

**LEGISLATIVE ASSEMBLY OF MANITOBA  
THE STANDING COMMITTEE ON LAW AMENDMENTS**

**Tuesday, February 6, 1990.**

**TIME — 10 a.m.**

**LOCATION — Winnipeg, Manitoba**

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

**ATTENDANCE - 11 — QUORUM - 6**

*Members of the Committee present:*

Hon. Messrs. Connery, Cummings

Messrs. Burrell, Kozak, Maloway, Minenko,  
Pankratz, Patterson, Praznik, Taylor, Uruski

**WITNESSES:**

Mrs. Heather Lamontagne, Private Citizen

Mr. Bill Hanson, CKY Television

Mr. Peter Gustavson, Money Mart Financial  
Service Centre

**MATTERS UNDER DISCUSSION:**

Bill No. 63—The Consumer Protection  
Amendment Act (3)

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**Mr. Chairman:** Committee come to order, please? The Committee on Law Amendments is called to order. Bills Nos. 63, 64 and 83 are to be considered today. However, when we met on January 30, we had agreed to hear from specific presenters on Bill No. 63.

I believe we agreed to hear from Mrs. Heather Lamontagne, Mr. Ken Clark and Mr. Peter Gustavson, in that order. I understand Mr. Clark will not be appearing, but Mr. Bill Hanson is in his place. So I will ask Heather Lamontagne to please come forward and make her presentation. Her presentation has been circulated.

\* (1005)

**Mrs. Heather Lamontagne (Private Citizen):** Thank you, Mr. Chairman. I will be following a presentation, the copies, that I gave to each and every one of you this morning. Basically my concern was with the fact that I made an initial contact with Consumer and Corporate Affairs. I did not feel the response I got was what I expected to receive. Upon making follow-up inquiries of fellow people in business, I found there were definite discrepancies between what I had heard at the Consumer and Corporate Affairs level and what I had heard from individuals.

My situation started in July of last year, July 11, as a matter of fact. We received a letter from Consumer and Corporate Affairs indicating to us that it had come to their attention that we were delivering flyers, therefore

direct selling, and therefore had to be licensed under Consumer and Corporate Affairs. We did not understand why all of a sudden we should hear about this, as we had been in business since May of '84 and had been distributing flyers during that entire period of time.

I phoned Mr. McKay, as he was the gentleman who had sent me the letter, and had a meeting with him. I basically asked why we had to be licensed. He went on to explain that anything in the form of advertising other than the classified section and Yellow Pages of the paper were a form of direct selling and therefore had to be licensed under Consumer and Corporate Affairs. I explained to him, and I had also forwarded him copies of the flyer we distribute. There is no indication of price or whatever; it is simply an informational pamphlet. It is then up to the consumer to contact us if they want to carry this any further.

We do not telephone-solicit. All that we do is deliver the flyer, be it through Netmar, which is a company in the city, or through the post office. Mr. McKay still stuck to the point that it was, as far as they were concerned, direct selling; therefore, we had to be licensed. I asked him what the licensing involved. He explained to me that it was a licence—and he quoted me \$275 plus a penal bond. I asked him what the penal bond was, and he went on to explain that it would represent 10 percent of business we would acquire through the distribution of flyers.

Now that is a very ambiguous figure. We have been in business five years; we have done things like the Santa Claus Parade. My franchise alone has 10 decade cars that float around the city. We have done many different forms of advertising, and I do not know to date how many people hear about us and from what source. Of course our main area of business comes from direct referrals. All that Mr. McKay explained was that they would be reasonable and that all they wanted was a reasonable figure. I do not know how that would be arrived at.

However, the amount that I felt we would be required to pay would probably be somewhere between obviously the licensing fee of \$275 and this penal bond which could be anywhere. I came away with the feeling that we were probably looking at between \$275 and perhaps a \$1,000 a year. I was also informed that this is a yearly venture. Just because we supplied the penal bond on one occasion did not mean we were free for life. We would have to renew this on a yearly basis.

\* (1010)

At the end of our meeting I asked—because I did not agree with what I had heard—Mr. McKay that I would like to have copies of the legislation. He said, well, I do not have that in here. I was quite surprised, because here was a gentleman who was asking me to

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pay \$275 plus a penal bond, and yet he did not have a copy of the legislation in his office. He assured me that he would get copies of the information that he felt pertained to my business.

I was very emphatic and I did explain to him that I did not want copies that he felt pertained to my business; I wanted a copy of the legislation, word for word. He said, well, he would get something to me in the next few days, which indeed he did, and within the week I had received a letter from Mr. McKay. Unfortunately, it was not what I had asked for. It was copies of the Act that he felt pertained to my business. I received that information and forwarded it to my head office.

I operate a Molly Maid franchise in Winnipeg. We are a national business and our head office is in Toronto. We have been in existence now for 11 years. I am personally not in a position to hire a lawyer because I did not feel it should be necessary, so I forwarded the information to my head office and they called me back and said, well, they would look it over.

Now, when I received the information from Mr. McKay, I had a feeling that, because I had not received what I asked for, I was really not getting a clear picture of what was required of me as a company. We contacted then the critic's office, and Dr. Patterson is our MLA in our area, and we contacted his office and spoke to David. David called us back immediately and said, sure, no problem. I will send it right out to you, and he did. He sent us a copy of the legislation.

I forwarded that to our head office right away as well, and within a couple of days I had a very jubilant call from my field rep, who said, there is an exemption clause. According to the exemption clause, which states, any service of a domestic nature including gardening is exempt, she said, obviously we are domestic nature, so we would be exempt. But, she said, interestingly enough, that clause is not part of the photocopied information that you received from Consumer and Corporate Affairs.

I let that sink in for a few minutes and I called Mr. McKay back and asked him why I did not receive copies of the exemption. He did not answer my question, simply because I probably backed it up with another question and said, according to the exemption clause, which is in Part VII, it reads accordingly: any service of a domestic nature is exempt, and he waited for a second and explained that, according to their interpretation, service of a domestic nature meant a live-in or a nanny, or that type of a person, and I was very upset because probably our biggest competition is a single cleaning lady. A single cleaning lady usually is paid in cash and does not have to pay CPP, UIC, income tax, business licence, workers compensation, or anything else, does not support the economy in any way, and I could not understand how a Government at any level would exempt a person in that type of business and expect that we as a business should not be exempt.

I went on to explain to him that the reason that I was in the situation I was in was because of flyers that I had delivered. I explained that in my five years I have yet to meet a single cleaning lady who had gone to

the time and expense of having a flyer printed up and 5,000 to 10,000 flyers distributed in anyone's mailbox and I could not understand why someone like that would be exempt when they did not use that avenue of advertising anyway. Mr. McKay and I, of course, still agree to disagree.

I then followed up with a letter to—just getting back to my information here. I asked Mr. McKay where the interpretation of "domestic" came from and he explained that it was an interpretation by the Attorney General's Department, away back when, and he could not substantiate where that interpretation had come from. Now, from my understanding, I would think that if there was reason for the exemption of a single cleaning lady or a service of a domestic nature, and if that existed at the time of the legislation, possibly it still existed now which would mean that we would still be exempt.

\* (1015)

I believe at that point in time Dr. Patterson wrote to Mr. Connery's office and was quite specific in that he felt that it was a clear and concise and unambiguous statement in the legislation and that perhaps something could be done on our behalf from Mr. Connery's office directly.

At that time, Mr. Connery, you answered Dr. Patterson. One of the comments that you made in your letter was that the Consumers Bureau has been licensing services such as Molly Maid in a consistent fashion over a long period of time. I was a little dubious because I had already spoken to two people who are in the similar business as I am, to what I operate. I decided then to contact the other maid services again.

I first spoke to a Mr. Bradford who owns and operates Variclean Services and I told him who was calling and asked him if he was licensed under Consumer and Corporate Affairs. He just chuckled and he said, why. So I explained to him that we had been contacted and he just laughed and he said, well, I was contacted about 10 years ago. He said, I did not think that we should be licensed either because we were not direct selling. He said, I took a copy of the legislation to my lawyer. My lawyer said, forget it, it says in here that under the legislation you are exempt, you are a maid service. According to what Mr. Bradford told me, he said, I just told him if you want me, come and get me. At this point in time, Mr. Bradford of Variclean is not licensed under Consumer and Corporate Affairs.

I then contacted Consumer Care - Maid For You and spoke to the owner, Mr. Brodi. I explained who I was and why I was calling. Mr. Brodi's company has operated in Winnipeg for approximately two years. He was contacted by Consumer and Corporate Affairs as well and apparently informed Consumer and Corporate Affairs that his company guarantees their work 100 percent and therefore does not need to be licensed. According to Mr. Brodi, Consumer Care is not licensed under Consumer and Corporate Affairs either.

I contacted the Home Team who did not return my call. After my unsuccessful attempts last week to speak to you, I did have time then to contact additional companies. Emily's Home Cleaning service, who has

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been in business in Winnipeg for approximately a year and a half is not licensed under Consumer and Corporate Affairs.

I have since spoken to Class A Cleaning who, interestingly enough, has been licensed for the two previous years, this year received a letter and argued very strongly that they were not direct selling, they were not distributing flyers, they were not telemarketing, and after speaking to a lady down at Consumer and Corporate Affairs for an hour, was finally told that, well, maybe you are right, maybe you do not have to be licensed, and their cheque was sent back to them. I spoke to this lady yesterday. She has been licensed and has paid a penal bond for two years. I asked her if she was going to get her money back, she said, I forgot to ask.

That was new information to me just yesterday. I did not have time to contact the rest of the ads in the Yellow Pages. These had all continued to happen and we were under the impression from speaking to David Johnson that although there were proposed changes, there was not anything in the changes that was going to significantly affect the deletion clause, the Part VII.

We were very surprised on January of this year, a week ago Tuesday, to find there was a meeting scheduled for that evening. It was a proposed change in that there was a proposed deletion of the exemption clause. We since understand that is going to be put off for further discussion. I was very upset to think that although the Consumers department had been in contact with any number of services, which did not feel they should be licensed, in order to change what was obviously a mistake at the Consumer and Corporate Affairs level, be it honestly so through an interpretation. I could not understand how a proposed change could come about this fast.

