that there are only two or three who are not showing up tonight, then I suppose the decision could be made as to whether they should be contacted and could make a written presentation or something of that nature. I am opposed to the concept of excluding anybody who is on this list simply because they are not here tonight. I am opposed to the concept of adding any more names to this list.

**Mr. Chairman:** Is the committee agreed to that? Mr. Lamoureux.

**Mr. Lamoureux:** Mr. Chairperson, that was the intent of the motion. The intent of the motion was that those who are here present this evening be given the opportunity to speak regarding this particular Bill. Mr. Chairman, if that means that we sit until three in the

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morning, then by all means we sit till three in the morning. We are not in any way trying to say no to people who would like to speak that are on this list, nor are the NDP.

If the Chairperson feels that is not the intent of the motion, then I would suggest that we adopt or bring forward another motion if you feel that is necessary, but that was the intent of that particular motion.

**Mr. Chairman:** Mr. Patterson, what was the intent of your motion?

**Mr. Patterson:** The intent of the motion as read does not say what specifically will happen after everybody has been heard.

**Mr. Chairman:** Mr. Patterson, I will read your motion once more.

Moved by Mr. Patterson, that the committee be prepared to sit this evening until all those present have made their presentation. Right? That is what we moved on and that is what was carried by this, all those present—

**An Honourable Member:** But it does not say anyone who is not present.

**Mr. Chairman:** Those who are not present will not be able to make their presentation, unfortunately. Mr. Patterson, that is what you wrote out, that is what we voted on, and that is what was carried eight to two.

We have a suggestion by Mr. Evans, Fort Garry, that we should hear everybody who is on this list. We will try to hear them all tonight, but if it is impossible, we would then have one more sitting, if I recall correctly, Mr. Evans, the way you indicated it.

**Mr. Laurie Evans:** Mr. Chairperson, there is no doubt there is an element of ambiguity in this motion in that it does not indicate what happens to those who are on the list but are not heard tonight. My amendment, if you are willing to accept it, is that those who are on the list that for some reason are not available tonight have one more opportunity. They will be notified as to the date and the time and have one more opportunity to be here. If they are not here for that final opportunity, they have lost their opportunity.

**Mr. Chairman:** Mr. Evans, just for clarification. That means these people who are on this list at the present, today. With no additions?

**Mr. Laurie Evans:** There are no more additions but that those who are on the list who are not able to be heard this evening have one more chance.

**Mr. Chairman:** Is that the will of the committee?

**Mr. Jay Cowan (Churchill):** Can I speak to that?

**Mr. Chairman:** Yes, you can.

**Mr. Cowan:** Let us know what we are doing when we make these sorts of decisions. I think what we may be

trying to do is anticipate a problem that may not exist. In doing so, we are going to inadvertently change the procedures of these committees in a way that may deal with the anticipated problem but will have an effect on other committees over a longer period of time and for that reason might be precipitous, if taken based just on this one isolated incident. In the past—

**An Honourable Member:** But they are not precedents.

**Mr. Cowan:** Well, the Member for Fort Garry (Mr. Evans) says these are not precedents, but these are the way practices are developed in committees, and they are often used as precedents and give rise to new methods and ways of doing things over a period of time. It is not unusual for a committee to sit late into the evening. Quite frankly, I do not like the practice. Quite frankly, I did not like the practice when I arranged it as a Government House Leader. I liked it even less in Opposition. I say that so not as to later be accused of hypocrisy. I make the point very clearly that it is not unusual.

What is unusual at the beginning of a committee is for the committee to say that it is going to sit well into the night. I think that is a decision you take at around ten o'clock normally, eleven o'clock and twelve o'clock. The committee has some flexibility to gauge as to whether or not it wants to keep the public here until three or four o'clock in the morning—that is what you are doing, particularly in this instance—or whether or not it thinks it might be better to come back for another meeting.

I think this is a very important precedent that we should not create. In the past it has not been the practice of the committees to cut off the list at any time. As a matter of fact, it has been the practice of the Chairperson of the committee at the end of the list to ask specifically and explicitly, are there any other members in the room of the general public who would like to speak to that particular issue?

**An Honourable Member:** And we will do that.

**Mr. Cowan:** Well, that is not what I hear being suggested by the Member for Fort Garry (Mr. Leonard Evans). What the Member for Fort Garry is saying is that this list now becomes locked in stone, and if you are not on this list as of this time—and that is a question you put before the committee, Mr. Chairperson—you can, therefore, not get on this list at any future point in time. I think that would be detrimental to the intent and purpose of these committees, which is to not only allow the public an opportunity to come here and provide advice, assistance, suggestions and constructive criticism, but to encourage the public to come here.

In Manitoba we have a system that is unique. It is a system not without its faults and not without its warts and not without its imperfections, but in spite of all those it is a system that encourages the general public to come in a forum such as this, face to face, on a level playing field, and tell the people they elect to represent them what they think about what those people

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are doing by way of legislation. That is something that is very valued. It is something that I do not want to see lost in any way and particularly do not want to see the opportunity decreased in any way.

\* (2030)

I think if you start this meeting tonight and say we are going to sit here until 6 a.m. in the morning, if that is what it requires to hear all the presentations before us, and then we are not going to allow anyone who is not on this list to attend a future meeting, even if they just became aware of the issue or just had some new information to provide to us, we have reduced the opportunity for the public to help us be good legislators. I want you to know that maybe the Conservatives, maybe the Minister, maybe the Liberals want to do that—maybe they do not want to do that, but inadvertently that is what they are going to be doing, whether intentionally or not—and the New Democratic Party is going to vote against it, because we believe it will lessen the effectiveness and the workings of the Legislature, rather than increase our effectiveness.

The value of the public is something that we need to encourage—the public input. We need to, at every opportunity, bring it forward and we do not and we should not, specifically, be party to any move that says to the public, if you want to make a commentary to your elected representatives, you better be prepared to do it at 3 a.m. in the morning. I think that is the wrong way to go. I speak against it in hopes of convincing others to take an alternative course of action, Mr. Chairperson, and that is to begin hearing the presentations, because we are taking up some of the time that could be better dealt with by presentations, and at eleven o'clock -(interjection)- Well, the Member says, who is talking? The reason I am talking is because I believe the Conservatives are attempting to ram through this legislation—

**An Honourable Member:** Who passed the motion?

**Mr. Cowan:** Who passed the motion? Well, then let me amend my statement. I think the Conservatives and the Liberals, the Liberals inadvertently so, and we have seen that happen in the past, are trying to ram through this legislation, which not only will have an impact on what is happening here tonight, but will set precedents that are very bad for what will happen in the future. If we want to change the ways in which these committees operate, let us take it to the Rules Committee and change the ways. There are ways to make it work better, but let us not do it ad hoc, incident by incident, and develop a set of precedents that are going to harm us in trying to accomplish what we are elected to do.

So I will go back, before I was distracted by the aside, Mr. Chairperson, and make the suggestion again. What I would suggest happen this evening is for the committee to take a look, at eleven o'clock, at where it is at; that is a reasonable adjournment time. If there are a few people here and they can finish up by 11:30 p.m. or 12 or even 12:30 a.m., you can make the judgment call at that time. If there are a fair number of people here, and you can ask how many presenters

there are left at any given time, and it appears that it would take us into three o'clock or four 4 o'clock in the morning, I would suggest that we adjourn the committee, have those people come back for another meeting.

The list, as always, should be left open and, Mr. Chairperson, you, as always, at the end of the presentations which show on the list, should ask the public that are assembled here if there are any further people who want to present, so as we continue on with some very fine traditions that have worked well in the past.

**Mr. Cummings:** Well, Mr. Chairman, we have to get on with the business of the committee. I must say that I am impressed with the deathbed reformation of Mr. Cowan. Having been subjected to his type of House leadership, I presented at 5:30 in the morning when I was standing at that mike down there. So let him not say that this is some kind of unusual precedent.

**An Honourable Member:** The tyranny of the socialist.

**Mr. Cummings:** Mr. Chairman, I suggest that we begin to hear the presenters. We are all guilty by association of wasting the public's time. Let us start hearing the presenters.

**An Honourable Member:** And see what happens at 11 p.m. Right?

**Mr. Chairman:** Order, please. Mr. Kozak.

**Mr. Kozak:** Mr. Chairman, the finger pointing indulged in by the Member for Churchill (Mr. Cowan) a couple of minutes ago deserves a response. We are not trying to impose the discipline on the presenters, but merely a discipline on ourselves to get on with the work of this Bill and to work late -(interjection)- and ourselves, Mr. Cowan.

**Mr. Chairman:** Let us—order, please. Let us carry on with our presenters at this point in time. I understand it will be at about ten o'clock or eleven o'clock we will check and see how many presenters are left at that point in time. Possibly the committee then can decide whether we would like to, like Mr. Evans was suggesting, maybe have us set another date. Would that be the will of the committee? Right on. Mr. Zador.

**Mr. Frank Zador (Private Citizen):** I am not sure—I guess this is on, eh?

**Mr. Chairman:** Yes, it is. Please feel free to make your presentation. Have you got written presentations for everybody? It has been circulated? Go ahead.

**Mr. Zador:** Mr. Chairman, I realize the problems that you people have. My presentation here is not to try to lobby, to try to get some money back out of a bad deal, but to try to give you people information so you can make judgments on these things.

My name is Frank Zador, from Steinbach. On my own behalf as a citizen in Manitoba, I am a concerned

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consumer, having recently lost a considerable amount of money and time as a result of purchasing a new motor vehicle which was subsequently found to have been damaged and repaired by the dealer before sale, together with faulty factory colour which is different from the factory formula.

The above two amendments would possibly suffice when applied to most transactions. However, it is my intention to show legislators that, as it applies to General Motors and Jim Gauthier Chev Olds Cadillac of 1290 Main Street, Winnipeg, Manitoba, these amendments are totally inadequate in our Province of Manitoba for protecting the automotive buyer in particular.

Really, there is no effective law enforcement mechanism. My presentation intends to show that when a manufacturer, General Motors, agrees with and assists a dealer, Jim Gauthier Chev Olds Limited, who uses deceit, dishonesty, pressure, stalling tactics, fraud and misrepresentation; who changes his mind and uses his financial institution, Canadian Imperial Bank of Commerce, to dispose of a vehicle by way of repossession and also uses misrepresentation in selling an insurance policy for buyer protection, we can no longer be so naive to think that this is a customer-dealer run of the mill warranty dispute. This is a well oiled machine, capable of operating on the fine line of good intention and Manitoba law, backed by large corporate self interest and legal departments, tempered by the knowledge that it can and has succeeded no doubt many times in intimidating non-compliant consumers to drop their complaints and negotiate a settlement which generates no loss whatsoever of profit. This is at the expense of the buyer.

On August 30, 1989, I purchased a 1989 Chev T-10 Blazer 4 X 4, serial number as noted, red with a black bottom, from Jim Gauthier Limited, 1290 Main Street, Winnipeg. The salesman was Vern Thompson. The sales manager, Don Ross, stated that they had just received a unit from the factory. The odometer read 35 kilometres. Total price was \$29,928.33. This is list retail price used by the dealer, as was the list retail of my trade-in. The trade-in allowance given to me was \$24,678.33. My cash difference was \$5,350.00. However, since I still owed \$6870.33 on my trade-in, plus sales tax, air-conditioning tax, documentation fee, et cetera, it left a balance for this vehicle to be paid by myself of \$12,286.93. Life and disability insurance, which was optional, was sold under GMAC. However, it was later found to be Seaboard Life Insurance Company of Vancouver, B.C. This gave a further cost of \$1,823.20 for 60 months. The \$12,286.93 plus the insurance of \$1,823.20 gave a total of \$14,110.13 approximately.

\* (2040)

It was to be financed with GMAC, whom I had used before on my previous sale and purchase at that same dealership. However, later I was advised that they were using the Canadian Imperial Bank of Commerce, which was supposed to give me a better rate for a 60-month period. It never was.

I installed a hitch at \$203.78 plus \$70 mats, which I paid for by cash. Since the price of the vehicle included

mudguards, undercoating, Diamond Coat Shine, I drove to Jim Gauthier Mazda, same ownership, to Regent Street, to have this done while I waited for what was supposed to be two hours. Four or five hours later I was told by the young man who was polishing the Blazer that something was wrong with the paint. It was covered with overspray and he could not finish the polish shine that day. It was agreed that I could return at a later date. It was explained at this time that this sometimes happens at the factory and not to worry about it. That night on my parking lot it was discovered, under the mercury vapour lights, that the Blazer's roof, the right front fender, the left door, which is red in colour, were slightly darker than the rest of the vehicle, as well as masking tape was found under the hood and doors and black overspray on the door sills.

The next day I phoned, but the salesman, Vern Thompson, could not be reached. I was told that he would return my call. I tried several times. The same thing. So I left it at that, thinking that it was only a factory overspray. No one there seemed to be concerned about it. Oddly some time later—two weeks or so had passed—I got a call from Reg Wiebe, customer inquiries person at Jim Gauthier, while I was at my office, asking how I liked the Blazer. I told him I was unhappy, that Vern Thompson had not returned my call. Reg replied that Thompson was busy, but around somewhere. I told him that I had talked to a local body shop owner, Abe Koop, who felt the vehicle may possibly have been damaged and I was taking that vehicle over that day to have him inspect it. Reg Wiebe stated that the Blazer was not damaged at Jim Gauthier's. They knew nothing of it, and it must have happened at the factory, at General Motors. He wanted me to come in immediately, but before going to Winnipeg the next day I had Koop's Autobody look at the vehicle, and this is what I found.

There was over \$800 estimated repair bill that was visible to them. The left door was repainted. There was poor sanding, scratches, no wet sand finish, which is what they normally do on a new vehicle if it is damaged. There was off-colour paint. The lower stone guard vinyl finish was removed and poorly repainted. There were holes drilled and putty inside the left door.

The right front fender was in the same condition. The lower black stone guard was very poorly painted. The front fenders, bumper, hood, grille, roof, under the hood engine compartment were all covered with overspray.

At Jim Gauthier's I waited all that next day to see somebody. Everybody was busy and out at meetings. I was told by the reception that Vern Thompson had quit the very next day that he had sold my vehicle. Finally I confronted what to me appeared to be a very irate manager, who turned out to be Mr. Jim Gauthier himself, the owner. I was upset, because shortly before this I had been told by Reg Wiebe, who had phoned my office, that my complaint was chicken shit. Mr. Gauthier stated that I had talked to too many people. Mr. Gauthier inspected the vehicle and his body shop foreman, Miles Dufault, admitted that the Blazer had been repaired by Gauthier's autobody at the dealership.

When I looked at the predelivery inspection sheet, where these things are to be noted before you buy it—

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and I obtained that from the front office—the appearance section was blank and unsigned. However, there was noted a repair order, number 54088, and I demanded to know what was damaged, what was repaired on my vehicle. Miles Dufault refused to tell me and said that it was none of my concern.

I demanded my money back immediately after this. Jim Gauthier asked me to give him a chance to correct the appearance and he would supply a courtesy vehicle at no cost. All I had to do was fuel the vehicle whatever length of time it took. But I did not want that. I wanted it done as soon as possible. It was promised to be perfectly restored in one week, with a new rustproof job and a complete Ming polish job. Two weeks later, I was told by body shop foreman, Miles Dufault, that they could not match the paint. It was faulty from the factory.

Apparently five paint jobs using different brands would not cure it. Another three weeks later, on October 6, 1989, I went to see the vehicle at night under the compound lights with my daughter. We both observed that parts of vehicle were now, instead of a few shades darker, a few shades lighter and orangish. Mr. Jones, the manager on duty at the time, observed the mismatch and verified it and offered me two gallons of paint to have it painted completely. I was so exasperated, I left.

On the 13th of October, I sent Mr. Gauthier a registered letter stating I wanted my money back; I was cancelling the registration on the vehicle to signify my return of that vehicle, which had been at the dealer for nearly two months.

I had contacted the bank and the manager in Steinbach, Larry, who advised me not to pay a cent as the vehicle was misrepresented. I paid my first installment against his advice, as I wanted to be fair to them as well. At the moment I could not see why they should be out any money.

As I had stipulated one week for a refund of my money or I would expect compensation as well, on October 18, 1989, I received a courier-delivered letter in Steinbach from Mr. Jim Gauthier himself. He had discussed the matter with General Motors and stated my vehicle should never have been delivered in that condition and concluded that, to satisfy me, to take the vehicle.

I was asked to accept a 1990 Blazer for only \$2,100 more and meet at the dealership as soon as possible for his proposals. I must, at this point, state that I had previously been phoned by Mr. Gauthier, who used pressure to leave me without transportation whatsoever by demanding the courtesy car back forthwith. It was returned the next day to Winnipeg. Then, at such time, I pointed out that the general manager of General Motors for Winnipeg, Mr. George Procnor, had told me to keep the courtesy car vehicle until I was completely satisfied with that Blazer.

At this time Mr. Procnor arrived at Jim Gauthier's and I demanded my money back, when he tried to silence my arguments by siding with dealership. I was promised, at this time, a 1990 at no extra cost. Mr. Procnor insisted that he would try to locate a similar

1989 by the computer and that would not take very much time. He had no such intention, for I found out later that the identical vehicle to mine was at Holiday Chev Olds.

Jim Gauthier reiterated that he was willing to give me a 1990 at no extra cost, but Mr. Procnor showed displeasure and disagreement so I demanded my money back. They were both arguing over whether I should get a 1989 or a 1990. I did not want a '90; I wanted a 1989 vehicle the same as mine. That is all I wanted or my money back.

Both men said they would go over my bill of sale to determine my refund as it was too involved to settle at the moment, and Mr. Procnor would contact me. I took them at their word and notified Mr. Jarvis Kasian, the Canadian Imperial bank manager, who frequently phoned me at home and at work stating he would try to help mediate, as well as my local Steinbach manager, Larry.

I received a call from Mr. Procnor the next day at work—I believe it was the next day, it could have been a day later—stating that there was no law in Manitoba requiring them to refund any money. If I were in British Columbia, it would have been done immediately, but not here, and he hung up.

You can see my position and feelings as I read Mr. Gauthier's letter offering a 1990 at \$2,100 more, but that is not all. Upon meeting with him, I had been advised by his order person that they had already ordered me a Blazer. They had even chosen my colour, maroon with a silver bottom. However, I would now have to pay another \$1,300 for air conditioning which had been free in my 1989, but the 1990s had not, and no wonder Mr. Procnor was to look for a 1989. He is possibly still looking.

Again, I demanded my money after Mr. Gauthier advised me that my salesman, Vern Thompson, had been fired shortly after he had sold the car. At this time, I was told by Mr. Gauthier in his office that he would refund my money if I would pay the bank \$14,000 plus or minus owing. I told him that I would agree to this, but at the moment I felt that the bank had given him the money, he should do the refunding and give me back my trade-ins. The trade-ins had been sold. They were A-1 condition and I believe they sold immediately. I told them by way of itemized list of what he should refund me and he could not figure out the totals. He is the manager and he is the owner but he cannot figure out a balance sheet.

\* (2050)

He got angry and told me to leave, and that is not all he told me, but I cannot tell you here what he told me. I left feeling deceived and intimidated for the second, and I can assure you, the last time. I had phoned Oshawa many times; I was told by advisors that Mr. Procnor, the general manager in Winnipeg, had told him that I was involved in a lawsuit and they were legally obliged to say nothing and do nothing and they hung up. This was on November 1, 1989, even though I told them that I had not considered a lawsuit at that time. All I was trying to do was to get my money back. I was not trying to sue anybody.

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**Mr. Chairman:** Mr. Kozak.

**Mr. Kozak:** Thank you, Mr. Chairman. Mr. Zador is approximately half way through an extremely interesting presentation. I wonder, however, Mr. Chairman, if I might ask the presenter for a point of reference. I wonder if he could suggest to me which part of Bill No. 63, The Consumer Protection Amendment Act—

**Mr. Zador:** I would believe that if you have read your own amendment you would realize that. They are considering giving 10 days to anyone who buys a new vehicle. They are considering other things. I believe it is right in the amendments.

**Mr. Chairman:** Excuse me. Mr. Kozak, I believe you indicated it was a point of order. Did you?

**Mr. Kozak:** That is correct.

**Mr. Chairman:** Mr. Kozak, that is not a point of order, that is a clarification and I would wish that we could hear Mr. Zador make his complete presentation.

**Mr. Kozak:** Thank you, Mr. Chairman. That is certainly more than acceptable. It is certainly the will of the committee.

**Mr. Chairman:** Okay, thank you. Mr. Zador, go ahead.

**Mr. Zador:** Mr. Chairman, it is not that I am trying to be rude or anything. This is a very important issue to me because I am out \$20,000 and I just do not think I will be able to—I could work night and day, but it will take me five years to get that back.

I contacted General Motors Acceptance Corporation, stating Mr. Jim Gauthier's firm had used an insurance sale, using their name and stamp, when in fact it was Seaboard Life Insurance of Vancouver. They replied, thanking me and suggested it was all a mistake on Gauthier's part. This was dated November 22, 1989. I wrote to G.M.'s president, to Seaboard Insurance and to Gauthier's to get my \$1,823.20 insurance policy cancelled. There was no reply—registered mail—no, no reply. I complained to the Consumer and Corporate Affairs and they could only mediate. If legal action was taken, they would opt out immediately.

The Winnipeg City Police fraud squad was sympathetic as one of their officers had a similar experience. But they would be going up against big money motivated by greed. Fraud would have to be determined, if the hidden damage devaluated the vehicle. Does this sound like a concerned department or naive and wishful thinking, that inaction and inattention to this sort of thing will make it go away?

I suppose Mr. Jarvis Kasian was convinced by people he was involved with at Gauthier's—and this is the manager of the Canadian Imperial Bank of Commerce—that they would not make any refund a long time ago, for suddenly in November, 1989, I received a Canadian Imperial Bank of Commerce "Notice of Seizure," pursuant to The Consumer Protection Act of Manitoba, of all things, with towing charges of \$50, storage, \$5 a day, at my cost and their convenience no doubt.

On January 11, 1990, I received by certified mail from the Canadian Imperial Bank of Commerce, dated January 3, 1990, a letter stating they were going to sell my vehicle, and in case I changed my mind, in other words, in case I would take this vehicle back, body damage, fraud and faulty paint job and all, please feel free to phone and discuss the account. Bids were to close on January 22, 1990. Now I am bidding on my own vehicle. Advertised in the Free Press, January 11, 1990, Jeeps and 4x4s, Section 704, is a bank repossession: a 1989 Chevy Blazer 4x4, loaded, V6, automatic transmission, fully loaded, 4,450 kilometres, red; very nice unit; contact Linda Mayor to arrange to view; serious bidders only; bids close January 22, 1990; insufficient bids will not be considered—that I could not figure out. Send bids to the Canadian Imperial Bank of Commerce Dealer Plan Department, when and if the unit is sold—now they cannot even decide whether they are going to sell it—will be sold on an "as is, where is" basis; new vehicle.

This ad seemed strange to me as there were a lot of stipulations involved in the ad. What if the new owner had an accident and Autopac discovered old damage and putty, et cetera? What about the warranty on a low-mileage vehicle? I phoned Ms. Linda Mayor and told her she had no business advertising, in a misleading way, a damaged vehicle which had been returned for refund and was not an ordinary repossession, where someone absconds or refuses to pay. The bank told me not to pay. Ms. Mayor was hesitant and stated she was unaware of any damage whatsoever to that vehicle and she understood it to be an ordinary repossession. The ad shows otherwise and it shows a hint of complete awareness.

When I confronted Mr. Kasian—she handed the phone over to him—the same Mr. Kasian who was trying to mediate throughout this dispute, he lost his temper, yelling on the phone: what kind of B.S. is this anyway? I told Ms. Mayor that my belongings and hitch were on the vehicle. They were mine and I paid for them, and I would call the police immediately if I was not allowed to get them back. She stated that the vehicle was at a dealer wholesale auction that night and I could go get them off. I wonder how much viewing was given to this vehicle, when it sat in the compound untouched, as I found out later from another dealer, under a foot of snow, for one month at my expense.

When I went to the auction compound the next day the dealer let me in because he was curious; the place was closed up. He remembered the Blazer, hitch and all, and it had been run through the auction there. There was a lot of interest on this vehicle but the Imperial Bank of Commerce would not sell it. They withdrew it. The owner of the auction stated that you cannot sell a new vehicle at that auction, or in Manitoba, where it has been damaged to that extent. It is against their ethics and it would not be allowed in that auction again. The Blazer had been removed, so I was still determined to get my hitch, et cetera. I paid \$4 at Motor Vehicles to get the ownership traced. So far it has not been registered. Either that or it still is unlisted. I believe there is a two-month waiting period. Did the dealer buy it back? Did somebody from GM buy it or did somebody from the Canadian Imperial Bank of Commerce buy it? I intend to find out.

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What if some person bought it not knowing of the damage? He will be told, I will assure you that, paint problems and all. On February 23, 1990, I received a cheque from the Canadian Imperial Bank of Commerce for \$4,836.42—gross sale, repossession sale of \$20,005.00; incurred cost by them was \$337.02, which together with the payout amounted to \$15,168.58. Incidentally, this is quite a bit more than my payout originally. The attached letter stated that according to Section 55 of The Consumer Protection Act, the Canadian Imperial Bank of Commerce was entitled to a further 20 percent of the cash selling price—\$20,005 times 20 percent. If they wanted to, they could have taken another \$4,001.00. This would have left me \$800 of my \$24,000 trade-in investment.

However, the Canadian Imperial Bank of Commerce decided not to charge this resale expense. How kind of them, but I cannot help thinking of this firm as similar to a drug cartel laundering money, only here we have an undamaged vehicle which nobody wants. Drugs, everybody wants apparently. I suppose it will be "repos" as usual next week for the Canadian Imperial Bank of Commerce.

On February 26, it would appear that all the birds are now coming home to roost. I got a reply from Seaboard Life Insurance after nearly a six-month silence: no letter, no explanation whatsoever, just a refund, cheque in full, \$1,832.20 for the cancelled policy. It seems odd that it coincided so closely with the cancelled cheque from the Canadian Imperial Bank of Commerce on which I wrote on the back, as a matter of protest: Accepted as partial punitive damages only. Is this benevolence a result of Seaboard Life Insurance being in B.C. and not in Manitoba?

Previous to these monetary considerations, I received a reply letter on February 3, 1990, dated January 25, 1990, from H. D. Horrocks, Customer Assistance Advisor, on behalf of Mr. G. A. Peaples, President and General Manager of General Motors Canada Ltd., stating that after contacting Mr. Procnor and Mr. Wiebe, they were of the opinion that the correct decision had been made in my case. They recommended I be guided by their previous recommendations, and I am to be assured that the G.M. policy has been kept in my concern.

\* (2100)

Indeed, this is the first time I had ever heard from those people. This is the same General Motors that said they did not have to talk to me because there was a law suit.

What is G.M. policy? Obviously it is based on greed and positive balance sheet at any cost with no refunds, especially in Manitoba.

Obviously, somebody has to make a lot of money out of this case. I will attempt to show some figures to prove this point as follows. If the proper refund would have been effected, my \$24,678.33 less the \$6,870.33 owing on the trade-in would have equalled \$17,808, plus my receiver-hitch, \$203.78, plus the fact that I had made the first payment of \$352.13, which should have been given back to me had they refunded the vehicle, I would have had a refund of \$18,363.91.

I am not even talking about \$600 to get a U-Drive when they demanded their courtesy car back, close to \$2,000 all in costs that I have incurred since then, assuming of course that the dealer had cancelled the price of the vehicle, federal air conditioning tax, documentation fee, as well as, the sales tax, as the difference between the trades and the new vehicle, the finance contract registration fee, life insurance fee and disability fee, which I feel should have been their responsibility.

However, what was done by repossession and not by refunding and not taking the aforementioned course, the dealer saved himself \$18,363.91 minus the \$436.42 cheque they gave me for reposessing the vehicle, after their costs which were \$13,527.49. That went into somebody's pocket, in Jim Gauthier's pocket. I am not inclined to think he did not recoup from my trade-in allowance, because my vehicles were in perfect shape that I traded in, and they sold immediately after.

This does not take into interest and excludes the cost of the warranty work that the garage would have done, which would have been saved by General Motors, and perhaps the discounting and the damage, which would have been saved by Jim Gauthier's. The bank got its money back and someone saved buying and re-selling the repossession. Somebody out there has bought it. I have been reassured of that. It is either a dealer or a private person. If it is a dealer, there will be another profit made on that vehicle.

I have a feeling these people never heard and do not believe that crime does not pay in Manitoba. I wonder how and if these firms show this type of profit on their books. Could they possibly be showing a business loss as well? This all boils down to what I previously referred to as a well-oiled machine.

On February 27, 1990, I personally met with a Winnipeg City Police Fraud Squad detective, whom I previously complained to. His position was basically the same. They did not have the resources, which is money and manpower, to attempt to successfully pursue this sort of problem, which is fraud, although they are well aware that it is going on.

I found out that Section 354 of the Criminal Code, regarding fraud, states that a person commits fraud that alters a trade mark or a unit such as mine that is made by General Motors and does not fully disclose to the buyer. It is in the Criminal Code. Apparently even the police had not heard about it. That goes to show you how many cases they prosecute.

The same date I talked to Mr. George Procnor who I found out was the General Manager of General Motors, Winnipeg branch. His position was no different. He was very unyielding in his backing of the dealer who used deception and lies to swindle \$12,000.00. Mr. Procnor concurs with Gauthier Ltd. that it is perfectly okay to sell new, high-priced vehicles which are repaired, like used cars with cheap used car survival paint jobs, to unsuspecting new car buyers like myself.

I also went to the Better Business Bureau. I had a feeling they were telling me that I was too late. Perhaps General Motors knows what it is doing when it advises

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customers in their brochures to go to the Better Business Bureau for arbitration. It will be binding on General Motors. It will not be binding on me. As a last resort only, they too perhaps know that it is too late.

Finally, I went to see Linda Mayor, the Canadian Imperial Bank of Commerce, who was unaware of the damage and faulty paint. Why had not Jarvis Kasian, the bank manager whom she works with in the same office in Winnipeg, not taken time to tell her that the \$30,000 Blazer which looked good in her colour photographs should have a paint job more in keeping with a new vehicle and not a patched-up job, drilled holes, putty and all, possibly typical of older and damaged repossession?

I observed one of her photos and I could see even in the photograph, and I showed her, the mismatch on the right front fender. I asked for my belongings and hitch which she told me previously that I could remove from the wholesale auction compound. She stated now that it belonged to the vehicle. It belonged to the person who bought the vehicle because they were only in keeping with The Consumer Protection Act which states, anything attached to the vehicle—it could even be a farmer's fuel tank with his farm fuel in it—they have a right to it, because The Consumer Protection Act states so. Linda Mayor was sympathetic and stated that they could not be expected to go to a big dealer and dictate what should be corrected to please a customer. They provide financing sight unseen and never even see both parties. She stated that it was unfortunate I got caught up in the bank's bureaucracy.

The local bank manager who advised me not to pay now denies saying that. This is why they deal on the phone and do not discuss problems in writing, part of the Canadian Imperial Bank finance strategy for Manitobans whom they bombard with TV commercials promoting their understanding and helpfulness toward the customer. Unfortunately, they do not have the people who practise what they preach.

Mrs. Mayor advised me when I asked her, why would Gauthier switch from financing, unknown to me, from GMAC to their firm, where I had dealt with previously? She stated that Gauthier Limited would have been forced to comply with a refund if they would have dealt with General Motors Acceptance Corporation. They would not stand for fraud. Apparently the Canadian Bank of Commerce is used by all these crooked dealers to ram through some of this stuff.

So you see this is enlightening to a person like myself and further reinforces my belief that fraud is the name of the game in Manitoba if you can get away with it. I hope this well-oiled machine, as I called it previously, can be made eventually to comply with fair business and consumer law. Other businesses seem to be doing well without the greed element concerning their policies.

I asked Mrs. Mayor what had prompted her, and it prompted the Canadian Imperial Bank of Commerce, to seize the vehicle returned to Gauthier's. She stated that she had received a letter sent by Gauthier's Vice-President Mr. Dyck. The same one who had told me that GM would do nothing till hell freezes over. He would look after my complaint personally. He sent me

a letter to accept the vehicle as it was because there was no insurance on it and I had abandoned the vehicle in their compound. They would be no longer responsible for its "storage," of all things. In other words, the vice-president figured I had the vehicle there for storage. He probably was not even aware of the damage. Maybe that damage had been put through the body shop inadvertently and unknowingly to anyone because they were trying to save somebody's driver licence.

Miles Dufault, the body shop manager, just gave up trying to match the faulty paint as the original apple red formula from General Motors would not work. They could use the numbers of the new paint job supplied by General Motors, but what came out on the spraying of that car was totally different. In other words, General Motors paint did not match what they advertised, apple red. It was something else. They could not figure it out. Perhaps after so much polishing, four polish jobs, and six coats that I am aware of on the left door and front fender, they decided that I could leave it or lump it, or lump it or leave it.

Mr. Koop, who inspected the Blazer and easily found the faulty work and paint, advised me that all the painting would crack and check in cold weather. When the door was slammed, obviously it would check. Within one year in the sun the Blazer would have noticeable differences in mismatched paint from different companies. One would not need to look at night under street lights anymore. He advised me that a new vehicle was deserving of a factory class paint job and without it the vehicle was devaluated too much for his liking. If it is devaluated, it is fraud. The police say so themselves. I agree. A paint job which still leaves me short \$11,695.29. Thank you.

**Mr. Chairman:** Thank you, Mr. Zador. Any questions? Mr. Maloway.

**Mr. Maloway:** Mr. Chairman, to the presenter, you had mentioned that you had gone to the Consumers Bureau. When did you go there and what was the response of the Consumers Bureau?

**Mr. Zador:** I started with the Consumers Bureau shortly after the dispute started to get serious and my refund money was not coming. These people tried their darndest. I know them pretty well on a first-name basis. They tried to get the bank and Jim Gauthier to reason that he had done wrong. They tried to be very diplomatic. I think they exhausted every channel they could. I had gone there a couple of times and I provided them with the bills of sales, every bit of information I had. What they told me is they could only mediate. They did not have the power to do anything or order any one.

I was told that this dealership had no bond because it was a big dealership and Manitoba law did not require it. Now I investigated further and I found out that in fact, and the bondsman advised me, that there is a \$25,000 bond sitting there. I got certain advice of what to do and I think I know what to do, but I never thought it would come to this.

\* (2110)

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As far as the Consumer Affairs, my lawyer had told me that knowing these dealerships they would drag it out for two years. It could cost me \$5,000 or \$10,000 to get my money back. Consumer Affairs would opt out immediately if a lawsuit was started and what happened is General Motors hung up on me because they were told by Procnor that one indeed had been started. It had not been started.

Consumer Affairs is powerless. They can deal with honest people trying to settle something. You people tonight are trying to settle something and I sympathize with you. If we had met at a table and tried to settle something, Consumer Affairs would have been there and would have made recommendations. Honest people would have tried to settle, but where there is dishonesty and there is a bottom-line dollar figure and nobody has—they do not have this business of mediation at heart, they have dollar figures in their minds and greed. Consumer Affairs is powerless.

You cannot legislate dishonesty and the police know it is going on. It happens every day. That name Jim Gauthier rings a bell with a lot of people. I went everywhere but to fight that power and money I would be wasting taxpayers' dollars. I would probably get my money back somehow. Fraud charges, I believe, would be laid, but it would cost—I have a feeling it would cost \$100,000 for the law to go after them because they would use every means at their disposal. They would delay and delay and delay, like the Bill could be delayed by a lot of people coming here with a lot of wishy-washy stuff. I know a lot of people who would like to come here, but they do not feel that they have stuff that has any substance to it. It is just moaning and groaning.

**Mr. Maloway:** Are you aware that seven of the 10 provinces have an Unfair Business Practices Act, which I think you alluded to when you talked about the B.C. situation where the B.C. Government has a lot more power through its Consumers Bureau? Are you also aware that in the NDP we introduced a Bill two years ago to bring a similar legislation into Manitoba and it has been stalled by this Government? In fact, they have copied the Bill now. They call it Bill 64. It has currently languished in committee for the last month or so, and in fact because of business pressure there is some indication they may even withdraw the Bill.

**Mr. Zador:** Sir, I am not going to listen to the three Parties. I am here to listen to a committee. I am not listening to the NDP or the Conservatives or the Liberals. I am listening to committee. You are all together. You are all Manitobans, as I am. I am going to tell you one thing, you might not like me for this, but I am very outspoken which you will find out shortly. Mr. Procnor told me that in B.C. they have corporate and consumer affairs laws that would force them to give the money back, but in Manitoba they are home free, they can do what they want. I did not like that. I am a Manitoban. I was born in B.C., but in Manitoba that struck me as—I was very sensitive to that.

Here is a man, General Motors. I asked him, I said, are you American or Canadian or a Manitoban? Who are you? I said, are you a Manitoban? I said I live in

Manitoba and I am a Manitoban. You are telling me that what we have here just does not apply to you. I said I do not believe it but apparently that is the truth.

**Mr. Chairman:** Mr. Maloway, I would also like to caution you that your questions should be addressed to the presenter in respect to his presentation. Mr. Maloway.

**Mr. Maloway:** Mr. Chairman, I was simply trying to indicate to the presenter that his presentation is really more in line with what should be presented in the case of Bill 64. In fact, the presentation you have given tonight and the solution to your problem really lies with the contents that are in Bill 64 and not in Bill 63 in front of us right now. I am happy to hear you here tonight, but your problems would have been solved had we had an Unfair Business Practices Act passed in this province. I think it would have been a big help to you through this problem of yours.

**Mr. Zador:** I do not agree with you at all, because if you read the opening comments here and you are a Member of this committee, under Bill 63 there is Section 123(2) Cancellation within 10 days. What I am trying to get at is 10 days is no good to people who are crooked. Ten days would work if there were a scratch on my car and the dealer would say I will fix that for you, I will make you satisfied. I do not care if it is 10 days or 100 days, it would be satisfied. Ten days will not work here, and Section 123(4)(a) and (b) Effect of cancellation—now if you want to question this, if you want to go to this Effect of cancellation—maybe somebody could help me find it here—123(4)(a) and (b), ". . . every liability or obligation of the buyer under the contract is extinguished . . ." I agree with that. I think what you people are trying to do is to have that in effect. Am I not right?

I think everyone at this table can agree what happened to me, that would be a good thing to have in there, and "the seller shall repay to the buyer, immediately upon demand by the buyer, every amount that has already been paid by or on behalf of the buyer for or on account of the contract price or the cost of borrowing or otherwise pursuant to the contract, whether the payment has been made to the seller or to any other person." Now, this is what I am getting at. Apparently this must be in B.C. It is not here, but is this not what we are trying to put into effect?

**Mr. Maloway:** Mr. Chairman, to the presenter, I believe Bill 63 which you are looking at deals with—the cooling-off period deals with direct sales, door-to-door sales, and these dealers are not involved in door-to-door sales, but Bill 64, The Unfair Business Practices Act, directly would affect your situation. As I listened to what you said and read through the presentation, over and over again it rings clear to me that, had the Unfair Business Practices been in effect, then there would have been some help to you there, because you would have been able to go to the Consumers Bureau, and the Consumers Bureau would have had the power to walk in, check bank accounts and order restitution if there was some improper misrepresentation.