I have since learned it was in the works, and we, through a lack of communication, just were not informed of it. I did start appearing before the committee on that Tuesday evening. I came back to two subsequent meetings, and finally this morning I am having an opportunity to present my case. In contacting the other service industries in the city I came to realize that the interpretation from the Attorney General's department, which is what my Mr. McKay was going on, had to be very weak because the Consumers Bureau had never followed up on any of the other businesses they had contacted originally.

\* (1020)

I do not feel a Government or a committee can justify quietly trying to change legislation without advising those companies that it had attempted to intimidate in the past. I use the word intimidation because on speaking to another lady—she had written letters back and forth for six months, saying, no, we are not direct selling. She finally received a letter, the wording of which was, you are not licensed, you are carrying on your business, and if you do not become licensed, penalties may be imposed. She finally paid, because she said, I felt I was one person fighting a big battle. She did not at that time know that there was someone else fighting the battle too.

Ninety percent of all business in Manitoba is small business and cannot afford to be paying taxes upon licences, upon bondings, especially when it is or can be in addition to what we are already required to do. Especially in my case, we are a franchise organization, and no one can operate a Molly Maid franchise unless they are bonded and insured first. There are others out there who may not have that requirement. If this sort of licensing can appear and force me to comply after actively and openly operating my business for more than five years—are there other licences out there I do not know about that can appear once my business has grown to the point where it is difficult to stop?

Can I ask how many of this committee of change actually own and operate their own businesses? If you are and have operated your own businesses, in what manner did you work? If you know that your operations were just and open, then please give your fellow colleagues in business the benefit of the doubt. The Consumers Bureau collectively or by the actions of individuals has, in my experience, caused me a great deal of unnecessary work and time lost from my business.

I respectfully request that serious thought, discussion and consideration be given to those of us in business who are diligently operating our business in a fair and just manner. As our legal system emphasizes, we are innocent until proven guilty, not assumed to be up to no good with the onus and expense on us to assure you of our good intentions.

I also respectfully request that individuals be screened more closely at Consumer and Corporate Affairs in their daily activities with as much energy as is being directed toward the anticipated wrongdoing of the businessman. Business people are in the business to grow and prosper. One can only grow and prosper if one operates one's business on the up and up. I agree there is a need to keep unscrupulous operators out of our communities, but we will not accomplish this by limiting the activities of those of us who have no intention of defrauding anyone.

Through my experience in these past six months, I have found myself dealing with a number of different people at Government levels. I wish to say—I wish I could say that I had been dealt with fairly and openly, but I have not. If we are going to protect the consumer, and I am one of those consumers, I respectfully request that the cleaning up of the work environment start at the top.

**Mr. Chairman:** Thank you, Mrs. Lamontagne. Mr. Minister.

\* (1025)

**Hon. Edward Connery (Minister of Co-operative, Consumer and Corporate Affairs):** Thank you, Mrs. Lamontagne. It was a very good presentation. I really appreciate you hanging in as long as you have, sitting through I do not know how many hours of other presentations. It shows your dedication and determination to see a just system. I must say that my wife and I also use a cleaning service in Portage la

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Prairie very similar to yours, and we find them very good. We want to ensure that they stay there, so we are very familiar with what they do.

This legislation, of course, was brought in by an NDP Government, and maybe the wording was flawed. We did have—and you spoke to Mr. Patterson, and I will say that Mr. Patterson acted very responsibly on your behalf. He brought it to our attention. Unfortunately, all of the concerns that you have raised this morning were not part of the communication to Dr. Patterson, and I was not made aware of some of those things.

This is why committee hearings are very valuable for us, as Ministers, to get a view of how departments are working. It gives us an opportunity to re-examine what is happening. We do not use, as Ministers—go to the department and use it, so we do not see how they are performing. We appreciate your concerns. I hope the department would not be intimidating in outlining the procedures as part of their protocol that they have to do.

We had a very productive meeting, you and I, this morning, and I think because of that productive meeting and the very short conversation we had at the other committee, where you brought up a couple of points that I was not aware of, that allows me to go back to the department and to continue some discussions with the points you have raised. That is why I encouraged you to come to the committee, to put it on record, your concerns, but at the same time, as I said to you this morning, that we will be following it up with the department.

The concerns that you have raised are very valid concerns and are concerns that our department will definitely pursue. We looked at an amendment; I talked about the amendment with Dr. Patterson; and it looked like an amendment might resolve the issue. But then the amendment would be out of order because the amendment is not part of—what we were going to introduce was not part of the amending legislation, so it would be out of order. So we are withdrawing it.

In the interim I think—I do not think—I can say to the committee and to yourself that our department will be reviewing it along with myself, and we will come to, we hope, a proper decision as to how it should be handled. I apologize for what you perceive, and maybe rightly so, not been given the whole copy of the Act. I do not know why; it is something that we will follow up on. I appreciate your comments, and it allows us, as Ministers, and the whole committee to review the legislation and how departments run. I thank you for your presentation.

**Mr. Allan Patterson (Radisson):** Mrs. Lamontagne, I will not take up any time with questioning. We have had quite a bit of correspondence, and I am familiar with the case, of course. I would just like to thank you very much for appearing here and for your patience over the last few weeks in sitting through some of the other meetings. I would add our concerns and apologies to those the Minister has just expressed. I leave any further questioning to the other Members of the committee.

**Mr. Harold Taylor (Wolseley):** Mr. Chairperson, to Mrs. Lamontagne, I found it interesting, your comment, that when you went and did this research you found that nobody that you contacted had a licence in place, except in one case, I think you said. Is that correct?

**Mrs. Lamontagne:** The one case in question was a company called The Cleaning Solution, which is newly in business, and she felt that she had written a number of letters and made a number of phone calls and said that she eventually paid because she felt that she was the only one fighting a—fighting Government, was the way she put it.

**Mr. Taylor:** What impression did this lady give to you over the phone—I assume it was over the phone that you did your research—did she feel that she had no recourse because she would be the holdout? Did she give a sense that she felt that she was fighting big Government, that she was coerced? What was the sense of what you got in that conversation?

**Mrs. Lamontagne:** She felt that she had no idea, prior to setting up her business, that this was a requirement, which was something that I found as well. But she contacted them immediately, as soon as she had heard, and simply found that—she said that they were not direct selling, they were not telephone soliciting, and all that they would do then would be to put an ad in The Lance or The Metro One. The lady that she dealt with, and I believe it was Katherine Gates at Consumer and Corporate Affairs, said, aha, but that is a form of direct selling as well.

She said she could not win, no matter what avenue she took, and when she received the last letter—and I should perhaps be a little more specific in the wording of it. She, as it turns out, received exactly the same letter that I did and it simply says: As you are aware, inasmuch as you are not the holder of a valid licence under the noted Act, should you operate in a manner to which licensing is required, any such activities will be viewed as a contravention and may be subject to penalties provided under the Act.

**Mr. Chairman:** Let us have order, please. Let us listen to the presenter and also to the questions that are posed to the presenter. Mr. Taylor.

\* (1030)

**Mr. Taylor:** Mr. Chairperson, that is a pretty official-sounding statement that was received. It could, quite frankly, scare and intimidate somebody if they had not had experience in dealing with Government or did not take ready advantage of their solicitor. The people in Consumer and Corporate Affairs, what was the unit within that organization that you and others had been dealing with? Could you give us the name of the organization and maybe the title of Mr. McKay?

**Mrs. Lamontagne:** It was just signed Jim McKay, Consumer Services Officer. When I did receive information from my head office that the exemption clause did exist, I did call Consumer and Corporate

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Affairs back and asked if I could speak to someone who was possibly Mr. McKay's boss. I was told at that time that he was the gentleman in the department and I felt at that point that there was no one else I could go to. I was very new at this; I have learned an awful lot in the last six months.

**Mr. Taylor:** It is rather incredible that a consumer services officer is construed as the head of a unit. You know, anybody knows how Government organizations are set up. That is just a working level position, it is hardly an administrative or supervisory position, normally. Did anybody in the department tell you how they took that regulation and interpreted it in the fashion that they did? Did they tell you that we have had the benefit of Government legal counsel which says that this is the regulation and therefore this is the expression of what that means, in other words, the legal interpretation, to get to where they said, you must be licensed? Did you ever receive anything like that?

**Mrs. Lamontagne:** When I asked Mr. McKay where the interpretation came from, he simply told me that the Attorney General's department had given that interpretation and he really could not come up with a date or a time. He just said that the Consumer and Corporate Affairs had operated under that interpretation for as long as he could remember.

**Mr. Taylor:** Did Mr. McKay not offer you a photocopy of the interpretation from the Attorney General's office to back up his statement?

**Mrs. Lamontagne:** None whatsoever; no offer was made of that matter at all.

**Mr. Taylor:** Mr. Chairperson, I find that incredible. This sounds like this officer is flying in the wind here, making interpretations on his own. He certainly does not have the legal back-up.

**Mr. Chairman:** Excuse me, but we will have to quit the discussions that are going on at the present time. Please, go ahead, Mr. Taylor.

**Mr. Taylor:** Thank you, Mr. Chairperson, I appreciate that. In your presentation this morning you mentioned you dealt with a Mr. Bradford of Variclean, one of the larger firms in your industry. He said he had been through something similar about a decade ago. He did consult a lawyer, and they ignored it. Did they actually send a letter back to Consumer Affairs saying they were ignoring it? What did they do once he got that legal advice? Are you aware?

**Mrs. Lamontagne:** I am not aware of what he did. I am simply going on what he told me. He just said the lawyer told him that under the legislation he was exempt and therefore to forget about it. I do not know whether he sent a letter to that effect or whether it was just over the phone. He said, I told them to come and get me. He said, I have never heard.

**Mr. Taylor:** So Mr. Bradford—you are not sure whether he did convey that information to the department

officially or not in writing? It is interesting, Mrs. Lamontagne, that this happened about a decade ago, according to Mr. Bradford. We also would have a Conservative administration in place at that time as well as now when these hassles are going on again. I wonder if you have any observations to make on that point.

**Mrs. Lamontagne:** I am not aware of how Mr. Bradford conducted the finalizing of his conversations with Consumer and Corporate Affairs. I did speak to him in the last week to advise him of the proposed change. He was going to write to Mr. Connery at Consumer and Corporate Affairs. There are also a number of other maid services out there who are going to be writing to Mr. Connery at Consumer and Corporate Affairs.