**Mr. Zador:** They would not do that. I asked them if it was possible—

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**Mr. Maloway:** They would if the Bill had been passed.

**Mr. Zador:** This is what I am getting at.

**Mr. Chairman:** Order, please. Please wait until you are recognized, because everything is put on Hansard, and I should have maybe said that at the outset of this meeting. You have to be recognized before you speak, please. Thank you. Mr. Maloway.

**Mr. Maloway:** Well, I just have really one further question at this time, and I will allow other people to ask questions. That was, at any time were you in a position to approach the Motor Dealers Association and ask them for their help? You had approached the Consumers Bureau and Better Business Bureau and so on, but what about the Motor Dealers Association which is the association representing the dealers in this province?

**Mr. Zador:** I could possibly agree with that right now, but at the time I did not go to the Motor Dealers Association and even talk to other dealers. We have people who work in dealerships in our family, we have people in leasing and everything, and I somehow figured that by going and complaining to the motor vehicle association, somebody might think I am generalizing. I have nothing against any other dealership. I think this must stand out by itself. I cannot believe another dealer—I do not know of anyone who knows of another dealer who would do a thing like that.

What I am trying to put forward, whether I am in the right room or not, is in order for you people to make your decisions you are going to have to have some substance, you are going to have to have some problems, you are going to have to hear of what is going on out there, and what is going on out there. What is on here is the truth; this is no fabrication. In order to get the truth, you are going to have to bring these problems. I cannot steer what you people are looking for. I told them when I came here that the only thing I can tell you is what my problem is. It is sort of after the fact, but maybe the other dealers should know. Maybe they would criticize him; maybe they would pressure him. I never really thought it would come to this.

\* (2120)

**Mr. Cummings:** One Section, 123, Mr. Zador, applies to prepaid expenses, and the cancellation really is—in the door-to-door selling, the prepaid expenses area would not have covered you under this particular circumstance. I think Bill 64 would have more relevance to you concern—

**Mr. Zador:** Yes.

**Mr. Cummings:** —and that is why we as a Government are bringing it forward and that would, you know—unfortunately, it is not in there just now.

**Mr. Zador:** What we have here—are you on the same committee?

**Mr. Chairman:** Mr. Zador. Mr. Minister, are you finished?

**Mr. Cummings:** Yes, I am finished.

**Mr. Zador:** Are you on the same committee? I would just leave, this could be steered wherever, but I cannot come here again and make another presentation.

**Mr. Cummings:** Well, we are—your concerns are well put; we will take note of them. Bill 64 will be coming up at another time, and so your concerns will be taken into account. We have your written presentation and as the Minister, we are very concerned. I think you have had a tragic case. This is why we are bringing in stronger legislation to protect people from cases such as yours. It is a very tragic one.

**Mr. Zador:** I might just point out that I have learned since that on the back of the financing contract for the Canadian Imperial Bank of Commerce there is a section that states that if the dealer pulls a fast one, there is no recourse for him; he will have to pay it all back. When I questioned Linda Mayor why they sided with the dealer and not with me, she said, that is where the bread and butter is. So there is no recourse for the dealer to the bank. If they want it to be that way, it is in their contract, but they did not wish it to be. They wished it to be no recourse for me.

**Mr. Kozak:** Mr. Chairman, I think at this point Mr. Zador understands that my earlier question to him was related to the fact that his presentation does appear to be more related to Bill 64, The Unfair Business Practices Act, than to Bill 63, The Consumer Protection Amendment Act. That fact caused a bit of difficulty for me earlier, Mr. Chairman, and I believe that Mr. Zador now understands the source of my difficulty.

I simply have a couple of technical questions for Mr. Zador. Everyone on the committee understands he has a very genuine sense of grievance, and his presentation is graphic evidence of the situation he has suffered. My first technical question relates to the very beginning of the presenter's statement. On August 30, 1989, he made his purchase of the 1989 Chev Blazer and subsequently dealt with another dealership, not the General Motors Dealership from which he purchased the said vehicle but rather Jim Gauthier Mazda on Regent Avenue.

I wonder if Mr. Zador could indicate to me why he would have dealt with an unrelated dealership before noticing any problem with the vehicle, and why in fact he did not continue to deal with the first dealership on a consistent basis?

**Mr. Zador:** Well, apparently, they owned both firms; they even owned Royal Dodge, I think. Perhaps the salesman that got fired could even be working there, but the thing is that Gauthier's Mazda does the diamond coat polishing and undercoating. They sent me with the vehicle there to get this work done, and that is where that young fellow just exhausted himself and had to go home; he could not finish it.

**Mr. Kozak:** Mr. Chairman, I do point out to Mr. Zador that there are two separate corporations involved here,

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despite their identical ownership. I would ask him if it was on the specific direction of Jim Gauthier Chev Olds that he dealt with Jim Gauthier Mazda, a related but totally separate person under law.

**Mr. Zador:** Yes, they told me to go down there. They have not got the facility to do that undercoating and polishing. It is a diamond-glazed polish that they put on new vehicles; it is part of a package, I guess.

**Mr. Kozak:** Mr. Chairman, I simply wanted to establish the fact that it was specifically at the direction of the first corporation that Mr. Zador dealt with the second corporation. Corporations, despite identical ownership, can in fact and in fact usually are totally separate persons under the law. I believe Mr. Zador now understands that it can be a bit hazardous to deal with two separate persons under law.

**Mr. Chairman:** Do you want to respond, Mr. Zador?

**Mr. Zador:** I am not going to take up any more time than—some people might think that I was reading a little fast, but I just do not want to take up any more time than is necessary.

**Mr. Patterson:** If I recall, Mr. Zador, you said several times through the presentation that when you tried to call the salesman—was it Mr. Thompson?

**Mr. Zador:** Yes, Vern Thompson.

**Mr. Patterson:** —you were told, oh, he was busy, or he would call back and one thing and the other, and this went on for some weeks?

**Mr. Zador:** That went on for a couple of weeks. I had dealt with him before.

**Mr. Patterson:** And yet finally, you were told that he was fired a day or two after you made the purchase. Is that right?

**Mr. Zador:** Pardon me?

**Mr. Patterson:** Finally they told you that he had been fired a day or two after you had made the purchase?

**Mr. Zador:** Well, what had happened was that I had bought my previous car from him—and I still think he is a pretty nice fellow. I do not even know if he is even involved this; I do not even think he knows. But I cannot believe that he would get—they told me that he had quit the next day. Like, the receptionist. I asked. I said, "where is my salesman?" I said, "I have known him from my previous", and you know, "he is the person that I should see." Then Jim Gauthier said, no, he did not quit; he was fired. Well, I have not met him since. His number is unlisted; they would not give me his address. Anyone that quits at Jim Gauthier's does not forward an address or anything. He is unlisted, and I have not seen him since, but somebody suggested that maybe he is working at one of the other corporate dealerships they own. I am not going to run around looking for him; I just cannot find him. But he

disappeared, and that struck me as odd. It strikes me as odd the more I think about it.

**Mr. Patterson:** Yes, I understand. The point I was getting at was that they eventually told you some weeks later that he had quit or been fired shortly after the transaction. Yet others, when you phoned during this time, did not tell you this. They implied that he was still there, and he would call you back or he is out at a meeting or whatever. Is that right?

**Mr. Zador:** Yes. When Reg Wiebe phoned my office, I asked. I said, I am quite mad because, you know, I have gone out to dinner with him and I know him. Not personally, but he is a nice person. Why has he not called? Is he on holidays or where is he? He said, no, he is busy; he is around here somewhere. So then when I brought the vehicle in the next day, I was curious, so I went to the receptionist and I said, I want to see the salesman. Well, he quit shortly after he sold the vehicle. I do not know where he is. I know he lives in Transcona but—

**Mr. Chairman:** Very good. Any more questions? Thank you, Mr. Zador, for your presentation. There are no more questions? Thank you.

I will call on Miss Lynn Martin, the next presenter. Miss Martin, we will wait until we have distributed your presentation. Okay, Miss Martin, you may proceed.

**Miss Lynn Martin (Social Assistance Coalition of Manitoba):** Good evening, Members of the committee and staff. I am Lynn Martin. I have been actively involved with different grass roots and community groups for the past five years in Manitoba, mainly in Winnipeg.

For the best part of the past 20 years I have been on provincial welfare because of health problems and the fact that I am a single parent with two children. My health problems—

**Mr. Chairman:** Excuse me, Miss Martin. Can everybody hear her properly? Will you please be able to pull that mike really close to yourself.

**Miss Martin:** Okay. Is that better?

**Mr. Chairman:** That is better, but pull the mike, there must be more pull than that.

**Miss Martin:** How is that?

**Mr. Chairman:** That is fine. Thank you.

**Miss Martin:** Okay. Thank you. Good evening, everyone. My name is Lynn Martin. I have been actively involved with different grass roots and community groups for the past five years in Manitoba, mainly in Winnipeg. For the best part of the past 20 years, I have been on provincial welfare because of health problems and the fact that I am single parent with two children.

My health problems are cancer of the spine and a curved spine. Although welfare cheques are mailed out on the 26th or 27th of the month, the banks' different

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policies have created more hardships when it comes to cashing our cheques, causing confusion. Some branches say they have to hold a cheque for at least 10 days for clearance. Some welfare recipients complain that when they did open chequing accounts with a minimum balance of \$5, three months later the account was closed without prior notice.

If you have no account, the cheque will not be cashed even with ID. If you want to open an account, they would have to leave the welfare cheque for five days for clearance now. Why do you think so many people use Money Mart? Some welfare recipients will go to Safeway, Superstores and can receive these cards to buy groceries and cash welfare, family allowance cheques without service fees. Money Mart cashes any Government cheque for 6.9 percent. They are mainly located where the working poor and recipients are forced to live.

I have been actively involved with the Manitoba Anti-Poverty Organization as a volunteer and board member for the past five years, three years with the Social Assistance Coalition of Manitoba as co-chair and media spokesperson, and two years as a member of the Redboine Ellice Community Council.

As an active community person, I know that Money Marts are getting rich at the expense of the poor by cashing Government cheques. When I heard that Mr. Maloway was proposing changes in Government cheque-cashing policies, I appreciated the opportunity to speak as an individual on this matter. For the benefit of the least fortunate, I urge you to make the changes.

As policy makers, you are the ones with power to do so. Common sense and social justice for all dictates that you need to protect the poor—

\* (2130)

**Mr. Chairman:** Excuse me, please. Could we ask Mr. Lamoureux, would you please move to the back of the room, if you would like to keep on with your discussion? Go ahead, Miss Martin.

**Miss Martin:** Common sense and social justice for all dictates that you need to protect the poor and their sources of income.

Since I wrote that presentation, I was able to hear the presentation from the gentleman from Money Mart. I have some concerns that he raised in his presentation.

We feel that Money Mart takes advantage of low-income people by trying to brainwash them by insinuating that until a customer has purchased a Money Mart photo ID for \$10, they, Money Mart, cannot or will not cash a Government cheque. Any member of the public can walk into any business that does passports and get a photo ID for about \$3.00. Money Mart is reluctant to share this information when asked about it.

Mr. Brian Lutz, who made the presentation on behalf of Money Mart, said that no welfare recipients had ever been taken advantage of by his organization. I would like to share a situation that was supplied by Olga Foltz

while she was executive director of the Manitoba Anti-Poverty Organization Incorporated.

Here in Winnipeg, Money Mart was charging 15 percent to cash welfare cheques that were post-dated, i.e., received on the 29th of the month, but dated for the 30th or 31st. When this issue was raised in the media, Money Mart informed the public through the media that they would refund the 9 percent to welfare recipients where they had charged 15 percent. However, when a single parent tried to claim her money, she was refused. Money Mart claimed that they would only refund the money if she went to Welfare and gave them a copy of her cancelled cheque, so she came to see Olga at MAPO.

I would like to point out, at that time, when you got your provincial welfare cheque it did not have the cheque stub detailing where the money was to go.

Olga phoned Money Mart, who claimed that they had no record of a client with that name. The mother advised Olga that she had cashed her welfare and some of her Family Allowance cheques there. The clerk checked again and found the file, but claimed that the other cheques were recorded, but not the one being discussed. When Olga told the clerk who she was representing and quoted the media statement and that she was on her way there with her client, she was put on hold. When the clerk returned, she claimed to have found the recorded file and that the cheque would be ready upon their arrival.

We know that there is a large profit at the expense of the poor, because (1) Money Marts charge a cheque cashing fee, (2) are mainly located in low and fixed income areas.

I would like to thank all committee members and the staff for the opportunity to appear before you tonight. Yours respectfully, Lynn Martin.

**Mr. Chairman:** Thank you, Miss Martin. Are there any questions to Miss Martin? Mr. Maloway.

**Mr. Maloway:** When the Money Mart's presenter made his presentation, I think we left off at the point where we were discussing his locations in Quebec and his ability to do business in that province.

You are probably aware that it was in Quebec, 10 years ago, that this ban on a charge on cashing of Government cheques was instituted. I asked him at that time, how it was that he was able to operate, I believe it is six locations in Quebec, and still make money where in fact they cannot make a charge on Government cheques. I would ask you to comment on that.

**Miss Martin:** He was saying that he was getting business from other sources, example, payroll cheques from private business, things like this. They were not relying on the welfare people to support them.

**Mr. Maloway:** In fact, what he is saying is they are not relying on Government cheque cashing of any type to survive. In other words, they are proving by virtue of their six locations in Quebec, successful locations, that

they can operate in an environment and make money and not charge on the cashing of Government cheques, which is pretty much what they suggested in a national TV show last year.

That, when it was suggested that they were in fact preying on the poor by locating in poor areas and so on, they made the case that this may have been somewhat true in the beginning of their existence, but they were quickly moving into the suburbs and were becoming less reliant on poorer people and cashing Government cheques. That was their business plan as indicated in the TV show, and now they are successfully operating in Quebec, proving once again that they do not need this part of the market. It sort of takes a little bit of the steam out of the argument from Members here on the committee, that somehow we will be helping to put Money Mart out of business if we bring in this measure, because there is proof that they can operate with this law in place.

**Miss Martin:** I remember him saying that they had relocated several of their offices in Quebec out of the poorer areas or the fixed income areas into the suburbs. I have yet to see any Money Mart in Winnipeg relocate from the core area or a lower fixed income area out to the suburbs and close up shop, so to speak.

**Mr. Maloway:** A few meetings ago, and we have yet to get further clarification on this, but the Liberal Critic suggested that they would be happy if there was a ceiling placed, of I believe 6 percent, on the cashing of cheques.

Except, I believe, in the case where the only business of the firm was cashing cheques. I think the critic can correct me if I am wrong on that. What is your comment on that, because it seemed to me at the time that 6 percent was an astronomical limit to be putting on cheques and that he felt that was sufficient at the time?

**Miss Martin:** Mr. Chairman, okay, I just want to show you some information that I brought from the Money Mart presentation.

**Mr. Chairman:** Any more questions, Mr. Maloway?

**Mr. Maloway:** Yes, Mr. Chairman, but I believe Miss Martin was going to be responding to that question.

**Miss Martin:** According to Mr. Letz's (sic) presentation, in the Money Mart organization, the base fee is now 2.9 percent plus another 5 cent per item charge and this applies to each time you cash a cheque there. Like I say, we have also found out since that time that they are being awkward when it comes to cashing Government cheques, unless you take out a Money Mart photo ID for which they charge \$10.00 So it is not just a straight 2.9 percent as a service fee for getting it cashed at Money Mart, in addition to the brainwashing of buying a Money Mart photo ID for \$10 on private enterprise here in the city, like anyway you can get your passport photos done, they would charge \$3 for the same service.

\* (2140)

**Mr. Maloway:** Miss Martin, following the suggestion of the Liberal Critic when he suggested 6 percent should be the upper limit. I think at the time we looked at the situation where a low income person might have child tax credits coming back or would have a social assistance cheque to be cashed and if the cheque were in the amount of \$1,000, then the cheque cashing charges on that would be \$60.00. It seemed pretty astronomical to me, but even people around this table would agree to pay a \$60 fee to cash a \$1,000 cheque. That seemed pretty incredible to me and I would like your comments on that. These are people that certainly cannot afford those kind of charges.

**Miss Martin:** It is true, they do charge you 6 percent and it does mount up, regardless of whether it is your family allowance cheque or the monthly welfare cheque or your child tax credit or your income tax refund. Another thing that Mr. Letz (sic) mentioned in his presentation was that rent cheques go directly to the landlords.

That is true 50 percent of the time, but also 50 percent of the time the tenant or the recipient is responsible themselves and go to Money Mart in order to cash it. It just depends on the family situation and what the landlord has asked for in the method of payment. So they get hit many times and the money does mount up.

**Mr. Kozak:** I think it would be helpful for some Members of the committee if Miss Martin could indicate to us, not simply percentages but dollar amounts that might be involved perhaps in the cashing of cheques such as she is describing.

**Miss Martin:** I can give you an example of that. My monthly living allowance for myself and my two daughters is approximately \$900 a month. If I was to cash that cheque at Money Mart I would lose \$54 of that, just to get it cashed plus another 5 cent fee for getting the cheque cashed there, and it would be strongly suggested that I take out a photo ID or they would not cash it, and that would happen on a regular monthly basis for some families.

**Mr. Kozak:** My thanks to Miss Martin for that clarification. I would like to delve a little bit into what Miss Martin is asking this committee to do. Is she asking us to eliminate any possibility of cheque cashing organizations charging a fee, or is she interested in our putting a ban on the involvement of cheque cashing organizations in this business, or is she asking us to direct the banks to deal with welfare recipients in cases where they do not deal with them?

**Miss Martin:** I was trying to find out at the last session here if Money Mart was classified as a financial institution. I used the Collins English Dictionary in the legislative reading room. It says, finance, funds or provision of funds, financial, or of relating to persons who manage money, capital, or credit. A financier: a person who is engaged or skilled in large-scale financial operations. Institution: an organization or establishment founded for a specific reason. Re: Money Mart and cheque cashing. Money market: the financial

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institution dealing with short-term loans, with foreign exchange and with capital.

I feel that Money Mart should be classified as a financial institution the same as a bank, a credit union, a trust company. Also the term money market applies to them, because what they are doing is basically giving you a short-term loan and taking that extra money out of the person that is going to wait until the 30th or the 31st of the month.

So I would like to see any agency similar to Money Mart not allowed to charge for Government cheques, because those who receive Government cheques as their source of income are the disabled, the senior citizen and the single welfare parent. I am also recommending that banks be more flexible.

I myself had a heck of a time opening an account. I did have a photo ID at the time. I attended University of Winnipeg for half a year until I found out I had cancer. So I had the student photo ID. Even with that, my Social Insurance Number and my Manitoba Health Services card, because I did not have a driver's licence or a credit card, which you cannot have or receive or get on assistance, they were very hesitant. I had to get a church minister to come down and co-sign for me. All I wanted to do was open a savings account. I did not want a chequing account. I just wanted a savings account. I had to get a church minister to come down and vouch for me.

**Mr. Kozak:** Just one final question, Mr. Chairman. I believe a few Members of the committee have questions. I wonder if Miss Martin can indicate to the committee whether she is aware that under the Canada Act, the separation of powers between provincial Governments and the federal Government is such that only the federal Government is empowered to regulate the banking system.

**Miss Martin:** I am, sir, but also Money Mart is a national institution.

**Mr. Patterson:** Mr. Chairperson, before I address my question to Miss Martin, I would appreciate it if you would call the Member for Elmwood to order at times when he gets off the track of clarifying the brief of the presenter and reading things into the record and making implications that in fact are not so.

**Mr. Chairman:** Mr. Patterson, a question to the presenter, please.

**Mr. Patterson:** Miss Martin, I mentioned once before and I have not completely forgotten to look at some of my own Government cheques in the meantime, but as I recall from some years ago anyway, Government cheques or at least federal Government cheques had right on them that this cheque is cashable at par at any branch of any chartered bank in Canada, but at any rate these I assume are City of Winnipeg welfare cheques?

**Miss Martin:** No, sir, I was referring not just to City of Winnipeg cheques, but also Province of Manitoba

cheques, because anybody in a family situation is involved with the provincial welfare system.

**Mr. Patterson:** Well, one way or the other then they are either City of Winnipeg or Province of Manitoba and they are drawn on a particular bank, are they not?

**Miss Martin:** I believe the city has its own bank and the province has a different one, but I cannot remember which ones.

**Mr. Patterson:** They would be one of the chartered banks. Why would an individual not go to the bank concerned or to, let us say, a Safeway or other supermarket? That way he can get an ID card, if you are shopping there, and they will cash your cheque if you are making a purchase. Why would you go to Money Mart?

**Miss Martin:** It depends which Safeway or SuperValu you approach. Some Safeways will give you a card for cheque-cashing purposes if you are on assistance. Others will not. That also applies to SuperValu and Econo-Mart. It depends on the branch.

**Mr. Patterson:** I am sorry, would you mind repeating that? I missed the last part.

**Miss Martin:** It depends which branch of Safeway or SuperValu or Econo-Mart you attend. It varies from branch to branch, store to store. Maybe the Safeway downtown might do it; the Safeway on River and Osborne will not. If you go out to the suburbs, some will, some will not. It depends on the manager at each store.

**Mr. Patterson:** How about the bank it is drawn on?

**Miss Martin:** Even at that bank, even if you go to its home office, the one that is printed on the cheques, you are still asked for a driver's licence, a credit card, your social insurance number, your birth certificate and something with your address on it. People on assistance do not have driver's licences or credit cards.

**Mr. Patterson:** They are reluctant or even refuse to take what should be acceptable ID such as your U of W student ID.

**Miss Martin:** That is correct. Or else, they ask you to bring in a respected member of the community such as a church leader or a professional person to vouch for your credibility.

**Mr. Patterson:** I would assume, when you go to a bank branch, the responses are given to you by the tellers or the various hired hands around the counter. Have you ever spoken to, let us say, the branch manager?

**Miss Martin:** Yes, I have, Sir. I approached managers at the Royal Bank, the Canadian Imperial Bank of Commerce, the Bank of Montreal, the Toronto Dominion Bank and National Trust.

**Mr. Patterson:** And this is the response you get from them?

**Miss Martin:** Again, it depends on the branch and the bank. For example, the Toronto Dominion Bank by the Bay said that alternate identification would be fine. I went to a different Toronto Dominion Bank closer to Portage and Main, and they refused the same identification. So it depends on the bank manager, the branch and the bank.

**Mr. Chairman:** Mr. Patterson, no more questions?

**Mr. Patterson:** No. Thank you, Miss Martin, for your presentation.

**Mr. Maloway:** Miss Martin, we have spent a lot of time discussing the role of Money Mart here and making them out, I suppose, just by the virtue of the number of times they have been mentioned, as the chief culprit. I did want to point out that it is really not just Money Mart. There are a lot of little stores, both in Winnipeg and outside in the rural communities and even credit unions in this province, which have been cited for taking advantage of people on welfare, off the reserves and so on. They are charging atrocious amounts to cash cheques where the people are spending their money in these stores in the first place.

If you are in a rural area, remote area, when you are the only store in town, you are going to get the business from that area regardless. People have no place else to go. To charge people \$10 or so on for a cheque, when in fact the people are going to be shopping in your store anyway, is just unconscionable. There have been reports to that effect in the paper over the last little while. I did want to point out the fact that it is not just Money Mart that we are looking at here. There is a whole range of stores. I would ask Miss Martin if she wanted to further comment on that particular aspect of it.

**Miss Martin:** I cannot speak for the rural communities because I have never lived in one. But one thing I will say for Safeway, SuperValu and Econo-Mart is that if they do agree to cash your cheque there, they do not charge a fee for it as long as you buy your groceries. Anybody who goes to a grocery store to cash a cheque obviously goes there with the intention of stocking their fridge. When you go to Money Mart, the only reason you go there is to cash a cheque.

\* (2150)

**Mr. Maloway:** Mr. Chairman, I have just received a copy of a Winnipeg Sun column for January 5, 1990, just last month, where they talk about the residents of Fort Alexander Reserve who do not even get a chance to wonder where the money goes. It is gone before they get it. It is bad enough people must sell their income returns to make it to the month. The Interlake Credit Union in Pine Falls is taking advantage of the situation by charging \$10 to cash refund cheques. They go on to describe the practices in this particular instance.

I also wanted to ask you a question regarding the practices of cashing cheques without identification. It seemed to me, on the surface of it, that inadvertently

this practise may in effect be promoting street crime, because, for example, there have been cases of people getting to know when the social assistance cheques come out or when the family allowance cheques come out. It has been known that people have taken these out of people's mailboxes, therefore depriving them of much needed money at that moment.

They take them into Money Mart where they do not have to provide ID and get them cashed. I wonder whether you have any insights or any comments on that particular aspect, as to whether or not crime could be promoted in this manner.

**Miss Martin:** I know that it has been. For seven months I worked with a community-based policing program with Constable Murray Cull (phonetic). Each month, we had at least nine to 12 reports of either family allowance or welfare cheques being stolen. When he just checked his daily stats done at the Safety Building, there were more incidents reported that way too, that had been reported into the police department that they had to act on robberies or holdups. We found that one favourite method was to follow a woman from her home and attack her just after she came out of a grocery store. When she had cashed the cheque, she had, you know, the cash in her purse, and she was carrying a couple of bags of groceries and could not fend for herself. We suggested the buddy system in the core area, in the North Portage area, so that there would be at least one person to defend the other.

**Mr. Chairman:** Thank you, Miss Martin. No more questions? Thank you for your presentation, Miss Martin.

**Miss Martin:** Thank you very much for the opportunity, Sir.

**Mr. Chairman:** Charlotte and Mark DeCorby are from 200 miles away. Is it the will of the committee that we could hear them at this time? Originally, I indicated I would go down the list. What is the will of the committee? Should we stick to our format going down the list, or should we hear these people who are from 200 miles away? Agreed.

Charlotte and Mark DeCorby—I would like to state, not that I want to in any way restrict anybody from making their total presentation, but if we can save some time with not too many repeats, it would be greatly appreciated. With that, this is Mr. Mark DeCorby?

**Mr. DeCorby:** That is right.

**Mr. Chairman:** Go ahead, Mr. DeCorby.

**Mr. Mark DeCorby (Private Citizen):** I do not know if I am in the right place, but I will read what I have anyway.

I believe there should be a standard mortgage form to follow so one can avoid home-made mortgages to allow financial institutions to have an unfair advantage over their clients. I will submit proof of poorly written mortgages and some well written mortgages. I think

you have them in front of you, and I will point them out. The mortgage we have with FCC is done properly, dating back to 1974. The interest is clear, the repayment schedule is also included.

The first mortgage we had drawn up with Bank of Montreal, dated May 30, 1980, is listed as Bank of Montreal small business base rate plus 2 percent per annum, or 15.75 percent on the front page; while on page No. 4, it lists the interest as Bank of Montreal small business base rate plus 2 percent calculated semi-annually, half yearly, again at 15.75 percent. That is two different interest rates on the same mortgage. The interest that was charged on this mortgage did not resemble either page of the mortgage, and there was no repayment schedule, or payout listed on this mortgage, and it also became a demand mortgage after it was signed.

I believe that a person should receive a copy of the signed mortgage after signing so that nothing can be added after you leave. I also believe that a person should have his own lawyer present, by law, when signing a document of this nature to protect his best interests. Most mortgages signed in rural areas are signed only in the presence of a bank lawyer and usually under severe pressure from a financial institution. They have total control over your livelihood and use it to blackmail you into signing a mortgage whether you want it or not.

We were forced to sign the \$192,000 mortgage in May 30, 1980 because the Bank of Montreal took it upon themselves to phone around and shut off all credit, even closed us out of another bank, the TD bank in Welwyn, Saskatchewan where we were in good standing. We had no choice but to sign the mortgage. They even reversed some payments we had made earlier in the year so they could put more pressure on. This bank is one of a kind.

We put in \$188,000 against the 1982 mortgage from May 30 to August 15. We still lost ground on this mortgage. We had to rewrite the mortgage on September 27, 1982. The second one was even more ridiculous than the first. All it did was add to the securities and interest. This one was written up for prime plus 3 percent on demand. It also had no repayment schedule, it was supposed to be a small business bond mortgage at half prime plus 1 percent or 2 percent.

The Bank of Montreal also took it upon themselves to serve our renters with a demand for payment of our rent money, served to them by the sheriff. They also gave them a copy of our mortgage for them to have and to hold as proof that they had the right to the rent. This is supposed to be confidential information, not to be advertised in the community. This is just to add more pressure.

We are going to proceed to the court with the Bank of Montreal on accounting, embezzling and misrepresentation in the near future if we can get enough accounting out of the bank to proceed. We feel the first mortgage for \$192,000 is very questionable.

We also believe there should be protection for the consumer on foreclosure because if the property is

repossessed and resold, you are liable for a flat tax, and you did not receive any funds to pay the tax with. If you find a job, the Tax Department can garnishee your wages. I also believe there should be a very extensive accounting done before a foreclosure is allowed unless it is waived by the mortgagor.

**Mr. Kozak:** Mr. Chairman, some of the chronology is not entirely clear here. The mortgage in question was written in May, 1980, and rewritten in September, 1982. Could the presenter tell us whether in that two-year period he paid \$188,000 against the mortgage?

**Mr. DeCorby:** It was not in a three-year period, it was in a three-month period.

\* (2200)

**Mr. Kozak:** Was that three-month period between May 30, 1980 and September 27, 1982?

**Mr. DeCorby:** It was between May 30, 1980 and August 15, 1980.

**Mr. Kozak:** I wonder if the presenter could suggest to us then why the mortgage did not go down in terms of what he owed on renegotiation in 1982.

**Mr. DeCorby:** That is what we hope to find. We cannot get enough accounting out of the bank to balance where the money went, and it is pretty tough to fight an institution this size. You cannot even hire a lawyer. Most of them are already bought.

**Mr. Kozak:** What was the principal amount of the mortgage negotiated on September 27, 1982?

**Mr. DeCorby:** \$224,000.00

**Mr. Kozak:** Does the bank dispute in any way that payments totalling \$188,000 were made on the original mortgage of \$192,000.00?

**Mr. DeCorby:** No, they do not, because I have the deposit slips.

**Mr. Kozak:** We all know that Canada experienced an interest rate shock at about the time that the presenter is referring to, but certainly not of the magnitude he appears to have experienced. I note that mortgage that he first negotiated on May 30, 1980, was in fact a variable rate mortgage, a floating rate mortgage, which of course would not come with the repayment schedule. Nonetheless, I find it strange that following application within a two-year period, or three-month period, of a \$188,000 to a \$192,000 mortgage, the mortgage should still go up in terms of the amount owing. Has the presenter consulted legal counsel.

**Mr. DeCorby:** Several.

**Mr. Kozak:** Following consultation with legal counsel, what advice does the presenter feel he was provided by counsel?

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**Mr. DeCorby:** We have had three different lawyers, but most of the time it is pretty hard to get a lawyer that will fight a bank, because it is their bread and butter, so they do not like to fight them. It is awfully hard to find a decent lawyer that will fight them.

**Mr. Kozak:** Is a case presently pending before a court within the Province of Manitoba?

**Mr. DeCorby:** It is.

**Mr. Chairman:** Mr. Kozak, any more questions?

**Mr. Kozak:** No, Mr. Chairman. Since a case is pending before a court, and since apparently the presenter has, at the present time, legal representation, I believe that I would personally like to have the benefit of knowing the outcome of that process before proceeding with further questions.

\* (2210)

**Mr. Chairman:** Thank you. At this point in time we will just stop the meeting for a few minutes because the Clerk has to change the tape for Hansard. We will have a quick five-minute recess.

## RECESS

**Mr. Chairman:** We will call the committee back to order. Mr. DeCorby, I believe a question was posed to you. Would you want to respond to that?

**Mr. DeCorby:** Yes. I forgot to add something else too. When they wrote the second mortgage, they did not discharge the first one either. That under the 88—I will clear that up real good because it was paid in the first three months. All together, between the two mortgages, I paid back what I could find in the bank records. I am not saying that I have all the bank records, but what we could find I paid back \$347,000.00.

**Mr. Chairman:** Any more questions to Mr. DeCorby? Mr. Patterson.

**Mr. Patterson:** Mr. Chairperson, I am still not clear on this. Take a look at the second paragraph on the second page of your brief. You had a mortgage for \$192,000, and in that three-month period you paid off \$188,000 against it.

**Mr. DeCorby:** I am not saying it went against it. I paid back \$188,000, but I do not know where it went.

**Mr. Chairman:** Those were Mr. DeCorby's comments. Mr. Patterson, go ahead.

**Mr. Patterson:** Can the bank not tell you where the \$188,000 went?

**Mr. DeCorby:** I cannot find it in the records, anyway.

**Mr. Patterson:** Is the bank saying that you did not pay it?

**Mr. DeCorby:** We are not communicating right now. I cannot communicate with him. I cannot even get my records out, let alone communicate. I am short, I would say, probably 50 ledger cards at different intervals. That particular interval is missing altogether.

**Mr. Chairman:** Any more questions?

**Mr. Patterson:** No. Thank you, Mr. DeCorby.

**Mr. Chairman:** Any more questions by anybody to Mr. DeCorby? Thank you for your presentation.

**Mr. DeCorby:** By the way, the mediation board, both Manitoba and Saskatchewan, when we are dealing with Bank of Montreal, both demanded a complete accounting. That is one of the demands the mediation board put forth. They did demand a complete and thorough accounting. We never got it either.

**Mr. Chairman:** Thank you for your comments, Mr. DeCorby. Ms. Alice Balsillie. Is Ms. Alice Balsillie present? Then we will go to the next presenter on the list, Mr. Maury Bay. Is Mr. Maury Bay here? No. Mrs. Mavis Bleasdale. Is Mrs. Mavis Bleasdale here? No. Then we will go to the next presenter, Mr. Len Roy. Mr. Len Roy? No. Ms. Maryann Mihychuk? No. Mr. Len Sawatsky? Not here. Mr. Lionel Orlikow. Is Mr. Orlikow here? No. Mrs. Joan Johannson.

Mrs. Johannson, do you have a written presentation?

**Mrs. Joan Johannson (Private Citizen):** No, I am sorry, I do not. I came, not being sure that I would get on tonight. I sort of came to hear what was happening, but I have some notes.

**Mr. Chairman:** Very good. Go ahead, Mrs. Johannson.

**Mrs. Johannson:** I am speaking to an amendment that I believe will be coming up banning TV advertising for children. My name is Joan Johannson and my expertise in this area is No. 1, I am a parent with three children, and No. 2, my husband and I teach parenting classes, which we have done for the last five years, mainly in the core area, but in many other parts of the city.

So for the last five years I have been talking with parents about what it is like to be a parent today, what are the things that happen in families and what are the forces outside families that impact on families. I guess I have come to the conclusion that the things that happen in our society are either demoralising to parents and families or empowering, supportive, and encouraging to families.

I am going on the basis of what I assume is that what we want is a community where our families are empowered, where our families are supported and encouraged. I think that TV advertising is a force that is demoralizing, not encouraging to families. That is the thesis that I have. That is the value base that I am working out of.

When I started thinking about this I started thinking, okay, what is the role of parents, what is their

responsibility in raising their children, and what is the responsibility of Governments to be involved in that?

I think it is clear we all assume that parents have the largest part of responsibility of raising their children, and one of the things that parents feel responsible for is monitoring what their kids see and do and what happens to them, especially when they are under 13. Once you get teenagers, it becomes a little bit more difficult. So the question is, are parents able to monitor TV ads?

I think you all realize how difficult it is just to monitor a TV program when you look at the TV guide and say, this, I would like my child to see and this, I would like my child not to see, so let us do something else. But the ads are something else. As a parent, you have no control over the ads. You do not know when they are coming on. You do not know what they are going to say, and you cannot come running from the kitchen to turn off the TV when G.I. Joe toys are being advertised. It is just not possible.

So what happens is the values that you are teaching your children, that are important to you as a family, are counteracted by the values that your children are getting on the TV and especially on the TV ads. There are all kinds of examples that I can think for my family. Obvious ones are war toys. I resist getting my son guns and all the other paraphernalia because I do not value violence, but the TV puts this forward. Other obvious examples are the cereals that are mostly sugar, mostly candy, when I believe in good nutrition.

So the values that I and other parents try to teach our children are counteracted by the values that they get in the TV ads and that we are not able to control. There is nothing that you can do. You do not know when an ad comes on. I think the role of a Government is to do everything they can to support and encourage the families in the community.

\* (2220)

The other thing that, as I was talking at the supper table with my kids and my husband about this, I said, what should I say about the whole consumer mentality that we get on TV? And my daughter said, well, children are shown a world where there is always enough money to buy everything that they want. I said, yes, that is right. That is what you are shown, is it not? And so we talked about it and we said, yes, families have a budget and so my kids know that they cannot get everything they want. It is really hard for little kids to understand that. It is especially hard for poor families. It is incredibly hard. It is devastating for the parents that are constantly bombarded by the consumerism of TV, to say, to be a worthwhile person you have to have this, this, this, and this.

So those are the main ideas that I have when I see it as destructive to families. It is not supportive and encouraging to families. It is not something that parents have any control over. I would strongly urge that this committee recommend that here in Manitoba, as in Quebec, we ban advertising for children under 13.

**Mr. Kozak:** Mr. Chairman, the presenter certainly strikes a responsive chord. However, I might ask her if, in her

presentation, she is asking us to regulate the content of Manitoba-based stations only, or if she is equally concerned about the content of stations that are available to Manitoba viewers via cable and satellite connections?

**Mrs. Johannson:** Obviously, the only place where we have any ability to regulate is in Manitoba and in Canada. We do not have the ability to regulate cable or whatever stations come in from the States. The reality, of course, is that most poor families do not have cable.

**Mr. Kozak:** Mr. Chairman, it would then be satisfactory to the presenter if we applied a strict standard to the local stations, while a much more liberal, shall we say, standard is available to Manitoba consumers in the form of the large number of cable and satellite stations available within the province.

**Mrs. Johannson:** The question is, if you see a problem, do you say, I cannot solve this problem totally. I cannot ban it totally; therefore, I will do nothing. Or you say, this is important, and I will do what I can. I believe that every little step you make is important, that you cannot change the world, but you can do what you can do here, and what we can do here is ban advertising here in Manitoba from the local stations here.

**Mr. Kozak:** Once again, I reiterate that the presenter is certainly striking a responsive chord; however, I would like to make a suggestion to her and ask her reaction.

As legislators, we are all aware that one of our first duties is to ensure the credibility of our actions. In other words, when we pass legislation, it is important that it be legislation that we can enforce, thereby ensuring that this Legislature has standing and respect in this society. If we undertake an action that can be enforced only with regard to some television channels widely available in the province, and that cannot be enforced with respect to the vast majority of the television stations available in the province, would the presenter not agree that perhaps we are undertaking action that exposes this Government's credibility to question?

**Mrs. Johannson:** I think I answered that in the last question. I think you make decisions and you make rules based on what you know is the right thing to do. Now, you cannot legislate what is happening in the States. Maybe that is something that you could lobby Governments in the States, if groups could do this, if they felt this was something you could do, but you do not say, I will not do anything because I cannot do everything.

**Mr. Kozak:** Mr. Chairman, in line with what both the presenter and I have been saying, I wonder if the presenter is presently in contact with federal Government officials who have the primary responsibility within Canada to regulate communications in this country.