**Mr. Taylor:** So we have the previous Conservative administration hassling some firms about a decade ago, and then we have the same thing going on now through the Consumer department. Has there been any discussion in the conversations you have had doing this research on the idea that maybe there should be some sort of a cleaning industry organization to look out for its own self protection? Has that come up in conversation?

**Mrs. Lamontagne:** Yes, it has, as a matter of fact. When I spoke to Mr. Bradford just last week, we decided that instead of my doing all of this foot work it might be nice if someone else were here as well. Since I had the bulk of the information and had followed things up to date, the others are going to write to Mr. Connery but are kind of going to sit back and wait to see what happens at this committee meeting.

**Mr. Taylor:** Mrs. Lamontagne, do you not find it ironic that you people may be faced with setting up your own industry organization to protect yourself against overzealous bureaucrats within the Consumer Affairs department?

**Mrs. Lamontagne:** That has been our feeling. I think I have worded it quite clearly in the letter that I have no doubt there is need for a watchdog committee. But I do not feel that watchdog committee should operate on a budget based on funds it is basically demanding that existing businesses pay. According to my understanding with Consumer and Corporate Affairs, unless a company is registered with Consumer and Corporate Affairs, there is nothing short of following up in the legal system that a customer can do if they are burnt in whatever manner.

One other thing I had mentioned to Mr. McKay at the time—when he first explained to me that the reason behind Consumer and Corporate Affairs is that they were protecting the consumer and that people put siding on and get a \$1,500 down payment, and they want cupboards done in their house, so they get a \$1,500, \$2,000 down payment. I explained to Mr. McKay that my average price per cleaning a home is \$50 to \$55.00. So we are not dealing in thousands of dollars. If I want to go back to that customer's house, I have to make darn sure that the work I do the first time is going to be top-notch, so that I am invited back.

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We do not have a written contract; a customer can phone up and a number of them do, the morning of, and say, Hi, I have people in my house who are sick today, please do not come.

That is a definite inconvenience, because my staff is already on the road. Now there is nothing I can do in my daily business operation. I cannot phone that customer and say, I'm sorry, you are booked in, you have to pay. We are trying to institute a \$25 late payment fee but even that you cannot do to a regular customer. You cannot say to a weekly customer, I am sorry but I am charging you \$25 today because your kid is sick. It does not work. Equally so, we have situations where we do cleanings all the time, and we will have someone phone us up and say, I am sorry, I am only going to pay you \$60 but you have invoiced me \$80, but I feel that it really was not worth \$80.00.

What recourse do we have? I am not going to go to Small Claims Court for \$20.00. But I feel there should be some sort of regulation. If we are going to be legislated in this manner, then there should also be legislation that is going to benefit us as well.

\* (1040)

**Mr. Taylor:** Mrs. Lamontagne, the exemption clause that you referred to earlier in your presentation is contained within regulations. I do not know if you are aware that the Government has the power to amend regulations aside from what we are dealing with here, which are actual amendments to the Act. They have the power to amend regulations in most pieces of legislation on their own, without bringing it before the Legislature, and simply by what is called an Order-in-Council, in other words, a vote or agreement within Cabinet that that is what will happen. Were you aware that they could be changed as easily as that?

**Mrs. Lamontagne:** No, I was not. I am hoping that is something that would not happen. I realize it is possibly a naive hope, but I had also noted in the letter that I do not understand how changes could even be thought about when Consumer and Corporate Affairs has to know that there are people out there whom they have tried to contact in the past and who have found that they are exempt, and now can change the legislation to cover up the initial mistake that was made.

**Mr. Chairman:** Mrs. Taylor, uh, Mr. Taylor.

**Mr. Taylor:** Thank you for that very important correction.

Mrs. Lamontagne, the matter was raised by Mr. McKay in Consumer and Corporate Affairs here on the issue of direct selling because you put out flyers, was that how it was raised to you and that was the justification?

**Mrs. Lamontagne:** Yes.

**Mr. Taylor:** There are many forms of advertising that arrive at my door, and I am sure that is the case for anybody else, whether they are in a private house or

an apartment. We get all sorts of solicitations, saying we offer this service, that service, the next, it may be carpet cleaning, it may be home cleaning, it may be real estate services. The one that I get most often are, Mr. Chairperson, quite frankly, grocery store flyers to my door, weekly, from about three or four local grocery stores, including all the specials and prices and all that. Did Mr. McKay say to you at any time whether he and the department considered these other forms of very similar advertising to also be direct selling?

**Mrs. Lamontagne:** It was explained to me that if you do operate a retail outlet, then you would be licensed under a different department, I would imagine. But the direct selling that Mr. McKay was talking to me about only applies to those businesses who operate their business out of a home or who do not have a retail outlet. That was my understanding.

**Mr. Taylor:** All right, a retail outlet conveys that there is the ability for the customer to walk in and to purchase the service or the commodity. In the case of your business and a number of others, it is possible that there could be a business address that is not within a home, that has a sign in front of it, exists within a commercial district, but still you cannot consume the service there at the counter, nor can you take away anything. Did he have any definitions to deal with this sort of thing?

**Mrs. Lamontagne:** Not a definition as such—and this is something that we had learned before. If you are operating a business in your home, if you are going to advertise on your home, you cannot have a sign that is any larger than one-and-a-half foot square, and of course it cannot name the company. It could not name Molly Maid on the outside of my home. It could simply say cleaning service or home cleaning or residential home cleaning or whatever. I had asked him about that, because we do have a central answering service number, and it has a Portage Avenue address. I said, well, we do have an office; and he said, well, is it a retail outlet? Of course it is not.

My concern is with the distribution of the flyers. I know that there are a lot of flyers out there—and we get them as well—that say \$30 off your initial cleaning if you respond within X number of days. Molly Maid does not discount the service. The information flyers that we send out—and I have a number of them here with me if anyone would like to see one—are strictly an informational brochure. The fact that we do not follow up with telemarketing leaves the customer with the ability to take the flyer and chuck it in their garbage if they so wish. Two or three customers that I have heard from in the last five years have taken the flyer with them from one home to the next and called me within the following year to say, I got the flyer a year ago, and I kept it because I might want to use it. They have that option. I do not feel that we are direct selling.

**Mr. Taylor:** Thank you, Mr. Chairperson. There were then in your conversations with the department officials no parallels brought up by either side in conversation of other industries that you might be aware of that are similar to what you are doing, which you would also

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not construe to be direct selling but which the department did consider to be direct selling? Did the conversation go along that line in any way?

**Mrs. Lamontagne:** No, it did not. I have been concentrating and spending a lot of time on my business, because I know what I am talking about. I really did not get on to anything else because I simply did not have the time.

**Mr. Taylor:** The reason I had asked you that question, Mrs. Lamontagne, is that if the department is taking the sort of view that they are with you and your industry, my worry is what other industries are out there that are performing a service in a normal fashion, are conducting their advertising in a fashion that has gone on for years and years without problems for the consumer. I am wondering if the department sees itself getting involved and construing these other industries in the same fashion as yourselves as direct selling. That was why I had asked those series of questions. I understand what it is you are saying about Molly Maid and about the domestic cleaning industry quite clearly. I just want to see if there were any other parallels out there that we could say, well, this is a bigger phenomenon than just the domestic cleaning industry. Thank you.

**Mr. Chairman:** Did you want to respond to that, Mrs. Lamontagne? Okay, thank you. Mr. Uruski.

**Mr. Bill Uruski (Interlake):** I thank Mrs. Lamontagne for coming before committee and raising some of her concerns. Mrs. Lamontagne, do you have a—you quoted from a letter that was written to Dr. Patterson from the Minister, indicating that the Consumers Bureau, and I quote from your brief, “has been licensing services such as Molly Maid in a consistent fashion over a long period of time.”

Was there any other information in that letter that led you to believe the Minister was well aware of the situation and the fact that you had to pay a licence? Would you have interpreted the letter when you read it that your business had to be licensed because that was the interpretation of the department and he was enforcing it?

**Mrs. Lamontagne:** Yes, at that point I felt that I had lost. When I reread the letter, I became a little more adamant. I knew, on earlier having spoken to Mr. Bradford of Variclean, that he was not licensed. If I knew that, then how many other services out there were not licensed as well? That is when I took up my phoning campaign. I contacted Mr. Bradford initially because he has been in business, Variclean was probably the largest company in the city when we started five years ago. So I knew that he had been here, and he was the one I wanted to speak to.

He was very honest and very open, I think. He simply said that, yes, they had been contacted and, no, they were not licensed.

**Mr. Uruski:** Mr. Chairman, I heard the Minister this morning denying all liability or responsibility for

enforcement of the Act, saying the Act was passed by an NDP Government, and that somehow they were responsible for that. I look at the legislation, and I wanted to correct Mr. Taylor's comments to Mrs. Lamontagne. Mr. Taylor led you to believe that Cabinet or the Government could change these regulations by an Order-in-Council. I should point out that cannot happen, because this is a section right within the Act. That would have to come through this committee process.

\* (1050)

They cannot change the regulation, and the interpretation is as such. I would like to ask you though, Mrs. Lamontagne, where you got the information that the question of exemption was going to be a part of the legislation and was going to be removed, the exemption you were not given by the department? As a layperson I am reading this, and I certainly concur with your opinion and the opinion you have received, that you are not direct selling in terms of the terms. The Act does not apply to, and I quote, “sales of services relating to any service of a domestic nature, including gardening.”

Who gave you the information that there would be amendments taking away that exemption?

**Mrs. Lamontagne:** We received a call from David Johnson of Dr. Patterson's office on the afternoon of January 23, which was a Tuesday. He informed us at that time that he had just learned—now that is not necessarily the department—that there was a proposed change, and it was going before committee that evening. That was at four o'clock on Tuesday afternoon.

So I did a lot of scurrying about, and I came here with a portion of the presentation I have today. I was very surprised, because there had been no indication that change was going to take place. There is a correction I have to make. If you will note on page 3, the date November 13. It says: We received a letter from David Johnson, advising us that Bill No. 63 was to be amended, that there would not be a significant change to Part VII. Instead of Bill No. 63 it should read The Consumer Protection Act. David advised me of that.