**Mrs. Johannson:** As I understand it, the Quebec Government has already brought in legislation which

makes me believe that it is perfectly possible for a provincial Government to legislate this.

**Mr. Kozak:** Sure we can. Mr. Chairman, my purpose is not to suggest that it is out of our power to regulate the local stations. I am, however, suggesting to this presenter that the vast majority of the problems she alludes to are beyond the regulatory power of this Government. I make the suggestion to her in all friendliness that she carry her message to the federal Government as well, which has the primary responsibility under our Constitution for the regulation of communications in this country, certainly all interprovincial and extra-Canada communications.

**Mrs. Johannson:** Thank you for that suggestion. I think it is a very good one.

**Mr. Maloway:** Mr. Chairman, to follow up on some of the comments of the Member for Transcona (Mr. Kozak). He made the suggestion that somehow that you should be looking primarily at the federal level. I just wanted to point out for clarification that in fact while broadcasting is under federal jurisdiction, it is advertising that is under provincial jurisdiction and this amendment deals specifically with advertising only and not the broadcasting part of it.

Also, I wanted to point out that while this particular amendment has been in Quebec now for 10 years, it in fact was challenged in court by Irwin Toys. The Supreme Court of Canada decided last year, to the Member for Transcona, that in fact the Quebec law was constitutional and thereby it opens it up now for each province individually to take its individual action. I believe the presenter alluded to that before when she suggested that the long journey begins with the first step, that we should as a matter of principle take a stand whether we are able to capture the entire problem in one scoop or whether we are just taking a piece of it. Obviously, if we just take a piece of it in Quebec and a piece of it in Manitoba and it moves across the country, Saskatchewan, Alberta and B.C., we move toward solving that problem. I did think that your presentation was dead on in a number of different areas.

\* (2230)

I also wanted to ask you whether or not you feel that the Department of Education should perhaps be assuming a bigger role in providing education programs, because the lobbyist Sanderson Layng and others, who are lobbying against this amendment from Global TV and others, have been suggesting that somehow in Quebec children's programming has dropped off somewhat over the last few years because of this amendment. I wondered what you thought about the idea that at least we have been advancing that perhaps the whole area of children's programming should be under the Department of Education and funded by the taxpayers as opposed to being left out there in the private market.

**Mrs. Johannson:** That is a new idea for me. Just off the top of my head it sounds like a good idea. I thought when you started talking about education you were

going to say, should there be consumer education in the schools? I asked my three kids if they had ever—and they are teenagers—in school learned about how you look at advertising so that you can understand what they are saying, whether it is true or whether it is false, and how you make judgments. The three of them said, no, nobody has ever talked about that.

**Mr. Maloway:** Mr. Chairman, I would like to turn the chair back to my friend, the Member for Transcona (Mr. Kozak), if he would like to follow up with some more questions.

**Mr. Patterson:** Mr. Chairperson, I do not want to, as a scientist, be accused of making a lot of sweeping generalizations from a random sample of one, which is myself, but I fully understand your concerns, Miss Johannson. But I can say that, first of all, going back, I have lived a good many decades and I recall the Depression, and in the midst of the Depression, the advertising—granted there was no TV—but the print advertising in mass circulation magazines like Look and Life and Saturday Evening Post and so on. We were inundated with print media from the United States just as we are with TV programs today—along with our own advertising—just as much oriented at the good life, the alleged middle class and so on, in spite of the dire economic straits that existed then.

I also feel, and one does not arrive at this at an early adult age, but looking back now I can see that pretty well all, or certainly most, of the real fundamental values that I hold are, we did not realize it at the time, but what you get at home from your parents in the formative years, probably up to age eight, either by example or by direct commands or teaching, and by osmosis, so to speak. And while one rebels against a good bit of that, particularly in adolescence and early adult life, with one's own experience in life, one finds that they are there and one comes back to them.

So I would not despair too much about your real concerns and some of the exposure that young children get. Now, in Winnipeg since 1954, it has been some 36 years now since television came to Winnipeg, so there is a generation grown up that are in their late '30s and early '40s who have been exposed in their formative years to television and all its evils along with the good things that are there too. I do not know, but I would suggest that, let us say, the 35-year-olds of today who have been exposed to all of this probably have some pretty solid beliefs if their parents established it with them by teaching or by example, and that the other, let us just call it the undesirable, types of exposure are more or less subconsciously put away or in the background.

I am not necessarily speaking against your brief in pointing this out, but I do want to, from my own point of view, give you some encouragement, that it is not quite as dark as it might seem. So I think if parents fully realize, as you point out, that you cannot control the ads and be running in to turn it off and so on, if there is some firm and reasonable control given over the exposure at least to the programs—you cannot control the advertising—and with other discipline, love, or whatever, example of the parents, that the message will come through.

**Mrs. Johannson:** You raised a number of interesting comments and ideas in your short discussion there. One thing we have to realize is the family of today and the influences on the family of today are not the same as when you or when I was raised. We live in a different world, and one of the things that is happening is our families are breaking down. The whole thing about how values are transmitted—the TV is an incredible influence, much more than it ever was. When we think of, for example, two parents working, coming home, getting supper, or a single parent—what happens? Pick up the kids, put them in front of the TV while Mum is making supper.

The TV is used much more as a babysitter than it ever was when you or I were being raised. The influence, the amount of time—I do not have figures—that kids spend in front of the TV set is—probably they spend much more time in front of the TV set than they do with their parents. The values that kids learn on the TV—you say do not despair, and sometimes I do despair. I try to teach my children co-operation, negotiation, listening to other people, and the values they learn on TV is, if you cannot get something you bop somebody over the head to get it. You fight. Those kinds of values and the values they get from the ads are there, coming in to all our families. And not everybody has the luxury of being able to say, okay, I will turn off the TV, or we do not have a TV, because the time and energy parents have to give to their children is so limited in the society that we live in today, especially if both parents work.

**Mr. Laurie Evans:** I think I understand what you are getting at, but I would like a little more clarification as your definition of advertising aimed at children. I am not sure exactly what you mean by that, because you are talking, in latter comments, about coming home to make supper, which I assume is somewhere five or six o'clock in the evening. Are you looking at restricting advertising over the entire broadcasting period, or are you looking at specific times during the day? I guess the reason I am bringing this in is I personally have some concerns regarding the whole aspect of civil liberties. Then you get to the situation where you are actually looking at censoring—or do you not want to use the terminology "censoring?"—because it looks to me as though, okay, you are going to then control what is available for kids that are 13 and under, but are you going to control it on a 24-hour-a-day basis?

I would like a little more clarification as to exactly what you feel would be the appropriate way of implementing this.

**Mrs. Johannson:** The whole point about the ads is, as a parent you are not able to censor them. You are not able to say, okay, we are going to turn it off while this ad is on. You do not know when it is coming on, you do not know what it is going to say. So if it is there, you do not have any control over it. We know the kinds of—I am not sure how the Quebec legislation is enacted, if they have—I have not got it in front of me—how it is put forward. There are many ads that are obviously directed directly to children, like this is the cereal you

should eat, chocolate Cocoa Puffs in the morning, boys and girls. It is fairly obvious, most of it, where it is directed and you know it is put on when the kids are watching cartoons.

\* (2240)

**Mr. Laurie Evans:** Would you go so far then as to regulate the advertising of Pepsi Cola and Coca Cola on the assumption that something that is high in sugar content should not be made available to children? I am not trying to be facetious here, but I would like to know where one draws the line, because it seems to me you do not have control over what is in the programming either, other than what you can interpret from the TV guide. So your children are sitting there watching something and there are other little kids in the program that are sitting drinking Coca Cola or something. Is that worse than an advertisement for that particular commodity?

**Mrs. Johannson:** It is obvious when you look at the ads. You know who the Coke ads are directed to, and the Pepsi ads. They are directed to the teenagers. You know where the beer ads are directed to. They are directed to the upper-teen, 20-year-old: go to the pub and have a good time. When you look at an ad you can see who it is directed to, if you sit down for a minute and think about it. I am sure you can all do that when you see the ads, you know who they are talking to.

**Mr. Laurie Evans:** It seems to me that McDonald's, for example, much of their advertising is directed at relatively young people, and yet as a parent I do not regard that as being offensive. Would you feel then that the advertisements for McDonald's should be restricted and not permitted, other than for specific hours? What I am getting at here—it seems to me you and I might have quite different versions as to what is acceptable for my 10- or 12-year-old child, and then who is going to be the one who makes these decisions?

**Mrs. Johannson:** You are right, you and I might have different values as to what we want our children to see, but the point is, if I do not want my children to see this, I do not have a choice. It is there. And yes, I do object to McDonald's ads because they use styrofoam containers. When I go to McDonald's I take my own cup—I thought twice about drinking out of this but I was so thirsty that I did. But the point is, yes, we might disagree, but I do not want those ads coming into my household and right now I do not have a choice. I do not know when they are coming on and I do not know when I can turn them on or when I can turn them off.

**Mr. Harapiak:** I have followed with interest your comments, and I agree with you, there are some difficulties in some of the programming that is—not only advertising but also programming that is on television nowadays, and having raised five children, I have lived through some of the difficulties you go through. I think it is almost easier nowadays, with the VHSes that are available, and some of the programs that are available. Maybe you have some more control

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that way, by giving your children some of the programs they can watch.

I am wondering, you said you and your husband were teaching parenting classes. What type of support—or has this subject been raised with the people who you are teaching parenting to? Has there been some support in that area, when you are discussing it with the parents you are involved with?

**Mrs. Johannson:** That has not been a particular area that we have talked about. We talk about, in our class, communication skills, leadership skills, listening and things like that, and have not focused specifically on things like this. But you cannot talk to parents for five years without getting a feel of what it is like to be a parent today, and the stressors that parents are under. And the whole thing of the consumerism, and the stressors of parents in terms of, I cannot give my kids all the things that they want, and they are bugging me and bothering me, and how can I deal with this. You know, it is pretty obvious the kinds of things that parents have to deal with.

**Mr. Harapiak:** I agree with you. There are some difficulties and although I think this is a small step, and it is difficult to control all of the advertising and the programs that children are subjected to in our society, but I think it is a step in the right direction, and we appreciate your comments.

**Mr. Maloway:** Thank you, Mr. Chairman. A further comment, and actually I was going to make reference to Mr. Evans and suggest to him that the actual guidelines that we are talking about, to control the advertising, are actually in the regulations and not in the Act. So what we have done, is we have left it up to the Minister, as is normal in these situations, to draw up the guidelines. Now, I—the Member for Transcona (Mr. Kozak) smiles—I do not trust the Minister with this either, but unfortunately that is really the only option we have.

It is more or less a statement to the presenter, that in fact the regulations, the Quebec regulations, specify as to what is considered advertising directed to children of 13, and what is not. We have to, unfortunately, leave it to the Minister to decide what those regulations are, but with input from people like yourself and other interested people.

The reason for regulations, as opposed to putting into the Act, is so that regulations can be changed by the Cabinet as conditions change. That is normal in legislation.

**Mr. Chairman:** Very good. Any more questions to Mrs. Johannson? Thank you very much for your presentation.

**Mrs. Johannson:** Thank you.

**Mr. Chairman:** Ms. Maxine Hamilton. Ms. Hamilton, do you have a written presentation?

**Ms. Maxine Hamilton (Private Citizen):** No, unfortunately. I do, however, have notes.

**Mr. Chairman:** Very good.

**Ms. Hamilton:** I come to the committee as a parent. I have raised, I think relatively successfully, four beautiful children. I am also an educator. I am a teacher in a Winnipeg high school. I wanted to address a number of issues related to the advertising directed at children on television.

We have before us I believe an amendment which is a variation of the Quebec legislation. It is not identical to the Quebec legislation but a variation of it. I would like to recommend it to the committee for its consideration.

One of the things that I would like to suggest is that television is an entirely different medium than a print medium. Some people have said that the print medium revolutionized society when we had the press created and it made fundamental and revolutionary changes in the way people thought and the way information was presented.

I would like to suggest to the committee that the electronic media does exactly the same thing. It has tremendous impact on the lives of people and it has tremendous impact on the way people think and operate. Some educational researchers have suggested that it in fact changes the ability of individuals to think logically and digitally. An emotional and impactful kind of visual media has tremendous impact on the way children and adults can conceptualize and the way children and adults perceive reality. Therefore I would suggest to this committee that when messages come on an electronic medium, it is a fundamentally different kind of conceptual framework than when they come before a print medium.

One of the things I would like to suggest is that I do not think any of us would worry about advertising directed at the very young, probably would not worry about it, if the advertising was directed at healthful products, if they were projecting images and if they were projecting lifestyles and if they were projecting values that the community at large felt were valid and valuable and what we wanted to see.

If the advertising was trying to convince our young children that they should drink milk and eat their veggies, I do not think we would be that concerned. On the other hand, we have an end product where products are being sold to very young children at a very impressionable age, which a lot of us would not like to see as prime values; cereals filled with sugar, with all kinds of artificial additives; toys that are designed to break down tomorrow; toys that are designed not to fulfill educational values, but to fulfill values of a corporate ethos. That I have real problems with.

\* (2250)

I would also suggest that some of the advertising to our very young children has other implications because of the very tremendous impact of the kinds of media images that we get; for example, the notion that all you have to do is pop a pill and all your problems go away. Initially it is aspirin or some other kind of little

thing. Maybe it is something to calm your nerves. But that value, that notion that life's solutions come in these little instant packages, are being sold and packaged in what seems to be something that yes, an adult should be able to conceptualize and counter through their rationality. A child does not.

I would suggest that the medium itself puts a pre-framework in which a child will never—well, I will not say never—but is less likely to be able to conceptualize logically as they become an adult.

One very, I think, well-accepted educational theorist, Neil Postman, who wrote a book in a good blue cover called *Teaching as a Conserving Activity*, said that the business of education and curriculum development is to monitor and adjust the informational environment so that its inherent business and drift does not monopolize the intellect or the character of youth. Plato for example indicated that the dominant form of information in a culture shapes the intellectual orientation of its citizens.

Curriculum development as educators look at it is commonly defined as a course of studies whose purpose is to train or cultivate both mind and character. It has a purpose in totality to influence, teach, train or cultivate the mind and character of our youth. This same educational theorist suggests that the first curriculum is in fact the television. He goes so far as to say that it is perhaps more influential in totality on the lives of children than all of the education that we try and design with all of our public dollars that go to the whole educational package that we present in their 12 years and beyond perhaps, hopefully.

There is some data, unfortunately the data I have is American, but if it translates, I suspect it will translate to rough comparisons for Canada. Between the ages of five and 18, which is the basic K to 12 age group, on average the school—a child is in school 2,340 days or 11,500 hours. Estimates of TV viewing, although not entirely definitive, do give an idea that the best estimate that some of our educators come up with is that between the ages of five and 18 a child on average watches 15,000 hours of television. If we add to that the radio and record media, they probably listen to somewhere on the average between those same ages about 20,000 hours of electronic media. That, my friends, is double the time that they spend in school.

One of the things that comes out of that is a value of an all-instant society. The electronic media has these instant images that change constantly. TV advertisers, by the way, use them much more effectively and much more skillfully and with much higher budgets than most TV programs.

Aside from the fact that I disagree with the values that are presented in this and the totally useless products frequently that are substituted in children's minds for the healthful products that the parents would like to see their children adopt, there is another concern. That is the development of logic and the ability to think critically.

The suggestion that comes out again of Postman is that the digital image and the pictorial image operates

in one half of the brain's function, whereas the print word operates in the other half of the brain's function. The end result is that if you are working in a print medium, you begin to read and deconstruct in a format that is both logical and has a continuum. It is there and it can be critiqued. As one gains maturity, one can gain in one's ability to critique that message that is in front of one. When one is in an electronic media, it is instant, it is here, it is gone, but it also works on the emotion rather than on logic and rather than on fact.

One of my concerns is that we are looking to the long-term qualities of the kinds of images, the kinds of learning that young people will have, the ability to analyze reality and come up with healthful lifestyles, also educational values, the ability to deconstruct reality in a way that is logical and analytical so that one can empower oneself by making good critical judgments.

When one is bombarded by a learning situation from a very early age whereby logic is thrown to the wind, what it is replaced with is instant gratification and a medium that works on the basis of emotion and pictorial image and is instantly and constantly changing and cannot be easily and readily critiqued, and it does not lead to logical judgments.

There are even concerns raised by some educators that it interferes with science, because it is a totally different type of logic, a totally different kind of learning situation. I am stating that as an educator. As a parent, I am much more concerned about the values that come in those messages.

I would like to suggest that I too believe that we need to take one step forward. I disagree with the suggestion that we will be setting up a two-partite system, that we could be regulating Manitoba industry and leaving the American inputs to do what they will. I would suggest, with all due respect, that up until I believe 1988, for example, in Manitoba, we regulated liquor advertising on TV. I believe, and you can correct me if I am wrong, that affected all station inputs. I would suggest that if we are the Government of Manitoba we can control what happens within the cable aspects of our programming. We cannot control what people bring in by satellite, but we can regulate.

One of the nice things about this particular amendment is that it does not act as a complete censor. It simply sets up enabling legislation by which a Minister can determine the criteria by which things will be approved for submission and transmission. It is not a particularly complex piece of legislation. It is a modification of the Quebec legislation. By the way, I agree with the fact that we did not go with the totality of the Quebec legislation.

**Mr. Chairman:** Thank you. Questions, Mr. Kozak.

**Mr. Kozak:** Mr. Chairman, I will do the committee the favour of not repeating anything that was said with respect to the previous presentation.

I have one further point to raise, Mr. Chairman. The Canada Act has as an integral part the Canadian Charter of Rights and Freedoms, which guarantees equality rights and freedom of expression to all

Canadians. Because of these guarantees which are an integral part of our Constitution, those who would support the concept of school prayer have found themselves fighting a losing battle. Those who would like to restrict the operation of adults-only video stores or other outlets dealing exclusively in pornographic material have found that they have been fighting a losing battle.

I would like to ask the presenter if she is not explicitly asking this committee to restrict the freedom of expression of certain individual Canadians, specifically advertisers?

**Ms. Hamilton:** Absolutely not. In fact I am quite cognizant of that libertarian argument that seems to be dragged forward every time something of the individual rights of minorities is brought forward as being in need of protection.

**Mr. Kozak:** I will not pursue this line of questioning. I raised the point that I raised because I feel it is very important that it show on the record.

I would also like the record to show that I am presently sponsoring a petition aimed at the problem of adults-only video stores and other stores dealing exclusively with pornographic material. Being accused of being a libertarian is not the accusation I expected.

**Ms. Hamilton:** I would suggest that you should not then have used the libertarian argument. I would also, by the way, object to using that argument in support of pornographic materials. This is a totally different question.

\* (2300)

**Mr. Kozak:** Thank you for your indulgence, Mr. Chairman, any my thanks to the presenter for her extremely well thought-out comment.

**Mr. Maloway:** Ms. Hamilton, I would like to ask you the question, too, about how you see the role—being a teacher—of the Department of Education and the possibilities there for it to assume the role of providing adequate children's programming in light of possible drops in children's programming should this be passed.

**Ms. Hamilton:** There is good educational programming occurring now. It would be nice to see it expanded. In fact, I think that area of consumer education is even one of them, although I would like to warn the committee. Because of the concerns that I raised about the emotional impacts, I would suggest that simply countering advertising by programming that is aimed at teaching children to be good consumers is not necessarily an adequate response. It does not totally answer or counter the situation.

**Mr. Chairman:** Thank you. Any more questions? Thank you, Ms. Hamilton, for your presentation.

**Ms. Hamilton:** Thank you.

**Mr. Chairman:** Mr. Alan de Jardin. Have you a written presentation, Mr. de Jardin?

**Mr. Alan de Jardin (Private Citizen):** No, Sir. I apologize for that, but I will provide you with one in the near future if that is acceptable.