**Mr. Uruski:** Mr. Chairman, perhaps the Minister may want to clarify. Were there proposed amendments, or was there information given out by your office to someone in the Liberal Caucus that there would be this clarification, in that your letter to Mrs. Lamontagne in October, or to Mr. Patterson in October, you indicated that, hey, this type of service has to be licensed and the department or bureau has been licensing services for a long period of time? Was there a move to clarify the governmental position in terms of the amendment as it appears to have been related to Mr. Patterson's office by one of their staff there?

**Mr. Connery:** Well, in talking with Mr. Patterson over several conversations and the cloudiness of what appeared to be there and because he had raised the issue, we thought maybe an amendment withdrawing

that particular part—and Mr. Patterson thought that would be an appropriate way to go—that we would be prepared to bring in amendment Act when we went clause by clause. But because that particular part is not part of the amendments to the regulation, then it would have been out of order.

**Mr. Uruski:** Mr. Chairman, I am not sure that I heard the Minister correctly, or maybe I understood him. Is he telling me that there was a proposal to amend the legislation to remove this amendment, to basically cover off what the Minister had written in October? Basically saying that we are no longer going to continue, although there may have been some misinterpretation of the application of the Act that there was going to be a removal of that exemption? Can the Minister indicate?

**Mr. Chairman:** Mr. Uruski, we are here to discuss and question the presenter.

**Mr. Connery:** When we get into it clause by clause, we can discuss it.

**Mr. Uruski:** Mr. Chairman, I agree but in the briefs, specifically in the brief the presenter quoted the Minister in terms of governmental position and there is a bit of, I would say maybe a bit more than confusion in terms of what the intent of the Government has been in this area. This lady has come here a number of times on the advice of the Liberal Critic to say, hey, the exemption that we saw on the Act is going to be removed and we want to know. I want to know because while it is not in the Bill, I want to know what kind of wheeling and dealing and game playing the Minister has put in, in terms of this legislation.

**Mr. Chairman:** Mr. Uruski, any questions to the presenter?

**Mr. Uruski:** To the Minister—

**Mr. Chairman:** If not, Mr. Uruski, if you have no more questions to the presenter, then I will go to the next one.

**Mr. Uruski:** Well, Mr. Chairman, I want to ask Mrs. Lamontagne if she would be prepared to leave a copy of the letter that Mr. Connery wrote to Mr. Patterson dealing with those—

**Mrs. Lamontagne:** Certainly.

**Mr. Chairman:** Very good, thank you. Mr. Minenko. Any questions, Mr. Minenko? Mr. Maloway.

**Mr. Jim Maloway (Elmwood):** To Mrs. Lamontagne, this Minister is obviously out of control and a threat to small business in this province given his actions in the past in his previous department and in this department as well. It seems to me that what we have here is, correct me if I am wrong, we have a taking of monies under false pretenses in a number of cases potentially. Of course, I am very interested in knowing whether or not the department and the Minister will be offering refunds to people.

Initially though, I would like to know how the department found you in the first place. You have been doing this for a number of years. How did they manage to locate you?

**Mrs. Lamontagne:** We were delivering flyers and apparently a flyer had been delivered to a mailbox of an individual who does work at Consumer and Corporate Affairs. I do not know what the scenario is from there. I can only assume that the flyer was received. The person went into work and said, are they licensed, found that we were not, and the ball started rolling from there. So Big Brother is watching.

**Mr. Maloway:** Well, I have read the section of the Act, 60(1). It is very clear to me here that under the Act, any service of the domestic nature, including gardening, is excluded. I mean it is very, very straightforward. Would you then agree with my previous statement that the Government is trying to extort money from people under false pretences, and would you agree that refunds should be given?

**Mr. Chairman:** I think, as Chairman of this committee, that we should not force the presenter to make any comments. She should do that only at will. She has made her presentation. We should stick very closely to the brief and question the brief. I would like to remind Honourable Members that if we want to get through with these presenters, we will have to expedite matters a little more. Mr. Maloway.

**Mr. Maloway:** Then, Mr. Chairman, for clarification, I would like to direct the question to the Minister. I would like to ask him where his legal opinion—

**Mr. Chairman:** Mr. Maloway, that is out of order. Your questions can be addressed to the presenter. If you have no more questions, then we would like to call on somebody else who has some questions.

Mr. Minenko, have you a question? Go ahead, Mr. Minenko.

**Mr. Mark Minenko (Seven Oaks):** In your various discussions with people from the Consumers Bureau, did they indicate to you how extensive that net would impact? As Mr. Taylor had said, we all get leaflets. I am just wondering—if I as a lawyer were, for example, to advertise my services to people in whatever part of the city, would that be direct selling as well? Construction companies, people who repair stairs or do concrete work and on and on, do they indicate that all those classes would be included as direct sellers and all these regulations would apply to them?

**Mr. Chairman:** Mrs. Lamontagne, do you want to respond?

**Mrs. Lamontagne:** My understanding was that anyone operating a business who does not have a retail outlet can only advertise in two fashions. That is the classified section in the newspaper or any newspapers, and the Yellow Pages of the phone book. Those are the only two methods of advertising that can be used which do not require licensing.

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**Mr. Minenko:** And "retail" is being defined as a place where somebody can walk in through the door and you would provide them with some sort of goods and services right there and then. Is that the kind of interpretation that was explained to you then?

**Mrs. Lamontagne:** Yes, that is the impression I had.

**Mr. Minenko:** If I remember correctly, earlier you mentioned that Molly Maid in Winnipeg has one central office that would still not qualify as a retail outlet.

**Mrs. Lamontagne:** No, it would not because it is simply a central answering service number. It is the 18th floor at 330 Portage Avenue. It is just our central answering service number.

**Mr. Minenko:** So no one can come into that location and say to you, I would like to have some services performed at my place.

**Mrs. Lamontagne:** That would be interesting. It has not happened to date, but I would like to think that someone would take the elevator to the 18th floor. They can. It is a wonderful, free country, and I guess we are allowed to go wherever we so choose.

**Mr. Minenko:** When you were setting up, I presume—are you incorporated?

**Mrs. Lamontagne:** Yes, we are. We became incorporated a year and a half ago. Prior to that I was a single proprietorship.

**Mr. Minenko:** When you originally, I presume, registered a business name, and when you registered your document as a corporation's branch, were you ever advised of any of the regulations that you would have to comply with?

\* (1100)

**Mrs. Lamontagne:** No, we were not. Not at any of those steps in starting a business were we advised that there was any form of licensing needed in addition to what we had. Every business, as you know, has to have a licence from the City of Winnipeg. There was no information at that time. We all have to register a business name. That is the first step in operating a business. There was no information at that time. We also, of course, have to register federally, because we have to pay the Receiver General every month.

There was no information. This is why it came as such a surprise to us, five years and some months after we were in business.

**Mr. Minenko:** So really what you are saying is that over the last five and a half years or so in operation, any sorts of regulations or any types of grants or any assistance or anything of that nature, you really had to stumble across yourself. There was no agency of Government that you were aware of that could provide you with a package and say, this is everything you need to set up your business, and you can go through it and mark it off as you do it. Is that correct?

**Mrs. Lamontagne:** Nothing like that at all. I like the idea of the grant. I have not heard of anything about that either.

**Mr. Minenko:** This is certainly one of the things, as the Industry and Trade Critic for the Liberal Opposition, I have been encountering then. I have been out visiting over the last year, since I have been the critic, over 40 different companies, large and small. It seems only the large companies can really afford to have someone who can keep track of what is happening with Government and so on, where many of our small businesspeople are really left out in the cold.

Would you think it would be of an advantage to you—where in the process would you think it would be an advantage for you to be advised of the regulations and the other things that would impact on your business—in a check list format?

**Mrs. Lamontagne:** Absolutely. I still go back to the old adage that if at least if we are known or given the information, then we can choose at our own time to go through it. We make the time or we file it away. But if we have no indication whatsoever that those needs are out there, or that those licensings are going to be required, we should not be expected, X number of years down the road, to comply with something. The reason we followed up as strenuously as we have—and I say "we" because my husband is very involved in the business as well—although I had contacted Consumer and Corporate Affairs and they did tell me that, yes, we were required to have a licence, I had spoken to all the other maid services I was able to contact and they said, well, we are not, or in one case, yes, we are.

I did not want to hear from a Government department that five years down the road said to me, okay, we informed you in December of 1989 that you required a licence. We are now enforcing it. Now not only do you owe us a licence for this time, but we are going to go retroactive for five years. I did not want that to happen. This is why I have been so diligent in following up on this because I wanted an answer.

**Mr. Minenko:** So it would seem to be then, from what you are saying, that, yes, it would be an advantage to any person looking at starting up any sort of business to have that information perhaps at the first contact they have with Government, which should be the business names regulation or registration requirement. At that time perhaps a little check list should be provided to people, or at least that they be made aware that you should contact these sort of departments if you are looking at these sorts of businesses. They can provide you with further information. Do you think that would be an advantage to you?

**Mrs. Lamontagne:** Yes, as a matter of fact, on my meeting with Mr. Connery this morning and the Deputy Minister, that was something we did discuss. There again, if the information is given, then it is up to the person starting their business to follow through. There are a lot of things to do in starting a business, as you all know. But at least if the information is given there and it is said, okay, you have registered your company

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name; your next step is contacting Consumer and Corporate Affairs and seeing whether or not a licensing is required.

Hopefully the information that is received from Consumer and Corporate Affairs will be open and honest and information that should be available to each and every taxpayer.

**Mr. Minenko:** This is exactly the point I have certainly come across in many small businesses. They said we would like to have some place we can find this information from; they are oftentimes not aware. Finally then, in conclusion, the fact that you found out a licence was required in order for you to distribute leaflets, was there any suggestion that in fact this could be made retroactive and they could theoretically go after a company, or the Consumers office could go after companies that have distributed leaflets and do it retroactively and prosecution and this sort of thing? Was there any of that kind of discussion?

**Mrs. Lamontagne:** No, absolutely not. It was just something that I did not want to happen in the worst possible scenario. I wanted to take the appropriate steps to have it put in writing to know that someone knew that this had happened, that we had not been dealt with openly from the department that we had originally contacted, and therefore our next recourse was to go to the critic's office. Possibly we should have followed up, but I made a phone call and, when I was told that Mr. McKay was the person that I should speak to, I left it at that. I did not know that there was another avenue that I could follow, other than going to the critic's office. It was my favourite husband who told me that, there is something else that we can do, and he contacted Dr. Patterson's office.