**Mr. Chairman:** Well, that is fine. It is being recorded. That is fine; just go ahead with your presentation.

**Mr. de Jardin:** Mr. Chairperson and Members of the committee, my name is Alan de Jardin. I am acting in my capacity as a private citizen. Just by the way, I did not think the Members of the committee would have been made aware earlier of my appearance, but I would like to thank you for the fresh flowers at the base of the grand staircase.

We have been here a long time, and you are a long-suffering group, and I think a little levity occasionally does not hurt.

**Mr. Chairman:** Go ahead with your presentation, please.

**Mr. de Jardin:** I would like to thank you for allowing me to attend. I wonder if I could not say just briefly several points in terms of an expansion of the remarks that were made by Ms. Martin just several presenters prior to my own presentation. I found Mr. Patterson's comments very enlightening and very helpful and, I think, on the right track in terms of where we were going in that area. But what I would like to suggest is that it is very difficult in this day and age for a white, Anglo-Saxon male to understand what minorities go through in terms of cashing cheques and that sort of thing.

It is quite easy for myself or for Mr. Patterson to say, well, I think that the bank of origin should cash that cheque, and that is what we learn when we are privileged to go to senior institutions of learning, universities and that sort of thing. However, if you are a powerless person, a minority or somebody in that category, it is extremely difficult to go to that bank of origin and have them cash that cheque. Unless you are in that position, unless you walk in the shoes of somebody like that, it is difficult to understand that you would be turned away. But that is what occurs.

I would also like to suggest as a further expansion that most of us sitting around the table have cars, so that we can hop in our car and we can go to that particular branch. Many people who are powerless in this situation do not have cars, so they do not have that capability. Further, if you are handicapped, that is another problem that you have to overcome. Fourthly, banks will very often not accept accounts from people who do not have any other income besides welfare. Then they will turn around and say, well, you do not have an account here, so we are not going to cash your cheque. Fifthly—and I do this too; it is so very easy—we say quite glibly, why do you not cash it at Safeway? Why do you not cash it at SuperValu? Well, if we look around, there are very few Safeways, if any, and very few SuperValus in the inner city. They do not locate there. Those people are not their constituency.

Six—few minorities would get a serious hearing from a bank manager. Very easy for us to stand at a teller's

window and say, get that manager over here PDQ. It is very difficult when you are not empowered in our civilization to do those kinds of things. So I pass that on, because it is so easy. Quick story—I have often felt that, if somebody came down from Mars in one of these space ships that we imagine are floating around, he would probably look at our society—if he picked up a phone book—and look at all the institutions that we have to call on, and he would say, there is no use me staying, because they are well taken care of here. If there are any problems, they have all the institutions to handle the problems.

Well, we know better sitting around the table, because we know that the institutions do not work. You see, if the institutions function, if the theory worked, then the practice would be accepted and you would have no presenters, which I am sure that would be a much more pleasant occasion than the one you have gone through now. At any rate, thank you for hearing those comments. I would like to thank you for allowing me to attend. It is my hope that the Legislature, through these hearings, will understand the need for a new and more comprehensive Bill of Rights for consumers.

It is important that we go beyond the buyer-beware mentality, which sees us mired in a Neanderthal age which allows elderly, handicapped, youth, women and others to be severely damaged in this society. Now, you have heard from a vocal few businessmen who want things left as they are. I want to assure you that they are in the minority, as I would suggest is our Chamber of Commerce on occasion. The majority of business wants not only a level playing field, which we have heard so often, but they want fair and firm rules honestly applied. May I offer a few suggestions?

One, wherever an item is replaced—excuse me, I should wait until you are finished talking. I apologize.

**Mr. Chairman:** No, go ahead. That is fine.

**Mr. de Jardin:** Oh, sorry. Wherever an item is replaced in our consumer economy, such as car repairs, it should be made mandatory that the broken part be returned to the customer, not just offered but packaged, labelled and returned. Now, I recognize this will not prevent all fraud in the area. You will get garages that will break the item and then return it, but it would go a long way in making car repair shops and others think twice before replacing working parts. A little later on, I will give you a specific example of that having occurred to me, I am sure it has occurred to most of us.

(2) The Consumers Bureau, and I say this with the greatest sense of fairness and equity that I can muster. Mr. Chairman and Members of this Committee, the Consumers Bureau, and I hope you have heard this time and time again, is not effective. I will repeat that for Don Zasada. The Consumers Bureau, sir, is not effective.

\* (2310)

May I suggest very simply, and I gather most of my strength from not my technical expertise, but hopefully from the common sense of my arguments, give it the

teeth to do the job or abolish it and save the money, let us not fool around.

Now in terms of giving you some substance in that regard, I would like to read a letter that I addressed on August 31 of last year to Mr. David Crumb, Provincial Consumer Affairs at 114 Garry Street. Dear Mr. Crumb: As requested the following detailed complaint re Canadian Tire.

(1) Monday, February 20, 1989, my car would not start. It had been in the garage, plugged in overnight, none of the electicals worked, not even the overhead light.

(2) I had a tow truck tow the care to Canadian Tire at 157 Vermillion Road.

(3) After they checked it over, I was told I had left the lights on overnight and had run down the battery. I had not. I believe they released the car the following day for no charge. I told them at that time the trouble would continue because they had not found the source. I have a lifetime Canadian Tire battery so there was no charge for the recharge, and I paid the tow.

(5) Wednesday, February 22, 1989, two days later. As I had suspected the car was again totally dead. I had it towed to Canadian Tire, they paid the tow.

(6) Canadian Tire billed me \$642.16 in charges. The three major items, starter, ring gear, electrical aerial had all been working prior to taking the car in. When I drove out of the shop that day, the starter did not work properly and I could only get a few FM stations on the radio. After seeing the owner, Roger Emery, he said I did not have to pay any of the bill and to bring the car in again. I insisted on paying half of the bill because I believed they would further repair the car.

(7) I returned to them several times. They did seem to spend a great deal of time on the car, nothing worked. The electicals which I detailed on the bill as having gone out of service since their electrical repairs deteriorated further: trunk light, flashers, glove compartment light, right window, et cetera.

(8) I am now of the opinion that the starter and ring gear did not need replacing and further that the aerial was actually damaged in the shop. It may have burnt out while they were experimenting with the fuses, et cetera.

(9) When Mr. Emery finally said his shop could not complete the repairs, he sent me to Canadian Tire on Pembina Highway. I am sure you have all gone through this runaround.

(10) On Pembina Highway, they told me they could not repair the starter or aerial, et cetera, but they could repair the brakes which squealed. I allowed them to do that on the understanding they would not be paid until I ascertained the brakes had been fixed. I had some difficulty picking up the car without paying the bill, as previously arranged, but as I suspected the brakes returned to their former disrepair after only two days. I did not pay that bill.

(11) By the way, prior to going to Emery's Canadian tire I had had the starter and ring gear replaced by Canadian Tire on St. James Street.

(12) Not only has Canadian Tire not been able to repair the car, but they have created considerably more damage than originally existed.

I would like these items fixed promptly to my satisfaction. If they are not, I would like all monies returned, together with sufficient monies to repair Canadian Tire's damage and a sum for all my time and aggravation. That is a pretty detailed letter, not as complete as one I heard earlier, but fairly detailed.

I went with that to the Consumers Bureau and lo and behold the Consumers Bureau said, wait a minute, all we can do is persuade, persuade people to do something. I do not know what the budget of the Consumers Bureau is, I do not know how many people it employs, but gentlemen, I ask you, if you knew that was all they could do, would you change a business practice you believed in? Not too likely.

I am sure the bureau will show you with their statistics of "success", but I would like to ask you to look beyond theories or polls to find the truth of their ineffectiveness. Give them the tools, and I think they would love to have them. Give them the tools they need to right consumer wrongs speedily and firmly, or, and I am quite serious about this, abolish the bureau and save the money. Let us stop faking the public out. Let us do it or not do it and let us have the guts and the backbone, the spine, the stamina, whatever is needed for a politician to stand up and say we cannot do that effectively now so we are going to wait until we can do it properly we are not going to fool around. That is the bureau.

Item 3, quick story. I belonged, some time ago, short time ago, to a health club on St. James Street called, I think they just keep changing their name, they are one step ahead of the bill collector, and I do not mind being quoted on that. They were Gold's and then they were Take Twenty and now the President's and they, I think they are registered under health maintenance organization. They have as many names probably to suit each of the pieces of equipment they have in the facility. They have about 14 showers in the facility for membership in excess of 5,000.

At a point in time when 13 of the showers were down and there was one shower available, I decided that it might be appropriate to call the Health Department and ask them if they could not encourage this particular facility to get the other 13 showers running. Now gentlemen I was just absolutely shocked when the Health Department told me, not only could they not get the 13 showers up and running, but that facility did not have to have a shower on the premises.

What kind of dark ages are we in when a consumer can go to a facility which is intended supposedly to get the pounds off you and make you sweat and struggle, and they are not required to provide the normal washroom facilities that we would have at home? I would suggest that we really have to go back to these Bills and decide what is important in our society, and what we should be doing as a minimal level of accommodation, to certainly an era that believes in a lot of health and fitness.

That was number 3. Number 4, another short story. Sunday, and I think it is important that, and I thank

you very much for listening to this list of items, I think it is important we understand that there are many, many things going wrong and I am just pointing out a few of them and maybe we should begin to start rebuilding the dike instead of just plugging holes in the dike. This is another hole in the dike.

\* (2320)

I received a very nice stand-up Sunbeam heater from a friend of mine for Christmas. It went on the blink and I took it back to the facility that is responsible for these things, the Sunbeam Appliance organization, I will clean that up later, the Sunbeam Appliance organization. They told me that they could easily fix the heater that I had, and would I like that one back or would I like another one in replacing it?

As I looked around, I said, you have very inexpensive items here and he proudly pointed out a toaster that they had, a Sunbeam, as I understand it, which was about \$70 and he said you know that sells for \$110 at The Bay. I began to get, as Alice said, curioser and curioser. I said, how can you do that? He said it is interesting because we are a Sunbeam outlet, but he said that is not exactly a new toaster. I said, what do you mean by not exactly a new toaster? You see, I am one of these naive people. I think when people sell me something from a retail shop, it is new. He said it is remanufactured. What do you mean by that? These items that we have in the store, when they come off the Sunbeam line, if they are damaged or if they are not up to par, not something we would want to warranty, we put them aside. We fix them and then we send them out and we put them in stores like this.

Now gentlemen, I am sure you are as amazed as I am, these items are being sold as new items. They are not, they are damaged items and should be sold as damaged goods and should be marked as such. It is about time we began to call a spade a spade. It seems to me that legislation is not that difficult in this area, very difficult.

I agree with Laurie Evans, what the hell do you do in terms of deciding what is good and what is bad in terms of what children should listen to and that is a very difficult problem, this is not. It is new or it is used, and that is what it is. If it is "remanufactured," let us get rid of those weasely kind of words. Let us pass a law which requires any item sold to the general public to be identified as new or used, very simply. Slippery words such as remanufactured can often make the product sound new.

This also amazed me. The starter which I complained about, which did not help my car very much, supplied by Canadian Tire, was not a new one. I was never told that. It was an old one which had been reworked; it came from down east and they are sold by the carloads for less than \$20 a piece. I can bring you three junk dealers that you would love to hear some stories from in that area. That particular item cost me between \$250 and \$300, to put in a used starter and it did not take them an hour's labour. I bet you wish you were making those kinds of wages.

Item number 5. This is a particular sore point because every once in a while, and I will not bring you gentlemen

into this, I am not able to pay all my bills. I am sure that all you gentlemen around the table are always able to pay your bills. Credit reporting agencies, their reason for being is what, is to make people responsible. Is it too much to ask the same of them? At the present time they are not legally responsible for the information they disseminate. I am amazed. I mean, I am the constantly surprised kid on the block. What the hell is happening here? What kind of society have we got? Have we not got a very, very limited number of things to do in terms of the importance of this Legislature? Does the Legislature not have to suddenly sit up, take notice and say, these are the items we have to do and we are going to put off pinning ribbons on the boy scouts tomorrow and doing a lot of unimportant things and say, this is what we have to concentrate on, this is what we have to do?

Now I am sure if the credit reporting agencies were responsible, were held accountable in the courts, they would give the reports they hand out a lot more scrutiny than they do at the present time. Quick story—I tried to get some credit. The Credit Bureau turned me down. I said, why, and I went to see them. One of the funny little things that they have, by the way, and it is my supposition again and here I am wrong again, is that they want me to pay what I should pay, but they do not, you see, because they do not want to give you a copy of your file. They do not want to give you a copy of your report. Now if you had a copy of your report, maybe you could pay the bill, but they do not even want you to know what the bill is. Let us keep this a secret, okay.

Finally, much pulling and tugging, and they would not let me make a Xerox of the items that I was supposed to owe, so I had to copy them down in my own handwriting. I spent 17 years in the States, and I had three department store cards that I used. I was accused of owing a couple of thousand dollars to each of the department stores. I thought that is impossible, because I have never in the lifetime of living in Baltimore, Maryland, charged that amount. What they had done quite neatly, you see, and this is a practice that they do, they add up your accounts from month to month. So what they had done, is from the time these department stores had started reporting that I owed them \$125 that I had forgotten about, they added January, to February, to March, to April, to May, to June and consequently put the principal in five or six times.

I hope I have been of help. I am prepared to answer any questions you may wish to ask.

**Mr. Chairman:** Any questions? Mr. Maloway.

**Mr. Maloway:** Sounds like you should be the Minister. We probably would have a lot more action than we have right now. I wanted to point out to you that once again your presentation seems to probably fit much better in with Bill 64, which is The Business Practices Act, which in fact, once in place, if it ever gets in place—if the Minister is able to get away from the business people that are holding him up on this one and get this thing into committee and get it passed—when we get it in effect, it would I think have solved a lot of the

problems you indicated. Especially with Canadian Tire and so on because it deals with unfair business practices in the province. It is in effect in seven provinces right now, I believe, and it will give the Consumers Bureau the power they need and they should have.

**Mr. de Jardin:** Would it for instance prevent the kind of advertising Canadian Tire do? If you do not receive satisfaction, then you get your money back or whatever. These signs are all over the place, and it does not happen. I have to go back to the older institutions like Eaton's or The Bay who stand by their word.

**Mr. Maloway:** Mr. Chairman, well my suggestion would be that you check with the Clerk after your presentation and get your name on the Bill for Bill 64, and then we can enjoy your entertaining presentation a second time. I for one would like to hear it a second time.

**Mr. Harper:** Mr. Chairman, I just wanted to indicate my appreciation for your comments respecting some of the minority groups. Also, as an Indian person I had a lot of problems in dealing with banking institutions or even cashing a cheque. I speak from personal experience. I even had the bank manager tell me through the teller that he did not want to see me, his wish was that. I do not know what exact words that he used; he said he has no interest in seeing me at all. I did not even know the bank manager personally but he knew who I was.

\* (2330)

Basically, I have a lot of other circumstances that I can describe to you, many times that these things have happened to me. I appreciate, you know, a "WASP" saying those words. I hope that your presentation, your comments in respect to that helps some of the committee members to understand some of the situations of the minority, especially the powerless group of people that are in that position. Especially—I have other constituents that come in, try to buy trucks or vehicles, especially during the winter road season. They are putting that pressure because the winter road season is only really a short period of time, that they can have access back to their communities. They are putting pressure on to buy any vehicle. I have had people come in to buy a truck. I know one instance where a truck was advertised as, I think \$9,000, and then he bought it for \$18,000.00.

**An Honourable Member:** Oh, gosh.

**Mr. Harper:** They had doubled the price. He noticed in a truck magazine it was advertised, the same vehicle, for \$9,000.00. We could not really do anything. All I did was write a letter to the truck owner, or the company at that time, and just left it at that. There was no response for that.

I just want to indicate I appreciate your comments on that. Hopefully, we will make some progress on recognizing some of those people in those positions.

**Mr. de Jardin:** Yes, I would like to thank the Member particularly for those words. They are much appreciated.

Just a quick side comment. I worked for the Fort Alexander Band and assisted them in purchasing a store from a white owner on their property, on band land. I am hoping now that the members of the band will be cashing their cheques at their store instead of the white man's store. I think that is a very important area. I do a certain amount of table pounding to get my way and if there is any occasion that I can help the Member I would certainly be willing to do that.

One other quick item, you mentioned winter roads. I have made a suggestion. I happen to be a member of the Liberal Party—they do not always claim me—but I am a member. I have taken a suggestion to Mr. Chretien, who I think will be the next Prime Minister of Canada, and suggested to him that one of the main planks of his platform should be the building of all-weather roads to Native reserves. I think it is disgusting that the Native people, who are the original people of our province, have to wait during the winter to get appropriate building materials, et cetera, over winter roads.

**Mr. Chairman:** Okay, thank you for your presentation. Thank you very much. We will go to the next presenter. Miss Christine Burton, is Miss Burton here? No, she is not. Bev Nicol, is Miss Nichol here? No. Dr. Wendy Josephson, also not here. Miss Karen Burgoyn, is Miss Karen Burgoyn here? No. Miss Becky Barrett, which one is that?

**An Honourable Member:** Becky Barrett.

**Mr. Chairman:** Ms. Becky Barrett, boy, you had to wait a long time for that one.

**Ms. Becky Barrett (Private Citizen):** I am going to—

**Mr. Chairman:** Excuse me, have you a written presentation?

**Ms. Barrett:** No, I do not have a written presentation.

**Mr. Chairman:** Okay, very good, go ahead.

**Ms. Barrett:** I am going to be, I promise, very brief. The hour is late and not only that, but several other presenters this evening have talked very well on the topic that I have come before the committee to discuss. That is the proposed amendment to Bill 63 to ban advertising for children 13 years of age and younger. I agree with all of the comments that have been made in support of this ban, dealing with the manipulation by advertisers of a very vulnerable age group, the pressure that it puts on parents in our society where the traditional family is changing, and the need to provide some consumer legislation in this regard.

What I would like to do is comment briefly on something, an element that has been mentioned by Mr. Maloway and a couple of the presenters, which is the Supreme Court decision coming down in favour of the Quebec law, and against Irwin Toy company. I would like to just read into the record, if I may, a summary of some of the recommendations that that Supreme Court decision made which may help the Members in their further deliberations on this Bill or this amendment.

In summary, the objective of regulating commercial advertising directed at children accords with a general goal of consumer protection legislation. This, I think, is a very important element, that this advertising ban that this Act looks at, or this proposed amendment looks at, is part of the larger consumer protection legislation, and to my way of thinking, and I believe obviously the Supreme Court of Canada's way of thinking, does not mean that broadcasters cannot broadcast. It is talking about advertisers, not broadcasters.

The consumer protection legislation is to protect a group that is most vulnerable to commercial manipulation. That is the youth of our country, the children 13 years of age and younger. The age 13 may be fairly arbitrary although there is a long historical tradition in many countries and many societies, that 13 is the age of maturity. So I imagine that is part of why that age was chosen. This young age group is very open to commercial manipulation.

I think commercial manipulation is not a bad phrase, considering that clearly a company such as Irwin Toy—and I do not have accurate figures but I do know that commercials cost a very large amount of money, \$10,000, \$50,000, \$100,000 in some cases to produce. Then you have to add to that the media buy-costs for the air time on commercial television. So there is a lot of money involved in the production of these advertisements. They are obviously not being put on the air as educational or as charitable kinds of activities. They are there for the corporate bottom line of making money. They would not be doing that if they were not successful in that regard. I think that we definitely have to look at that element. Children are not as equipped as adults to evaluate the persuasive force of advertising, and advertisements directed at children will take advantage of this.

I think another statistic is that, dealing with persuasive force and repetition, we all know that one of the things about advertising is the more you say it over and over again finally the threshold is reached. It comes into your subconscious, and a good portion of us actually go out and do something as a result of that advertisement.

A statistic that I have reached from, again, North American rather than just Canadian content, children from the age of five to 18, which granted is a little higher than the age we are talking about 13, but starting at five, and we know children do not just start watching television at age five, children from the age of five to 18 will watch a total of 675,000 commercials if they watch them at a rate of a thousand a week which is a legitimate rate given what Maxine Hamilton was saying earlier about the amount of television that children watch. This is a statistic which is open to, I am sure, a great deal of discussion and debate and probably from the other side, a toy company's side, would be open to debate.

My point here is that children watch an enormous number of commercials. They are very vulnerable. They do not have the capability that adults have of tuning out or turning off or dropping out, sorry, of advertisements the way adults will be able to do whether

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they have the clicker on the television or not. They are not able to do that. They are not able as adults to distinguish between commercial and program.

Certainly in the Saturday morning commercial television, as we all have seen it—I have trouble sometimes distinguishing between a commercial and what is the program. There are some programs that exist solely in order to sell a product, Teenage Mutant Ninja Turtles springs to mind, that type of programming. So this enormous number of hours of broadcast commercials that a child is exposed to in our society has to be looked at and monitored and regulated.

\* (2340)

The last thing that the summary that I would like to share with you from the Supreme Court decision was the Legislature, that being the Quebec Legislature, reasonably concluded that advertisers should be precluded from taking advantage of children by insighting them to make purchases, and by insighting them to have their parents make purchases.

Again, back to the argument that peer group pressure is very strong. Both Mrs. Johannson and Ms. Hamilton talked about children from disadvantaged homes and children from poor homes. That is a very great concern, yes, the peer group pressure where you know that you cannot begin to accede to the requests and the urgings of the children as a result of, not completely but a great deal of, this television advertising that they are exposed to.

It is not only the children of the people who are financially disadvantaged. It is all of our children. My children were not financially disadvantaged and I worried about their wanting things. I think every child wants more than they can have and has that situation where parents have to say no. Given our current society where things are difficult enough as it is to deal with families growing up, with families splitting apart, with all of the stresses of the late 20th century life that we lead, this additional pressure on parents of all socioeconomic groups, all cultural groups when the federal Government, it appears, is taking away virtually all of the aboriginal newspapers, television, radio support, those kinds of programs. I say "appears" because we do not know what the specific details are.

The aboriginal children in the city and on the reservations are going to have just one more element to make their lives more difficult, one less role model. The role models they are really going to be dealing with are the role models that are provided by children's television and the advertising that does a great deal to support that children's programming, which I think if we could get a good, solid across-the-country legislation regulating, and in many cases precluding this type of broadcasting, the programming might very well improve as well. That is the end of my presentation.

**Mr. Chairman:** Thank you, Ms. Barrett. Questions? Mr. Kozak.

**Mr. Kozak:** Once again, out of respect for the lateness of the hour and the shortening attention span of

committee Members, I will once again not repeat a line of questioning that has been raised earlier in the evening by the two presentations on the same topic.

I would simply like to ask the presenter if she could provide me, please, with the date of the court case which she cited involving the Province of Quebec and Irwin Toy before the Supreme Court?

**Ms. Barrett:** April 29, 1989.

**Mr. Kozak:** Mr. Chairman, that is certainly sufficient for our further research on this matter.

**Mr. Chairman:** Any more questions? Mr. Minister.

**Mr. Connery:** Ms. Barrett, were you not called for the meeting tonight?

**Ms. Barrett:** Yes, I was called for the meeting tonight.

\* (2340)

**Mr. Connery:** I was just wondering because the Member for Elmwood (Mr. Minenko) said you had not been called for the meeting tonight. Our staff had called everybody and we just wondered if you had not been called. I just wanted to clarify that.

**Ms. Barrett:** I was called for the meeting tonight, I do not recall being told that tonight would be the final—

**Mr. Connery:** Yes, but you were called.

**Ms. Barrett:** I was called, yes.

**Mr. Chairman:** Thank you. Any more questions to Ms. Barrett? If not, thank you for your presentation.

Next presenter, Mr. Garth Whyte, he is representing the Canadian Federation of Independent Business. Have you got a written presentation for all Members?

**Mr. Garth Whyte (Canadian Federation of Independent Business):** Yes I do.

**Mr. Chairman:** You do? Can they be distributed?

**Mr. Whyte:** Yes. I had requested not, but it does not matter.

**Mr. Chairman:** Oh, okay, fine. You would prefer that they be distributed then right after your presentation, is that correct?

**Mr. Whyte:** Yes, that is correct.

**Mr. Chairman:** Very good. Your wish is our command. You may go ahead, Mr. Garth Whyte.

**Mr. Whyte:** Thank you very much. Thank you for your patience, I know it has been a long evening for everybody.

The Canadian Federation of Independent Business appreciates the opportunity to present its concerns with

The Consumer Protection Amendment Act, Bill 63, to this Committee. The Canadian Federation of Independent Business, or the CFIB, is a non-profit, non-partisan organization founded in 1971 to promote the interests of independently owned enterprises. We represent approximately 85,000 members across Canada, and they are basically small- and medium-sized businesses in all provinces and all major industries. We have about 3,500 members in Manitoba.

It is important to express our concern with the overall approach Manitoba has taken concerning consumer issues before we discuss in detail our concerns with this Bill. With the introduction of Bills 63 and 64, it appears that the Government is taking a piecemeal legislative approach. We feel more time is needed to investigate the problems to identify what we want to achieve and to build consensus among consumer groups in the business community. A more extensive and comprehensive dialogue with a broader range of consumer and business groups will lead to a more solid, longer-lasting foundation of true consensus of how Manitobans can be ensured of a fair and honest marketplace. In this way we will be better able to achieve a balance of rights and responsibilities between consumers and business.

However, instead of developing a consensus building approach, it appears with the introduction of Bills 63 and 64 that this minority Government is taking a piecemeal legislative approach to consumer issues. This emphasis on legislation to regulate the consumer marketplace can lead to the following concerns:

- Often legislation changes are not justified and therefore are not warranted. There is an apparent gap between policy-makers' perceptions and market realities. Consumer protection legislation generally should set out rules for the fair transaction of business. The rationale for such legislation is to correct market failures, however, we need to first document the problems by indicating their severity and determining how widespread they are. In any given year in Manitoba there are literally billions of business/consumer transactions, there are thousands of such transactions in one day. The 2,000 to 3,000 complaints registered by the Department of Consumer Affairs are not indicative of the practices of the vast majority of suppliers in Manitoba. Perhaps better targeted legislation focusing on the specific problem areas will better address the problem without negatively impacting on the vast majority of businesses.

\* (2350)

- There is an emphasis on legislation, rather than consumer education. Educational initiatives, not consumer legislation, should be used as a front-line method of preventing marketplace problems. More resources and time should be allocated to consumer education. CFIB's recent mandate survey found that 64 percent of our members support mandatory consumer education in our schools. An informed

consumer who is knowledgeable about the marketplace is a much more powerful defence against abuse than a handful of bureaucrats armed with legislation.

- Some amendments to Bill 63 suggest that Manitoba business and consumers are at a confrontational loggerhead and are continually experiencing problems. In fact we would suggest the opposite is true. Business, especially small business, must maintain a good relationship with their customers in order to continue to do business. Good customer relations is essential to the long-term existence of any business. Our members support the objective to protect those people who may be grossly taken advantage of by a few unscrupulous suppliers. Legislation does have a role to deal with these types of disreputable individuals, but the Government must be cautious not to tar everyone with the same brush.
- Loosely written, sweeping legislation does not help consumers or enhance consumer protection. Likewise some laws will be so strict that business and Government cannot possibly meet the expectations created by the new legislation. Instead, it will be a boon to the legal profession as new words are argued and interpreted and new avenues for litigation are further exploited.
- The increased costs of complying to the new legislation will mean that smaller firms can no longer afford to provide such services. Consumers will suffer from less choice, increased prices and fewer product innovations as firms respond to some of the proposed legislative changes.

To avoid these aforementioned problems, the CFIB suggest that Manitoba start a process that brings consumer and business associations together to develop legislation that truly will help consumers. Having made that recommendation, we realize that most of the amendments in Bill 63 are housekeeping matters to clean up The Consumer Protection Act, and I will speak directly to the issue in that Bill.

When considering Bill 63, there are four areas where we have major concerns. The first area is Section 11, which deals with 58.2, Warranty Contract Liability. Now we are aware that this was introduced in 1987 and we know it is already in the Act, 58.1 and 58.2, but it is still worth addressing. We feel that this section should be removed for several reasons. First, the CFIB does not believe that there are widespread problems with misleading or unfair warranty coverage across Manitoba. If any problems do exist, we believe they are confined to a handful of sectors and best addressed through very sector-specific legislation, for example, on car repairs or home renovations. Yet even in these areas we are worried that any attempt to further standardize warranty coverage through legislation would only stifle the very competition necessary to produce innovative improvements in warranty coverage. The real challenge is to promote education of

consumers to help them seek and compare the best warranty coverage as they become more discriminating shoppers.

We are particularly disturbed by the proposal to hold the retailer responsible for a manufacturer's written warranty if the manufacturer did not maintain adequate service facilities in the vicinity. The attitude put forth by this section appears to be warranty protection at any cost, even if it bankrupts the innocent retailer. This provision especially penalizes many wholesalers and retailers who purchase products from offshore manufacturers. It is counterproductive to current economic trends towards freer world trade and globalization of manufacturing and distribution.

In the long run, if joint and several warranty obligations were strictly enforced, consumer choices would be seriously eroded through the reduction of inventory in many small businesses to avoid potential liabilities. Manufacturers' prices would also climb to pay for extensive insurance and investments required by such protectionist legislation.

To compound the problem, this section includes extended warranties. It is unfair and unreasonable to make merchants responsible for extended warranties which is someone else's product and which is an agreement between the buyer and a different vendor. For example, this section would require that an optometrist is responsible for extended insurance coverage on a pair of contacts which was a contractual agreement between the buyer and the insurance company. Therefore under this section, if the insurance company goes out of business, the optometrist is held responsible for a product she did not guarantee. The same scenario can be applied to other goods and services such as appliances, automobiles and even life insurance sold through a travel agent.

More thought needs to be given to this issue. This section is confusing and clumps together the concepts of implied warranties, expressed warranties and extended warranties. We strongly urge this committee to delete this section and further amend 58.1 and 58.2 pending a proper, broad-based consultation process.

The next section we are concerned with is Section 12, Cancellation Within Four Days. It is the cooling off provision for door-to-door salespeople. The cooling off provision which applies to direct sellers has been increased from four to ten days. Ten days is too long a period to use as a cooling off period. Also, the use of a specific number of days will be very confusing to both consumers and the seller, since they will not be sure if Sundays, Saturdays or statutory holidays are included. We suggest the term one week from the time of purchase be used. Most other jurisdictions are moving to a one week time frame. It allows for a reasonable cooling off period, and most people understand one week as a time frame.

**Section 17, Offense and Penalties**—The penalties for contravening The Consumer Protection Act have increased dramatically and are more severe than most jurisdictions. For example, fines for individuals have increased from \$1,000 to \$3,000 for a first offense, and from 2,000 to 10,000 or imprisonment up to three

years, from three months previously, for any subsequent offense. Fines for corporations have increased from \$2,000 to \$10,000 for a first offense, and from 5,000 to 25,000 for a subsequent offense.

Do not get us wrong. We want to get those bad acts, and they should be penalized. The question I have is, what is the justification for these increases? Is it due to inflation? Why are these hefty increases warranted? These changes suggest that there are serious, increasing problems between consumers and business. We believe the opposite is true. Billions of transactions occur between consumers and business every year in Manitoba with very few problems. Again, what is the justification for recommending such heavy penalties? I have not seen them. Is it because the problem has become prevalent, or is it because the Government wants to update its legislation? I repeat, our members want to punish unscrupulous suppliers, however the changes in this section implies that it is a growing problem because the penalties are not stiff enough.

The fourth issue is part 15 on prepaid services. We assume that the intent of this part is to protect consumers who pay lifetime memberships to a fitness club, for example, and the club closed down after one year. At first blush, this new legislation seems appropriate. However, after further investigation we question if it is necessary and we are concerned that it discriminates against certain businesses. If there is a serious problem, this issue should be addressed. Once again, we wonder how serious this problem is. Is there justification for new legislation or are we proposing it because some other jurisdictions, such as Ontario, have similar legislation?

We are very concerned with the vagueness of this part which is intended to deal with a specific problem. For example, under Section 121, the definition of services, article (c), the Ministry has the power to expand the Act to include such other activities, clubs or matters as may be prescribed by regulation. The broad definition further states it may include instructional services.

What does this mean? Could this particular concern not be handled under The Private Vocational Schools Act? On the other hand, non-profit organizations are exempt under this part. This further gives an advantage to non-profit, and we are a non-profit organization, gives further advantage to a non-profit organization even though it is possible that they too could mislead consumers.

\* (0000)

I might add that 20 percent of our Manitoba members stated that competition from non-taxable enterprises was a significant problem. Rather than having a broadly defined legislation attempting to deal with unique circumstances, the Ministry should develop specific legislation which focuses on specific problems in specific industries. Manitoba has already done this in some cases such as The Prearranged Funeral Services Act. Similar legislation could be developed for specific sectors as the need arises, for instance, Ontario has a Pre-Paid Travel Act.

We must be careful not to tar all businesses in an industry category just because one disreputable

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company was the problem. Not only does this legislation tarnish the reputation of certain services and facilities, it dictates the terms of reference for the contracts it has with its customers, for example, you cannot have a contract longer than one year and it determines the number of installments that must be paid.

It appears that this legislation is very subjective since this problem can only occur under this Act in fitness or modelling organizations, for example, but not in golf, curling or racket clubs. Finally there is a problem that this new legislation will penalize the law abiding, reputable companies and will not impact on the scam artists for which it was written.

This type of legislation is a reactive response to a perceived problem, however, it does not protect consumers from future scams which this legislation does not foresee. We feel a more appropriate approach to deal with this type of problem is consumer legislation. For example, consumers should be very careful not to sign lifetime memberships to fitness clubs or racket clubs. It is worth repeating that an informed consumer who is knowledgeable about the marketplace is much more powerful defense against abuse than a handful of bureaucrats armed with legislation.

Thank you.

**Mr. Chairman:** Thank you for your presentation. Questions, Mr. Kozak.

**Mr. Kozak:** Thank you, Mr. Chairman. I would certainly like to thank the presenter for his comments regarding consumer education and the primacy of consumer education in consumer protection matters. They are comments that I myself have made on previous occasions, and I am certainly pleased that the presenter echoes those comments today.

I would also like to express the opinion that the presentation by the Canadian Federation of Independent Business with regard to warranty contract liability, Section 58 of the proposed Act, very closely reflect comments made to this committee on a previous occasion by the Consumers' Association of Canada. The similarity in comments between the Consumers' Association and the Federation of Independent Business is of some interest to Members on this side of the committee.

However, with regard to Section 94, Offenses and Penalties under the Act, I wonder if the presenter could suggest to us that he well understands that the large size and substantial financial capacity of certain large corporations does justify substantially higher fine limits than were the case, in future.

**Mr. Whyte:** Mr. Kozak, I appreciate that the fines probably had to be updated. My question, I guess, back to the committee, is there a rationale for increasing the fines? Is a number being picked out of the air? Is it because there has been an increase in complaints and there is a problem and people feel that the fine is not that adequate that we had to raise the fine? These are some of the questions.

It is not that our members are against fining those bad acts. We are concerned with that so I have to put

that on the record. What is the justification because there is another side when you read this that implies when you increase a fine for corporations fivefold that there is an increased problem here. Our concern is that we do not want to build a wedge between consumers and business, we should actually try and get a consensus and get them together.

**Mr. Kozak:** There is certainly some significant overlap between the presenters' comments and comments that have been made from this side of the floor. However, with regard once again to fines, offences and penalties under the proposed Act, would the presenter not concede that even the increased fine levels, the increased fine limits, are very, very trivial in relation to the financial capacity of a corporation such as Imperial Oil, and that providing greater discretion to the judiciary and the levying of fines against extremely large corporations might be called for even though one can very well question why these particular limits were chosen.

**Mr. Whyte:** Perhaps Imperial Oil could pay these fines, but 95 percent of all businesses in Manitoba have less than 50 employees, 90 percent have less than 20 employees. This Act applies to them as well as everyone else. Having said that, there is not a large percentage with these fines that apply to any of them because they are good corporate citizens.

The question I have back to the committee is the rationale for these fines. I had not seen them. I just want to know how serious is the problem. I realize that you have to update your Act and I am certainly not going to continue belabouring this point, but it was just a question I put forward to you when we raise such fines.

**Mr. Kozak:** I will not continue this line of questioning. I suspect at some point, in response to the question that has been posed to us by the Canadian Federation of Independent Business, the Minister will provide us with further insight as to his rationale regarding fine limits.

**Mr. Maloway:** Mr. Whyte, I had just a few questions of you regarding your presentation. I was wondering, I am familiar with your surveys that you take and I assume these are on a national basis and not broken down by province, but I am wondering whether, you are no doubt aware that seven provinces, I believe, have unfair business practice legislation, or at least shall we say, tougher consumer legislation than we have in Manitoba. Have you surveyed your members on a national basis at all, to your knowledge over the years concerning their attitudes toward this type of legislation?

**Mr. Whyte:** Off the top, I do not know if we have or not. I would have to look into it, Mr. Maloway, but to answer your question, yes, we are aware that seven provinces have Business Practices Act and we are aware that the majority of that legislation was introduced in the 1970s.

We are currently with the Ontario Government which is also considering amalgamating all their consumer

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legislation and you know what happened? They took a step back. What happened was, we had the Consumers' Association and the Retail Council, the Canadian Manufacturing Association, the Chamber of Commerce, the Canadian Federation of Independent Business, and other groups working together, building consensus on a whole bunch of things of what we were trying to achieve to get a fair and honest marketplace.

It has been really good and I guess that is what I am suggesting here. We certainly do not suggest that we follow Ontario, but in this instance they are being a leader in this and they have taken a step back. Would it not be nice if we could get those groups together? Now we can, as Mr. Kozak pointed out. Our presentation sounds very similar to the Canadian Consumers' Association in many respects. We are not surprised about that.

**Mr. Maloway:** I recognize that there are different forces at play here, and perhaps 10, 15 years ago there was a climate which lent itself to tougher consumer legislation perhaps than right now. The other forces that play, of course, are the Free Trade Agreement and the move for free market. I just wondered whether you had been testing your membership and were keeping abreast of where they are, because I understand where your organization is. I mean, you are on the leading edge of sort of right-of-center or right-wing economic philosophy in this country and we recognize that. I just wondered whether you had checked with your members and whether your members are keeping up with you or whether you are keeping up with them.

\* (0010)

**Mr. Whyte:** Mr. Chairman, we met with your Leader last Thursday, and he might maybe talk to you about what we talked about. We also met with Mrs. Carstairs on Thursday as well. We meet with all Parties. We have some people, a member of your Party as well as the Liberal Party and the Conservative Party in our membership. We work on the principle of one person one vote. You look at our policies on local economic development and cutting grants to business and on training, and I think you will find that we are in a far right-wing organization. I guess I should be berated for not meeting with you personally to fill you in about our organization. Yes, we have been serving our members on a whole bunch of things. They despise unscrupulous suppliers more than anybody because it gives them a bad reputation. They are pushing for consumer education. Our members are not big bad business. The average size of our members in Manitoba is 12 employees.