**Mr. Chairman:** Okay, any more questions, Mr. Minenko? Mr. Uruski.

**Mr. Uruski:** Mr. Chairman, I ask Mrs. Lamontagne, were there any questions put to you by the department about your own bonding and insurance that you provided because of your franchise service that you had? Did the department ask you anything, since you have pointed out in your own brief that you were bonded and had an insurance?

**Mrs. Lamontagne:** There was no inquiry made. I volunteered the information and said that I did not feel that we should have to duplicate what we already had and what we were required to have as a franchise operation. Now I know that there are businesses out there that are not insured and there should be something that governs their activity, but I feel that this is a duplication, and basically what it looks like to me is a licence to advertise.

**Mr. Chairman:** Mr. Uruski?

**Mr. Uruski:** That is all. Thank you very much.

**Mr. Chairman:** Okay, very good. Mr. Maloway. Go ahead, Mr. Maloway.

**Mr. Maloway:** Thank you, Mr. Chairman. To the presenter, do you have any idea how many more people who are paying the fees to the Government might qualify for this amendment? The exemption deals with household services and gardening. Any idea how many people would be involved in that?

**Mrs. Lamontagne:** There are 40-some maid services listed in the phone book. I did not have time to contact all of them, but of the few that I spoke to, the percentage that were not paying—and those people who had been contacted and said, I am exempt—I would think that it would involve any service. A portion of the letter that was received from Mr. Connery, and I will just quote here, it says: "I note in your letter to me," and this is a letter to Dr. Patterson from Mr. Connery, "I note in your letter to me that you suggest that I instruct Consumers Bureau to exempt Molly Maid and others who provide similar services. Your request would require that the Consumers Bureau no longer license and bond firms such as those that do carpet cleaning, upholstery repair and cleaning, and possibly those involved with lawn fertilizing, chimney cleaning, etc. I believe the problem with your suggestion is that it is difficult to know where to end and where to begin."

It just goes on to explain more about the reasoning behind the bonding of direct sellers which I have no argument about. I am not arguing that fact at all. I am just saying that there is legislation in place which exempts us, and I learned of a possibility that that exemption was being changed or removed and it is definitely a concern. It is not only a concern for me, it is a concern for others in the industry and, fortunately or unfortunately, I am the spokesman for that group this morning.

\* (1110)

**Mr. Maloway:** Obviously, what we have here is uneven enforcement of the law, sort of a scatter-gun approach to the situation where you have some businesses being left alone because the bureaucracy feels that they are in the exempt category, and others they go after basically on a whim, because they feel they apply. The fact that the Minister would try to bring in an exemption to remedy the problem just indicates to me that he was basically supporting his department's desire here to capture this extra revenue and to get these other people under the Act. That is what it appears to me. Only since we have been in the committee have we found out about this and have discovered that in fact the Minister is not going to now remove the exemption.

The argument he is using is the fact that it is inconsistent with the little Bill he has introduced to do so. It has nothing to do with Bill No. 63. Of course that puts him at odds with his whole position, that we should not be allowed to bring in other amendments to The Consumer Protection Act, which of course we intend to do.

If he wants to bring in his amendment to remove it, then I would suggest to him that he has just as much right to do that as anybody else. I just feel he has been caught; the fact you are here is proof of that. He has

been caught, he is trying to backtrack now and downplay the fact he had tried to back up his staff and remove the exemption. I did want to inquire of you as to whether or not you received any materials from the Government in terms of leaflets, brochures, or whatever, in regard to this whole area.

**Mrs. Lamontagne:** We, I think, have been kept up to date on committee meetings and proposed changes. We have been kept up to date. David Johnson has been very diligent, and he has sent us copies.

**Mr. Maloway:** Mr. Chairman, perhaps the Minister who was quite adept at handing out pink slips in his previous incarnation—

**Mr. Chairman:** Please let us keep the questions to the presenter.

**Mr. Maloway:** —will look at this particular incident and speak to the bureaucrat concerned. Mr. Chairman, for two years this Government has ignored provisions of The Business Names Registration Act. I would like to ask the presenter: do you feel that all firms should be registered in Manitoba, or just small Manitoba firms? We have a situation with Brick Warehouse where a firm from Calgary has come into this province and has been operating for the last couple of years, not being registered. Do you have any comments on that?

**Mrs. Lamontagne:** I would think that if I had to be registered to operate in the Province of Manitoba, anyone else operating a business would have to be registered here as well.

**Mr. Chairman:** Mr. Maloway—no more questions? Mr. Minister.

**Mr. Connery:** It is unfortunate, Mrs. Lamontagne, that instead of looking at the problem you have presented, a legitimate problem, we got into the politics of it. This really does not help the committee. The Member for Elmwood (Mr. Maloway) has consistently misinformed—I guess we cannot say lie, because first of all, Beauchesne's does not allow us to call people liars in the House—but he has misled the public on several occasions. He continues to do so. That is in his political vein, and if that is his way, fine.

You registered under an NDP Government. The same staff are there today, basically, as were there then, doing the job the best they can under the legislation they are given under the direction, naturally, of the Minister if something comes to their attention. I can tell you, Mrs. Lamontagne, you are lucky it is not a consumer who is here presenting against a Molly Maid type or a person of your kind. The Member for Elmwood would now have an amendment to The Consumer Protection Act, handcuffing you so badly you would not be able to breathe.

This is the way it has been going. But really, I hope we do not leave on the record the impression that the department staff are bad. They may be working under what they perceive to be the right direction and are doing so with the best intentions of the consumer and

of the business people at large. I know most of the people in the department. I do not know all of the people intimately, but our director of the Consumers Bureau, Denis Robidoux, is here. I meet with him very regularly.

The department people do the best they can under the circumstances. Now, if the procedures are wrong, or something along that line, that is what we want to look at. Denis, as the Director, we talk over many of these situations. So your bringing it to our attention has helped me as the Minister to review and for us to sit down, the Deputy and Dennis, to review the procedures of the department, which we will do. The fact that you did not receive all of the Bill, I find that maybe to be an error. So we will discuss issues like that. As we discussed in my office, you have an opportunity to be given a pamphlet. Those are the kind of suggestions that we look forward in committee.

I guess that as Ministers we do not have the opportunity to live in the department to know the intricacies of it. It is when people have a concern with the department that we have a chance to review it. I guess part of the concern that I have is, did you relay all of these concerns to Mr. Patterson with your concerns over the department? I am not trying to be critical of Mr. Patterson, because Mr. Patterson, I think, acted in a very responsible way. Now be very clear about that.

But all of your concerns were not brought to my attention as clearly as what they were this morning when we had an opportunity to spend over half an hour in dealing with them. I guess, if I had understood more of your concerns, which I did not receive from Mr. Patterson—it was really the legislation and should you be licensed in some of those areas—maybe we would have approached it differently or had an opportunity to already discuss it. Did you give Mr. Patterson all of those details?

**Mrs. Lamontagne:** Yes, I did. On September 14, '89, I did write. I wrote directly to David because he is the gentleman we had dealt with. I indicated what exactly had happened to date in my meetings with Mr. McKay, my request of Mr. McKay, my subsequent receiving the information and his interpretation. I think to that point in time, I do not know whether we had heard from our head office or not. Yes, there was an exemption clause—so, we had heard and we did inform Dr. Patterson's office at that point. Unfortunately, I did not send a copy to your office.

**Mr. Connery:** I will say that my SA and David Patterson had—she is not here, but I would guess—three or four telephone conversations on it. It was not that I was not aware of your concern, but I was not aware of all of the details of your concern. So, as you know, last Tuesday was the first time that part of this came to my attention. We had been talking about having a meeting, and that is when I said, look, we need this meeting sooner than later. I was not aware of the concerns you were raising.

I make those comments in light of our having a meeting and that, yes, we will be taking a look at the

department. I think to try to politicize it is not to be to anybody's advantage. I could say—and the original consumer legislation was written under Duff Roblin's era, brought in by the Ed Schreyer Government when they took office. So it is legislation that was approved and accepted by two political Parties. I am sure if the Liberal Party had been in power, they would have also gone along with it and would not know that there was a problem or business concerns there until it is raised by you. Obviously nobody in the Opposition Parties was aware of anything along that line, as was I, until you raised that to us. That is the part of committee hearings where the public has an opportunity to present their concerns, and I thank you for it.

**Mr. Uruski:** Mr. Chairman, the Minister just indicated to us that he knew nothing of this situation. Mr. Chairman, that is not true. The Minister, in his own letter—

**Mr. Chairman:** Mr. Uruski, your question to the presenter.

**Mr. Uruski:** Mr. Chairman, it is not a matter of a question to the presenter. The Minister of Consumer Affairs (Mr. Connery), in this committee just made a number of statements to a witness, trying to extricate himself—

**Mr. Chairman:** Mr. Uruski, I am cutting you off. Your questions will be addressed to the presenter. On a point of order, Mr. Uruski.

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**Mr. Uruski:** You just allowed the Minister to make about a five-minute address trying to extricate himself out of a situation that was raised with him by an Opposition Member months before in this whole process, and trying to explain his situation, which is fine; I do not mind that. The fact of the matter is that he was rationalizing or explaining his position vis-a-vis this Bill.

Now, Mr. Chairman, you are saying to Opposition Members that it is okay for the Minister to explain himself, but it is not okay for Members of the Opposition to question the process that Minister was involved in in trying to extricate himself. I ask for some clarification as to how you intend to operate the workings of this committee.

\* (1120)

**Mr. Chairman:** Mr. Uruski, that is not a point of order. Dispute over the facts is not a point of order. You are here to question the presenter, and if you have no more questions to the presenter—Mr. Uruski, on a different point of order.

### POINT OF ORDER

**Mr. Uruski:** Mr. Chairman, I am not disputing the facts. I am asking you, Mr. Chairman, as the Chair of this committee, as to how you intend to operate this committee. I am dealing with the process of this

committee. We have had Members of the Opposition being very narrowly confined to raise their questions with respect to questioning the presenters. Then we have a Minister being allowed to explain himself fully to try and extricate himself out of a very embarrassing situation that he has got himself into. But when Members of the Opposition want to go into that area and try and get some further clarification on this issue, you are then being very, very hard and defensive of the Minister and the process.

So I ask, Mr. Chairman, for some clarification of the process, not of the facts. The facts we will debate here, Mr. Chairman. We will debate yet. But I want to be assured that Members of this committee will be given similar latitude that was just afforded to the Minister.

**Mr. Chairman:** I think you are questioning me as Chairman of this committee in that respect, and I would like to clarify that. Mr. Maloway put quite a few comments on the record. I felt that in all fairness to that what he was doing before and what you attempted to some degree—it was also fair. I was at the point of almost cutting him off as well at that point. But I thought he was also making his final comment to this presenter. That was under my judgment. The way I felt, it was pretty well pulling it equal to all Parties that are here. All I can say is that I think we are very fortunate that we do not have four Parties in Government today, that we only have three. Mr. Uruski, do you have questions to the presenter?

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**Mr. Uruski:** No, Mr. Chairman, I thank the presenter for the object of her presentation and coming here today.

**Mr. Chairman:** Any more questions to the presenter from any other committee Members? I want to thank you, Mrs. Lamontagne, for this endurance test.

**Mrs. Lamontagne:** Thank you very much.

**Mr. Chairman:** We will go to the next presenter. Mr. Bill Hanson, go ahead.

**Mr. Bill Hanson (CKY Television):** Good morning, everybody. I am just directing my comments toward a potential for an amendment to the Bill with regard to restricting television advertising to children in the Province of Manitoba. My comments today will be simple and straight to the point.

We, specifically CKY Television and the television broadcasters of Manitoba, are opposed to the amendment which would limit in any way to any extent advertising to children in this province. We are opposed to televisions being singled out in this way without similar impositions being considered for all other forms of advertising. To limit advertising on stations in this province would not and could not affect the delivery of advertising messages on television being delivered to our households on CBC Network, CTV Network, YTV, The Family Channel, TSN, TNN, CNN, ABC, NBC, CBS, Newsworld, et cetera.

Such an imposition would only restrict the local broadcasters at the expense of local production, employment and taxes. The result, of course, would be ineffectual with regard to controlling the delivery of advertising to our children.

Each Canadian broadcaster adheres to the Broadcast Code of Advertising to Children which controls the content of children's ads and their scheduling. Copies of the code are available to you should you wish.

There is a restriction on advertising in the Province of Quebec. Our understanding of this is that it has been a disaster. I would refer you to the intervention of the Children's Broadcast Institute for comments, and we would be willing to investigate that situation further and provide information if needed.

Our industry believes that to protect our children from responsible marketing practices is a mistake. Surely it would be better to help our children learn to become discriminating consumers by assessing that which is available to them and accepting what is perceived to be good and rejecting that which is not.

Each of the larger Manitoba Television broadcasters is operating this year for the first time with the condition of licence that requires that we spend very large amounts of money on Canadian production and programming, for any revenue to be denied these broadcasters would introduce further difficulty to those broadcasters meeting these severe CRTC-imposed commitments in a business environment which is now already difficult.

Thank you for your opportunity to present our views. We hope we have contributed to the process.

**Mr. Chairman:** Thank you, Mr. Hanson. Questions—Mr Praznik?

**Mr. Darren Praznik (Lac du Bonnet):** Mr. Hanson, I have two questions for you with respect to Quebec and the effect of the legislation there. The first one, you mentioned, has been a disaster. I would like you to give us a little more detail on your reference to that. The second question has to do with, obviously, the fact that Quebec being a majority French-language community. What percentage of programming used in Quebec or of the signal utilized in Quebec is actually produced in Quebec? Would that make the ratio of internal production and internal programming greater than in most parts of the country?

**Mr. Hanson:** I do not have detailed knowledge of the situation in Quebec myself. I do not have it here. All I can tell you is that the understanding that I have been given is that the reason that it is considered a disaster, particularly by the Children's Broadcast Institute, is that it has had the effect of restricting and, I guess, making the production of children's programming happen in a much less—there is much less children's programming being produced. Obviously, programming of that nature with private broadcasters at least is totally looked to be funded by advertising.

So it is the lack of children's programming that has been produced. I guess that is the major concern. With

your question regarding the reach and the signals of the Quebec stations versus perhaps American stations in broadcasting in English, I do not have any specific knowledge or numbers of that. But if there is concern and if there is desire for further information on that topic, we are happy to provide it.

**Mr. Praznik:** Thank you, Mr. Hanson. If that information is not too difficult to get, I would appreciate it. Obviously you identified the problem. Quebec is a unique province in that they do not have access to large amounts, I imagine, of material that is produced in Toronto or Vancouver or in the U.S. because of the majority language there. So they would probably have, I would assume, please correct me if I am wrong in the assumption, a greater local production. Their television stations et cetera would be more localized than in the rest of the country, if that is the correct term. So it would be easier to regulate than they would be in a province like Manitoba.

**Mr. Hanson:** I do not believe they are more localized with regard to the production. All Canadian television stations are regulated by the CRTC, and within conditions of licence there is a requirement for local programming of various types. We all basically answer to the same body and are required to do a lot of the same things.

I think why that point was included is the principle would be the same in Manitoba as it would be in Quebec. That is, with broadcasters whose only means of raising revenue is selling advertising, you sell advertising in programs. Obviously, it is not fair. It is going to have a detrimental effect on local production of programs where you cannot sell advertising. I can follow up for more information on that.

**Mr. Minenko:** What you are saying is, okay, you are part of the CTV Network, I believe. Anything that I presume the station purchases from the CTV Network, the advertising that they would put in place in the various places throughout that particular program, we could not restrict? Is that your interpretation?

\* (1130)

**Mr. Hanson:** I guess we are assuming that legislation that was in effect only in Manitoba indeed would not affect programming and commercials which were originated from outside the province. That would include programming such as in our own case programming and commercials generated by the CTV Network. It would include the other Canadian networks, CBC and Family Channel, et cetera. It would also obviously include those areas where U.S. network programming is received on cable. There would be no way of restricting that advertising as well.

**Mr. Minenko:** What percentage of advertising on Manitoba broadcasters is geared toward children?

**Mr. Hanson:** I do not know what that figure is. I could tell you that it would be a very small amount, a very small percentage of the overall broadcasting. I do not

know what that figure is. That too at least in our case could be supplied.

**Mr. Chairman:** Mr. Minenko, please speak into the mike.

**Mr. Minenko:** You mentioned the expensive local production, employment and taxes. I am just wondering if you have any figures on how much of the advertising that your television station, and if you are speaking on behalf of the other broadcasters of Manitoba, on their stations is made in Manitoba. Do you have any figures as to what kind of thing we are looking at there?

**Mr. Hanson:** No. Obviously that information can be forthcoming, but I do not have it today.

**Mr. Minenko:** Is there ready access to that information? Would you have ready access to approximate figures?

**Mr. Hanson:** All I can say is that we would have to discuss that with the other broadcasters in order to see what kind of meaningful information could be pulled together.

**Mr. Minenko:** The Children's Broadcast Institute—I am sorry, I am not very familiar with this area. I am just wondering, could you advise us who they are, that you mentioned in your paragraph dealing with the Province of Quebec?

**Mr. Hanson:** No, I am not familiar with the details of that particular group. It is my understanding and our understanding that they had filed an intervention specifically related to this potential amendment.

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

**Mr. Maloway:** Mr. Chairman, I have several questions. I think Mr. Hanson and I are going to probably have to agree to disagree on this one. I feel that once again we are into a money argument here. I do not really feel that we should be equating children's minds and children's health with money. The fact of the matter is that this particular legislation has been in Quebec for 10 years. In fact it was challenged by Irwin Toy company. I have here a copy of the Supreme Court judgment rendered last year, in which Irwin Toys lost.

The Consumers Association started the ball rolling last November when they called for provincial jurisdictions to take action across the country. I think I would be the first to admit that this sort of legislation in just one province would be somewhat limited in its effectiveness, but certainly if it were to spread to other jurisdictions, it would be more effective.

We have passed resolutions in the past on such things as nuclear-free zone and so on which people have argued are symbolic, in symbolism, but sometimes that is necessary. It is necessary for people to make a stand and take a stand. We feel that, I feel anyway, as responsible advertisers and television executives, perhaps there should be some people in the business community who stand up and say for the sake of our

children's health that perhaps we should voluntarily restrict our advertising.

In terms of what you said in your brief, you mentioned in your brief that in fact we do single out television, and you are correct. In Quebec in fact the ban there is on all forms of advertising directed at children under the age of 13. In Manitoba we chose to limit it to television although we would certainly entertain amendments from the Minister or from the Liberal Opposition if they chose to do so. We would certainly support them in that if they wish to make the amendment.

**Mr. Hanson:** Some of your comments I guess come down to philosophy. My own personal opinion is that the best way to raise your children is to teach them to become responsible people. You do not do that by sheltering them from the world but in fact by exposing them to the world in a controlled and productive manner. Be that as it may, you cannot disassociate the argument from money, as you put it, as that is the only way that certainly CKY Television and all the private broadcasters in the province can exist, by generating those advertising revenues from the programs that we have run.

The fact is, there is a continuing pressure all the time to do more and more local production and that will continue to be. The best way to achieve that is to allow the broadcasters the opportunity to have that programming generate funds that will offset the costs of those productions, because the fact is that in producing, buying children's programming, in producing children's programming, the money that we have to spend to acquire the rights, to pay the performers, to pay the talent and so forth is very real. So it certainly is part and parcel of the argument.

I also just wanted to ensure that the committee was aware that there are quite strict standards for children's advertising, for again to the broadcast advertising and children brochure of the Canadian Association of Broadcasters, that place quite strict guidelines on content and volume amounts and so forth of children's advertising already. This is endorsed by CRTC and all broadcasters adhere to these guidelines as part of our licence.