**Mr. Maloway:** Mr. Chairman, the fact of the matter is, of course, that I do agree with you on some points, and I have here a mandate survey that I got a couple of months ago when your federation did a survey of businesses, I believe, in Canada. The question was, should there be regulations protecting the public from advertising by businesses via fax machines? Eighty-one percent of the small businesses indicated that there should be regulations, 10 percent said no, 5 percent were undecided, and at no interest in the issue was 4

percent. Just to show you how quickly we responded to that concern, we produced an amendment that we will be attempting to bring in, once the presentations are over, to actually ban advertising through fax machines. I was wondering whether you might want to endorse us on that endeavour.

**Mr. Whyte:** Our policy is dictated by our membership.

**Mr. Maloway:** Thank you very much.

**Mr. Chairman:** No more questions, Mr. Maloway? Mr. Evans, Fort Garry.

**Mr. Laurie Evans:** Mr. Chairman, my concern is more in terms of the level of consultation that took place. I gathered, maybe wrongly from your presentation, Mr. Whyte, that there was little, if any, direct consultation with your organization prior to your actually receiving these Bills after their having been presented to the Legislature, or am I wrong in that?

**Mr. Whyte:** You are correct, but, having said that, we are establishing a good relationship with the Deputy Minister, Mr. Zasada, and he has been more than open with us on this issue. Having said that, I talked to the Retail Association today and I would think that would be a significant group to talk about this type of legislation. They were not contacted. I was the one who informed them about these two Bills. Now I think as a group we have to have more discussions at that level. Get the groups, like the major players, like the Retail Association and the Consumers' Association and the CFIB and the Chamber, and get us all together to work out proper and long-lasting consumer legislation.

**Mr. Laurie Evans:** I would certainly agree, because I would go on the adage, if it ain't broke, don't fix it. It would seem to me that there is in some of these cases the inference, at least in this legislation, that there is an attempt being made to correct things where there has not been a problem. From my own standpoint, I do not know how many different transactions I have had over the many years buying and selling things. I would suspect that the unfortunate circumstances are probably less than 1 percent of the total number of times that I have had a business transaction of one type or another. So it seems to me that in some cases we are looking at using pretty heavy legislation in order to correct the relatively minor problem.

I would hope the Minister would be thinking in terms of broader consultation before Bills of this nature which are going to impact on so many people get to this stage. I do not know whether the Minister feels there was adequate consultation or not, but the interpretation I get from Mr. Whyte's comments would be that perhaps their group was not the only one that felt they were sort of on the outside looking in until it was too late to have meaningful input, except at this sort of a level, which I think is a little bit too late.

**Mr. Kozak:** I would just like to have the record show that, although I neglected to mention it earlier, the presentation made to us by the Canadian Federation

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of Independent Business, by Mr. Whyte, parallels the presentation of the Consumer's Association of Canada on one other very major point, with regard to Sections 61 and 62, Cancellation within four days. I would suggest that the convergence of views between the two very different organizations on this other major point should be of significant interest to this committee.

**Mr. Chairman:** Mr. Whyte, no response? Great. Any more questions? Mr. Minister.

**Mr. Connery:** Well, on the question of the days, and of course, we initially brought in 10, with the advice of the consumers. Seven days would seem to be more appropriate. Now it is mentioned one week, because it gets away from Saturdays, Sundays and that sort of thing. We had an amendment ready that would go for seven days rather than 10, so we are flexible on that, and so we look forward.

On the case of fines, I guess, what is an appropriate fine? Judges, of course, make the decision as to the appropriate fine. It is not the department that would decide what the fine would be. These are maximums. I guess the fine would suit the crime, so to speak. We can take a look at The Environment Act, which calls for fines up to a million dollars. One of the small businesses, in the same sense, could be liable to a fine of a million dollars. While it would not likely ever happen in a small business, having a small pollution problem is not going to get fined a million dollars. So I guess I am not so concerned as to somebody getting a large fine that really should not get one. I think all judges are very cautious and would fine appropriately.

You know, there was one large retailer in Canada that was fined \$1 million for a gym fraud. Of course, \$1 million to that particular large-sized company was required to have a deterrent. So \$25,000 to a large distributor in Manitoba would not be that offensive, but we are open to suggestion.

The warranty one I have some concern with. I guess, some comment from you—if we have somebody selling offshore fridges and saying that there is a five-year warranty on it, and then when it comes time to warranty it, the store says, that is fine, there is a warranty. Now if you ship it back to Taiwan, they will fix and you pay the freight there and back. I mean, where do we get into the warranty? If they are going to say—they should maybe say, look, there is no warranty, it is a Taiwanese fridge, and therefore there is not warranty, or if you want the warranty, you are going to be responsible for shipping it back. If the warranty is part of the sales, then of course the warranty should be done.

I recognize what you are saying also, though. If a company goes out of business and somebody has sold a lot of product, are they going to then be held responsible? That is a good point. I think that is a point I would like to discuss with our people and maybe with yourself further. It has raised a point that was not brought to my attention, and I think it is a very valid one. So, you have raised some very valid points that I think we need to pursue. I think the Consumers' Association is also looking at some of these. By and large, I think your presentation is good.

I still question that the fines—I think a judge will determine what is an appropriate fine. I would not be worried that somebody selling a hammer fraudulently is going to get a \$25,000 fine, so I hope that we can have some caution there. (interjection) Depending on the size of the hammer, yes, but thank you for your presentation.

**Mr. Chairman:** Thank you, Mr. Whyte. We will now have to take a break, because we have to change the tape.

**Mr. Whyte:** I will get a chance to respond to Mr. Connery's—

**Mr. Chairman:** Okay, go ahead, Mr. Whyte, but make it short.

**Mr. Whyte:** Two things—on the fine, Mr. Connery, again, we just want to know the justification. That is all. If it is just a hip, knee-jerk type, shooting-from-the-hip type increase, then you see, that gives a perception that is a major, major problem. So we just want to know, that is all. If it is warranted, no problem. As far as warranties, perhaps I can discuss it after the tape is—it is a longer thing, so—

\* (0020)

**Mr. Chairman:** Okay, thank you very much. We will have to cut it at this point. Thank you. We will have a—how many minutes break do we need? Two minutes? Okay, two-minute break.

**RECESS**

**Mr. Chairman:** Order, please. Will the committee come back to order, please? Back to order. Mr. Maloway, you had a question for Mr. Whyte—Mr. Whyte, okay, wait a minute. Mr. Whyte was responding—

**Mr. Whyte:** The second part of Mr. Connery's question about warranties.

**Mr. Chairman:** That is right.

**Mr. Whyte:** There is a compromise that came up in Ontario between Consumers' Association and all the different coalitions of different business interests. I have it here. It was on express warranties. They are looking at going towards New Brunswick consumer protection Bill, and I do not know the name of the Act, the full name. What they do there is they make it incumbent upon the seller to identify what the warranty is, but they also state that the person who has the warranty is the one responsible for it. Like, if it is a manufacturer warranty, that it is the manufacturer who is responsible for it, but the seller would be required to disclose any express warranty that came with the product, including the identity of the warrantee.

If a product fails and the consumer cannot locate the warrantee, the seller would have to give reasonable assistance to the consumer to locate that warrantee. Only sellers would be responsible for both implied and

express warranties for use or substandard goods. So, you know, it is again, where do we lay the blame? At the same time, how can we work together to ensure that the product is being met in a reasonable—

**Mr. Chairman:** Mr. Minister.

**Mr. Connery:** Well, if Mr. Whyte would give us that amendment, maybe tomorrow, you know, but by tomorrow, then I would distribute it to the other Parties also so that we could discuss it. I am open to suggestion, and if the other Members thought it was good—but the changes asked for in the warranty was actually asked for by the Chamber of Commerce when Dorothy Dobbie was the president. So we were responding to the Chamber of Commerce in that particular thing, because warranties are there.

I also would like to say, Mr. Whyte, that we are lobbied by the business community quite strongly by letter and by phone to get rid of the bad apples in the business place, because some businesses do not want to lower themselves to the level of those few bad ones and are asking us to bring in legislation to get rid of them. In fact, the home warranty, or the home repair people, are a group that are looking for legislation to ensure that the home repairs are done properly so that they have a fair go at that business without getting into the type of business that we do not want.

Another thing, in Ontario, we look to see how offensive this was to business. In Ontario, under the Business Practices Act, there were something like a hundred charges laid in Ontario with all of the businesses. Relating that back to Manitoba with the numbers, it would be something like 10 or less charges, so it is not as though this legislation goes out and really raps the heck out of business. There are not a lot of charges laid, but it is there and it does help us when we do come across those bad apples, too.

I think it is also a deterrent that once the legislation is there, a lot of people then decide, hey, we now can get hammered, we can get caught, we can be fined, and back away from it. So I do not think, in the case of good businesses, honest businesses getting caught by this legislation is not that great of an item for them. I do not think we are really out that far on this particular Bill.

There are a couple of areas; the warranty we would look at. The days, I think, we are modifying anyway; maybe you have even one step better with the committee. I am prepared to talk about it in the committee when it comes down to that part; maybe another change. I do not know, but we are prepared to take a look at it. No. 17 was the fines. We said, why the change in fines. Sure. Some of the fines put in in Ontario were 1974, '75. The size of the business—I do not think that a \$25,000 fine would be an onerous fine on Eaton's, for instance. I say that not because they are a good business, but by giving you an indication of the size.

So, some of the fines that were there before for a big operator was a licence to steal if they really were rotten. So we were trying to bring them up more so

that they were a deterrent, but a judge would make the determination of the size of the fine.

In 15 (1) the lifetime warranties are really a problem that is there. The ones where we have seen the bankruptcies or going out of business you can almost tell in some cases. They are advertising lifetime memberships—not warranties, memberships—and all of a sudden they are gone. There is a real concern there. I think Mr. Mathews, Ken Mathews had some very good comments from a good broker and bonding and so forth. That also creates some problems for the department. So really, on this Bill 63 we are not an awful long ways out with the business community.

**Mr. Whyte:** Mr. Chairman, thank you. I have a couple of comments. First off, if the Home Builders Association makes a suggestion and they perceive a problem in their particular sector, then that is what we are suggesting. It should be a specific legislation that deals with that specific problem, instead of sweeping legislation that tries to cast a net to catch everyone when there is not a problem.

The question on warranties, when you were talking about warranties, how many—a couple of questions—complaints have we had concerning warranties over the years? How many of them have gone to the courts? Secondly, as far as prepaid services, how many, for example, modelling companies or modelling groups have actually caused the problem that we are trying to solve here, for example?

**Mr. Connery:** In modelling groups I do not know. We know in the fitness side there has been a lot of companies that have gone out. Of course, if they are not doing anything wrong or not trying to skim on somebody, scam on somebody, then we are not going to be pursuing it. We see in the automobile industry there was I Team from CBC had a scam on, so where do you pick out? We would have about 75 pieces of legislation if we went industry specific, or sector specific, really the misleading, deceiving sort of thing.

\* (0030)

**Mr. Whyte:** Looking at your own corporate statement, the areas where we have most problems are in the automobile industry and in the home builders industry. When you go after that it diminishes. Why I ask the question is, when we talked to your officials, I do not think they could think of one incidence with modelling, for example, modelling companies where there has been a problem. Likewise, when we went through the list there was not any instances.

When we went and asked about how many companies in total had there been problems with, let us say, lifetime memberships, we were not sure. We actually did not know. Again let us validate what we are doing here. If it is only five or six examples, let us get those people. We are committed to getting those people, but let us not get things that we are arbitrarily saying you are in and you are out. Racquet clubs are out. You do not have to worry about racquet clubs, but dieting, you are in. How many dieting companies or services have

actually caused problems in Manitoba? I suggest we do not know.

If that is the case, even Ontario very specifically defines who they want to get. They specifically define. They do not have a section (c) where it says, such other activities, clubs or matters as may be prescribed by regulation where again we may not—if we are not consulted—have an opportunity to sit before you and say why is this particular association or club being included in the legislation. Then we go on and further say in the definition, and may include instructional services. What does that mean? We have a lot of problems with these very sweeping and broad definitions.

**Mr. Connery:** The reason for me picking on you, if I pick on you, then Mr. Maloway will start to support you, so that is why I am trying to help you out.

**Mr. Maloway:** More of a statement, I guess, than a question, and sort of a wrap-up too, I suppose—we were talking during the break. Mr. Whyte, you are aware that this Bill was introduced as Bill 22 by our caucus before. The Minister, in his zeal to photocopy it and bring it in, basically took the cooling-off period from our proposal of seven days—

**Mr. Chairman:** Mr. Maloway, I want to remind you. Ask the question to the presenter, please, on his brief.

**Mr. Maloway:** Thank you, Mr. Chairman. Our proposal was in fact seven days, in the Bill. The Minister is the one who came up with the 10 days. Quite frankly, I am happy with what he did. Now I find that he is trying to back down and withdraw, and he is looking for support to go back to the seven days. I do not know what to think of that, but it is very clear that he really does not know where he stands on this. One day he brings in a Bill at 10 days, and then the next day he wants to go back to seven, no more than two or three weeks later.

In terms of the fines, again in The Business Practices Act—I realize that is Bill 64, but we have been talking about it as well—his fines were an improvement over the piece of legislation that we introduced. I do not know where he is planning to end up on that score. Those are my comments there. I will be pleased to talk to you further about this.

**Mr. Whyte:** Mr. Maloway, as I was aware, you introduced the Bill. Since we do not play favourites, it is incumbent on me to state that you also did not consult us.

**An Honourable Member:** That is true.

**Mr. Kozak:** Mr. Whyte has brought his concerns in a very specific way to this committee. May I ask him if he in general feels that if these concerns are addressed in a speedy fashion, the CFIB would find this Bill, in general, constructive.

**Mr. Whyte:** Yes.

**Mr. Kozak:** Would Mr. Whyte suggest to us that this Bill in fact can be amended in a speedy way? Are the

suggestions that should be implanted in this Bill clear enough at this point that this Bill can be passed, can be amended and dealt with by this committee speedily? The Opposition is very anxious that this Bill pass in appropriately amended form prior to the very fast approaching end of the Session.

I wonder if you feel that the suggestions that you have to make are close enough to germination that they can be brought forward very fast.

**Mr. Whyte:** The preferable route would have been, before introducing any Bill, that the concerned parties would be brought together to think of solutions to the problems. Our preferable route would be to get those groups together and work out the actual solutions to what we are trying to achieve here. That is No. 1. We would say, concerning Bill 63 and 64, that let us sit down and work out meaningful consumer legislation.

Since I know that there is an agenda to get things through, and you have been through a long Session, we have put forward the amendments that concern us. We feel that, I guess, if those were addressed, that we would not have any problems with this Bill.

**Mr. Kozak:** I was simply attempting, of course, to elicit Mr. Whyte's opinion for the benefit of this committee. Members of this committee certainly recognize that amendments to the Bill before us will have to be made. This side of the committee, however, is extremely concerned that the amendments to be put on the table and considered by this committee not delay this Bill beyond the very fast approaching end of the Session. I feel somewhat reassured that although Mr. Whyte feels that central consultations should have occurred earlier, that appropriate amendments probably can be made in an unfortunately short time frame.

**Mr. Findlay:** We hear Mr. Whyte talk about consultation and wanting further discussion. I would ask him if he was here earlier this evening when Mr. Zador was giving his presentation. If he was, I would ask if he would tell us how best to deal with the unfortunate circumstances he was caught in, how you prevent those things from happening in the future.

**Mr. Whyte:** I do not have answers to all horror stories. One different approach is, and I am certainly not an expert in consumer legislation and there are a lot of unfortunate incidents, but I think there was a very good question—did he go to the Motor Dealer Association? I think they would come down harder on that particular company than any other group, first off.

Obviously when there are some questions asked—we have only heard one side of the story, but I think consumer education would be very important as well. Is this a rampant problem? If it is, then we should make sure that the public knows about it. I guarantee that company would not be in existence very long. I certainly do not have all the answers. We certainly do not condone what occurred in Mr. Zador's case, but that is one anecdotal case.

**Mr. Findlay:** Just one more quick question then. Certainly we have only heard one side, and there may

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be another side to the story. Do you, as CFIB, feel you have a responsibility to search for the truth and find resolution to prevent further incidences if it turns out that there was something done wrong there?

**Mr. Whyte:** Absolutely, we are committed to doing that. Our members are not big business. Our members work in the community. They volunteer in the community—we believe the heart and soul of the community. It is important, their relations with their customers. I think we would wholeheartedly support dealing with those types of problems or finding ways around it.

**Mr. Cummings:** Very briefly, you referred to the magnitude of the increases in the fines. Are you suggesting that you would like to see the magnitude of those—I realize that you said you simply were looking for an explanation, but let us bring it right to the point. Are you asking for a decrease in the maximum fines, or are you concerned about what the motive may have been for introducing them?

The reason I put that in that context is that I have some sympathy for the fact that higher fines need to be enshrined in legislation, knowing that it seems to be very often the case that the maximums are never imposed very often, unless there is some truly gross abuse in today's system. I just ask that one last question. Have you expressed an opinion on the size of the fines again?

\* (0040)

**Mr. Whyte:** I agree with you that often the maximum fine is never imposed, therefore they are symbolic. Really I am concerned with the motive. Are we putting a symbolic height increase or significant increase because it is an increasing problem? Again, it is back to what is the perception of the drafters of this legislation versus what actually is occurring in the marketplace.

I feel the fines should reflect what is actually occurring in the marketplace. We should justify what those fines are. If it is being raised to deal with the actual inflation rate, and that is why we have to upgrade them, then there is justification. But if we are just going to hopscotch from one province to another, because Alberta has X amount as a fine, then Ontario has X amount, like I work in several jurisdictions. Often I hear, well, this is what Saskatchewan has, or this is what B.C. has, and that is the rationale, and it perpetuates that perception that the consumers and business are at loggerheads, and that is what we are concerned about.

So if it is an arbitrary number that was picked out of the air, yes we have some concerns, but if there is justification to it, no we do not because we are behind getting those unscrupulous suppliers.

**An Honourable Member:** Very good.

**Mr. Whyte:** Thank you.

**Mr. Chairman:** No more questions? Thank you very much for your presentation.

**Mr. Whyte:** Thank you.

**Mr. Chairman:** So that wraps up all our presenters for today and all of our presenters, indicated in the beginning that we were going to have, I understand. Mr. Minister.

**Mr. Connery:** Well, if I may make a suggestion for the committee to think about. There are some presenters that were not here today; if we had one more meeting where public presenters would be permitted, one more meeting only, no names added at this point, but for those who were not able to make it today, that we ask our House Leaders to set a meeting for next week and that would be the final meeting. We could let them know now so there is adequate time and that we allow those presenters who were not here today on the list to be given one more opportunity to present, and that would be the final for public presentation and then we would go clause by clause.

**Mr. Chairman:** Is that the will of the committee? Mr. Harapiak.

**Mr. Harapiak:** Mr. Chairman, with one proviso. I think that we cannot stop anyone from coming and putting their name on the list. I think there is legislation here dealing with consumers' issues and if one more person would come and put their name on the list, surely we are not going to deny that person an opportunity to make a presentation.

**Mr. Connery:** Provided that we would sit that particular night until they were all heard and that would be the last hearing on public presentations.

**Mr. Harapiak:** Yes.

**Mr. Connery:** I will sit until six in the morning if people want to come and present, but at the same time we have to come to some conclusion on this Bill of legislation.

**Mr. Kozak:** Mr. Chairman, I have nothing to add. I think agreement has developed in the committee.

**Mr. Chairman:** Very good. Mr. Lamoureux.

**Mr. Lamoureux:** Mr. Chairperson, I am sure the NDP have indicated they would go along with this. If there is a consensus then we, too, would support the thought that the Minister has put.

**Mr. Chairman:** So we will ask our House Leaders just to wrap it up, to set a date for next week sometime, and there will be one more date of presentation. These people who were not here today will once more be notified that they have the right to come forward and come to the presentation at that time, as a final presenting date. Is that the will of the committee? (Agreed)

Committee rise.

**COMMITTEE ROSE AT:** 12:45 a.m.