**Mr. Maloway:** I would like to ask you a couple of question referring to lobbyists in the business. Reference was made earlier to Mr. Sanderson Layng of the Children's Broadcasting Institute. I believe Mr. Minenko asked the question and you were not sure who he was or whatever. The fact of the matter is, I spoke to Mr. Sanderson Layng as well, and when I returned the call to him, he answered as Global TV. His presentation here, in fact on the fax presentation that he sent from Toronto, it has Global TV on the top of it. So that is whence it came. I do not fault you at all.

Government deals with lobbyists from all sorts of industries and businesses all the time. It is your job. You are doing your job by appearing here and making your points known and just. So long as we people understand that that is the case, I do not see any

problem with that. I certainly expected to hear from Mr. Layng on this particular subject, and I do have a copy of his presentation.

In terms of further question on the lobbyist though, in terms of cigarette advertising, what percentage would you say of your revenues, CTV's revenues, are gotten through cigarette advertising as opposed to children's advertising. Do you have a breakdown on anything like that?

**Mr. Hanson:** Cigarettes are not advertised on television.

**Mr. Maloway:** I have to apologize to you then. I was not aware that there is no cigarette advertising on television. I am aware that it is an issue before the federal House right now, a ban on advertising on cigarettes. I would submit to you that more than likely, broadcasters will be appearing before that particular venue arguing that it is going to be a big reduction on their revenues and hurt them critically. My submission to you is that advertising broadcasting will survive the eventual elimination of cigarette advertising as well. Life goes on. Business can accommodate the changing climates.

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

\* (1140)

**Mr. Hanson:** I am not an expert in that field. I can tell you that from my information and understanding, the ban that is being discussed is on all advertising. There has not been cigarette advertising on television for quite a number of years. That is also the case in the U.S. So cigarette ads are not coming into our province from any source when it comes to broadcasting.

Again, our position would be that by restricting children's advertising in the Province of Manitoba this is going to have little practical effect because of all the unstoppable messages and television messages that come into the marketplace everyday. We feel that by restricting advertising in the Province of Manitoba only, all you are going to do is penalize the local broadcasters, have no or little effect on the overall matter which you are concerned with and in fact hurt the very group that you are concerned with, restricting the potential for children's television program production and carrying programs of that nature.

**Mr. Maloway:** Well, if we accept your premise that your advertising revenues are not substantial from the area of children's advertising to begin with then would it not seem possible to you that perhaps the role of the Education department in Manitoba should be expanded to include the provision of adequate children's programming? To me that seems to be the argument that we should perhaps provide adequate children's programming through the Department of Education which is publicly sponsored and not worry about the demise of it, because that is the argument that the lobbyists have made on the Quebec measure. They have said that children's programming will shrivel and dry up as a result of this measure. My submission or

suggestion to you is, perhaps the Government should expand the role of the Department of Education to assume that role of providing adequate levels of children's programming so that the private sector does not have to worry about making it up.

**Mr. Chairman:** Mr. Hanson, do you want to respond to that?

**Mr. Hanson:** No.

**Hon. Len Derkach (Minister of Education and Training):** Mr. Hanson, first of all you are aware that what we are discussing is an alleged amendment that will be proposed by the NDP, that this is not part of the Government Bill?

**Mr. Hanson:** Yes.

**Mr. Derkach:** Okay since, Mr. Hanson, we cannot stop programming coming in from the states because of the satellite and everything else that is coming in, we are getting advertising from the Americans as was the case with the liquor advertising before, where the Americans were beaming in all of their liquor advertising, but Canadian stations were not allowed to do so. What percentage of hours do you think there is? I do not know if maybe you have those statistics or not, of Manitoba productions that we could control the advertising on versus the total amount of children's broadcast hours available to children in Manitoba from other sources.

**Mr. Hanson:** No, I do not know that figure.

**Mr. Connery:** Do you have a guess, you being involved with television? Every other channel would—every American channel can bring it in. We would not be able to, I do not think, under this legislation. It would only be programs that are generated in Manitoba that we would have a say. We could not be able to say—TSN for example, comes off the satellite. I do not know if they broadcast children's shows or do children's advertising, but something like that. We would have no control over that particular type of beaming in, or am I wrong in that questioning?

**Mr. Hanson:** No, that is exactly the case and whether it be TSN or Canadian networks, Canadian stations specifically geared to children, the Family Channel, "Y" TV, that is exactly the case. There is no practical way to restrict the advertising on those channels either. For that matter, those channels are in business to carry that kind of programming across the country, and it is funded by advertising, advertising to children for the most part.

I would not want to hazard a guess as to the amount of local production. I would assume that it is a small percentage and, again, that information at least with our company and in contacting the other stations can be forthcoming.

**Mr. Connery:** So the effect of the Bill, or the amendment that is being proposed would be that it

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would be Manitobans that would be affected in the production of commercials and nobody else would be affected. There would only be Manitoban jobs and Manitoba activity that would be affected by this Bill. The reality, we might only cut down the amount of children's advertising by 10 percent or 15 percent that would normally be coming in.

**Mr. Hanson:** Yes.

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

**Mr. Uruski:** Did I understand from Mr. Hanson that from your station, what amount of production of children's commercials would be made here in Manitoba? Do you have some production, or at least is there any production of children's advertising here in Manitoba, or would that be primarily national?

**Mr. Hanson:** When you say advertising, do you mean children's programming being produced that we sell advertising in?

**Mr. Uruski:** I am speaking about advertising in the sense of advertising that goes along with programming that may go on the air, that you would sell.

**Mr. Hanson:** There is some. I do not have a figure as to how much revenue would be involved or how much of that there is. I can tell you that some of the examples of programs, of children's programs that we produce for example are, S'kiddle Bits which is a kids show that we run weekdays at 12:30 to 1 p.m.

Projects in the past for a program like that, we have gone to the Children's Festival and produced a series of live and taped programs there and rebroadcast them. We obviously feel that has quite a bit of benefit to the Children's Festival. For example, in order to do a live broadcast of that sort you have to pay microwave charges to MTS. They run into the thousands of dollars. I can tell you that production happened because the Egg Marketing Board sponsored it and underwrote the cost and was sold a sponsorship in that particular series of programs. It is unlikely that we would have done the Children's Festival programs had that cost not been underwritten by advertising.

**Mr. Uruski:** Mr. Chairman, I guess that is what I am trying to understand from Mr. Hanson.

Would it be that advertising generally that would flow with children's programming, if it was geared towards children, is there some production in Manitoba, or generally would that advertising be produced outside the province in terms of the type—you just gave us the scenario of a Manitoba-based program where you have used the production right here in Manitoba, where you produce the program in Manitoba with the help of the Egg Marketing Board, with their revenues. Their advertising would generally be geared, I guess, in terms of the wholesome product of farm produce, not geared directly, but indirectly, to children.

Are there any advertisers in Manitoba that actually come to your station and say, we want to advertise in

this area of time where you have children's programming, and that advertising is specifically geared to children, or is most of that advertising really outside the province? That is what I am trying to understand.

\* (1150)

**Mr. Hanson:** Most of it comes nationally from outside the province. I cannot give you a number or think of examples of where a Manitoba company would want to advertise to children. In particular, it is not inconceivable that could happen, but no, I cannot think of any examples of where that is the case. Most of it comes nationally.

**Mr. Uruski:** Mr. Chairman, so the impact that you talk about on jobs would be primarily the possibility or the inability of television, a local television station, not obtaining some sponsor to put on locally-based programming, rather than the potential of loss of jobs of production of commercials. Am I reading your presentation correctly by making that assertion?

**Mr. Hanson:** Yes.

**Mr. Uruski:** Mr. Chairman, in the notes that were sent to us from the Children's Broadcast Institute to Mr. Hanson, that is an industry lobby group, it is not a consumer lobby group. Am I correct in that?

**Mr. Hanson:** I am not familiar enough with it to comment.

**Mr. Uruski:** Mr. Chairman, in your brief it said, I would refer you to the intervention of the Children's Broadcast Institute for comments. How did you learn of this institute to make that assertion in your brief that you have presented to us? What knowledge do you have of that institute?

**Mr. Hanson:** I am aware of it as I am aware of other industry organizations such as CAB, Canadian Association of Broadcasters, and so forth, Telecaster Committee. There are a number of industry organizations that set standards for advertising, so I am aware of it in that context. I personally have not had any dealings with them with my position at CKY Television, so that is why I am not familiar with how the group was formed or incorporated and so forth.

**Mr. Uruski:** Mr. Chairman, you have indicated that you are asking us to go to this institute for comments. I am assuming that your knowledge of the institute as being a knowledgeable entity in terms of children's broadcasting and now I hear from you, sir, that you really do not know anything about them. I am a bit puzzled as to making that assertion in your brief, saying look, here is a reputable body.

If it is an industry group, that is fine. I have no difficulty with that, but now I am a bit concerned that in your brief, sir, you said to us, look, there is a body out there that will tell you how disastrous the Quebec legislation has been. I am prepared to accept that, but now I am being told, I really do not know very much about this group that I have just quoted in my brief.

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**Mr. Hanson:** My impression of them is that, like a number of the self-regulatory groups, they are a legitimate group and have played a role in that kind of maintenance of standards. I was only referring to the fact that in terms of specifics, as to the institution of the group, the groups that came together and formed it and so forth, the history of it, I am not familiar with those details, but that certainly could be provided.

**Mr. Uruski:** Mr. Chairman, I am not challenging the legitimacy of any group being set up. I want to assure Mr. Hanson that all I wanted to know is whether or not this institute is an industry-based group or is it a consumer-based group, that was really my question.

**Mr. Hanson:** My understanding is that it is an industry-based group. I did not want to perhaps make that a black-and-white statement just in case there is a consumer group input, or portion of this body where that kind of input is given, and I am not aware if that in fact is the case or not.

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

**Mr. Uruski:** Mr. Chairman, I would like to thank Mr. Hanson for responding to my questions.

**Mr. Minenko:** Mr. Chairman, I had a couple of final questions. You mention in your presentation, and subsequent discussion, that there is a broadcast code of advertising to children, which I presume sets out what the ethical standards are and matters that all broadcasters are to consider before they allow, or the criteria they should use, before they allow, a children's ad to be broadcast. Is that correct?

**Mr. Hanson:** Yes.

**Mr. Minenko:** I presume then in the United States that they have—now is this broadcast code right across Canada then?

**Mr. Hanson:** Yes.

**Mr. Minenko:** In the United States, do they have something similar?

**Mr. Hanson:** I would only be guessing, and I would say, yes, but I am not familiar with their particular legislation.

**Mr. Minenko:** I am just wondering if you would not mind checking up on that and providing us. I note that you have made notes as to some of the international information that we have used from you. I am just wondering because I would like to know how similar their code is to ours and if you could provide any kind of information along that route I certainly would appreciate it.

**Mr. Chairman:** No more questions, Mr. Minenko? Mr. Maloway.

**Mr. Maloway:** Mr. Chairman, I have a question that is: do the CTV or Moffat have any outlets in Quebec?

**Mr. Hanson:** CTV has an affiliate in Montreal, CFCF. Moffat Communications does not have any television stations in Quebec.

**Mr. Maloway:** Mr. Chairman, have you been able to check with them to determine how the regulations have worked as far as their situation is concerned?

**Mr. Hanson:** No, I have not done that.

**Mr. Maloway:** Mr. Chairman, also I would like to ask you a question as to whether parents—if parents in this province knew and understood that at least they would have three or four stations, albeit there are a number of stations that people can obtain in this province, but if parents could realize that three or four stations would not carry ads advertising to children do you not feel that might put some of their minds at ease?

**Mr. Hanson:** No.

**Mr. Maloway:** Mr. Chairman, you are aware of course that I believe CBC Radio does not carry any advertising of any kind. I did want to ask you whether you—I think you answered this in a way before—but I wanted to know whether you had an idea as to how much advertising revenue is available from children's programming. Earlier you had indicated that the percentage of total revenues, advertising revenues, related to children was very, very small relative to the whole pie. Do you have any idea how many dollars that amounts to?

**Mr. Hanson:** No. My earlier comment about it being—I do not remember saying very, very small—a smaller percentage of the overall pie is strictly based on my knowledge that in terms of hours of the day in the broadcast day, children's programming would make up a minority of programming, with a majority of programming being delivered to an adult audience. Therefore, it follows that the revenues would be a small percentage of the overall revenues generated.

**Mr. Maloway:** Mr. Hanson, do you know how many hours per week of children's programming are produced in Manitoba, any idea?

**Mr. Hanson:** No.

**Mr. Maloway:** Also, would you have any idea how many hours of children's programming would be produced elsewhere in the country?

**Mr. Hanson:** No.

\* (1200)

**Mr. Maloway:** Mr. Chairman, I note that Mr. Hanson made reference earlier to the fact that he had copies of the Code of Advertising and that they were available. I had some notes that indicated that in the Supreme Court decision, page 961, they say that the code is supplementary to all federal and provincial laws and regulations governing advertising. The code on Industry Organization was used by Irwin Toys in this case, and

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I might add unsuccessfully, as an argument in their case.

Mr. Chairman, I at this point would like to pass the questioning on to anyone else.

**Mr. Chairman:** Okay, thank you. If there are no more questions then, Mr. Hanson, I would like to thank you for your presentation. Thank you.

We will go to the third presenter, Mr. Peter Gustavson, Money Mart Financial Service Centre. Mr. Gustavson, do you have a written presentation?

**Mr. Peter Gustavson (Money Mart Financial Service Centre):** Yes, it is being distributed.

**Mr. Chairman:** Excuse me, Mr. Gustavson. We will hand them out to the committee Members first. Thank you. Okay, Mr. Gustavson, you may go ahead with your presentation.

**Mr. Gustavson:** Thank you, Mr. Chairman. I am here at the request of Stephen Clark, the President of National Money Mart, to read his submission and as well to present some information about Money Marts' operations in the Province of Manitoba.

Mr. Chairman, Committee Members, concerned citizens, I appreciate the opportunity to present the serious concerns my organization has regarding the portions of Bill No. 63 that would ban service charges for the cashing of Government cheques.

National Money Mart is Canada's leader in the growing industry of convenience cheque cashing. Since our first outlet opened in Edmonton in the summer of 1982, we have grown to over 110 outlets in Canada.

Although most people rely on banks for a safe and secure place to maintain their savings, many people prefer the simplicity of using cash for personal entertainment and much of their day-to-day needs. People nowadays know that cash is always acceptable without the hassles often encountered in writing personal cheques or controlling credit card purchases.

Cheque-cashing outlets have made it easy to cash just about any kind of cheque for a reasonable fee. Customers appreciate instant cash, no long line-ups, convenient hours and locations, and friendly service you get from most cheque-cashing outlets. Today's consumer demands service and convenience. The growth of the cheque cashing industry demonstrates the fulfillment of that need.

The fees charged take into consideration the ID presented, the risk of the item, and the cost of doing business. In the Money Mart organization, the base fee is 2.9 percent, plus a 95 cent per item charge. This rate applies to 85 percent of the items cashed by Money Mart. A 1 percent or 2 percent additional surcharge may apply depending on the item and the ID presented. However, no cheque is cashed for a rate higher than 4.9 percent.

Furthermore, the fees charged are dictated by the consumer and the marketplace and are perceived by

the consumer as reasonable. There is enough competition in the marketplace within the industry and outside the industry, i.e. financial institutions, to keep our fees competitive.

The question arises as to how Bill 63 solves the alleged problem of people cashing Government cheques. The ban on charging a fee is effectively a ban on retail Government cheque cashing. Merchants and cheque-cashing outlets will not do it for free. This portion of your Bill is discriminating against those it intends to help.

The results of this ban will force people to use the major financial institutions as their sole choice for cashing Government cheques. This eliminates the competitive influences on the banks, potentially penalizes those with Government cheques and is very paternalistic.

All Canadians, regardless of how they receive their income, have the right to choose the kind of financial services they wish to use. I cannot imagine the reaction of anyone on social assistance who is told that, because they are on welfare, they cannot do business here. What about those receiving Government pay cheques? Do they not have the right to take advantage of our unique service? At 8 p.m. Saturday night, should they not be able to cash their cheque too?

Referring to a recent January 12, 1990, article in the Winnipeg Free Press, it appears the problem stated is that people on Government assistance cannot open an account with banks or credit unions because they lack the required identification. How does this ban solve that problem?

Money Mart's customer service attitude includes going out of our way in order to help people to cash their cheques. We have found a very small percentage of Canadians may be temporarily in a situation of no or inadequate identification. Customers with expired, little or no identification are given the full opportunity to take advantage of Money Mart's unique verification system in order to cash their cheques.

However, it is very rarely an obstacle to overcome cheque-cashing services or banks. People generally know what is required to cash a cheque, and all Canadians have the same opportunity to obtain a social insurance card, birth certificate, provincially issued ID, passport, driver's licence, medical service card among others. Some provincial Government agencies, such as Social Services, assist those temporarily out of ID with Government issued letters of identification that are accepted by banks and other financial institutions. Consideration should be given to the severity of the problem and the pro-active solution available.

Our own surveys indicate that 96 percent of our customers have acceptable identification. Spokesmen for the bank deny anyone is being discriminated against because they are on social assistance. The spokesman said . . . there is nothing preventing anyone from cashing a cheque at the bank from which it is issued . . ." He also said that ". . . people are turning to cheque-cashing firms because of convenience, not because they are being refused by banks . . ."

People do not even have to maintain a bank account if they choose not to. No one is forced to come to a cheque-cashing convenience centre. If people want to cash their cheques for free, all they have to do is take it to a bank it is drawn on and present it for payment. It is that simple, regardless of the type of cheque. My organization supports helping those in need. However, we oppose the portion of Bill 63 that bans the rights of those in Manitoba receiving Government cheques to choose the kind of financial services they wish.

This portion of the Bill is clearly discriminatory. It holds out to humiliate and penalize those it intends to help. It offers no solution to the alleged problem of ID and effectively reduces the choice for cashing of Government cheques.

At this time, I would like to review the results of an extensive cross-country survey conducted by National Money Mart and to provide the committee with specific information with regard to Money Mart's operations in Winnipeg. Based on National Money Mart's survey, the average Money Mart customer is 27 years old, single, male and employed in the trades or labour field. Of the customers surveyed, 60 percent had a bank account; 96 percent had acceptable identification; 70 percent were between the ages of 19 and 30; 82 percent were single; 71 percent were male; and 82 percent indicated that they were employed.

Money Mart's target market is the under-35-year-old male working in the trades or as a labourer, not the mother on social assistance. Money Mart is advertising in the sports section of the daily newspaper and the hard rock radio stations aimed at this market. Money Mart in Winnipeg has over 50,000 customers on file. Some customers use Money Mart services on a regular basis while others only use it when the banks are closed.

\* (1210)

The provincial social assistance department indicates there are 23,285 people on provincial assistance in Manitoba. In December 1989, 299 social assistance recipients used Money Mart to cash their cheques. This represents 1.3 percent of the 23,285 people on social assistance. Of the total cheques cashed in 1990 by Money Mart in Winnipeg, 1.47 percent were social assistance cheques, while the average social assistance cheque cashed by Money Mart in Manitoba in December 1989 was \$254.05. The base fee for cashing this average cheque at Money Mart would be \$8.32. However, if you are a Money Mart customer, you are entitled to free money orders.

A customer who wants money orders to pay their telephone, hydro, cable and gas bill is better off using Money Mart and paying the fee than going to the bank and cashing their cheque for free and paying \$2.50 for each of four money orders.

Money Mart has opened a total of six outlets in Winnipeg. However, like any other business, not all have been successful. Money Mart has closed three branches in Winnipeg.

The proposed Bill No. 63 is based on a similar Bill, Bill No. 251 passed in the Province of Quebec. Bill No.

251 was originally drafted in 1978, four years before the first cheque-cashing convenience store opened in Canada. That Bill was originally drafted by the Liberal Government in Quebec to stop the granting of credit to welfare recipients by tavern owners and furniture stores. It is our understanding that that Bill was to prevent welfare recipients from signing away their future welfare cheques in exchange for credit. The Bill was eventually passed by the Parti Quebecois but not before it was amended to include certain sections that were a direct challenge to the federal Government's jurisdiction in the Bank Act.

It is my understanding that the Parti Quebecois Government did this on a number of Bills to promote confrontation with Ottawa. This Quebec law is currently being challenged before the Supreme Court of Quebec. Martineau, Walker, the law firm challenging the law, has indicated they are confident that the law will not withstand the court challenge.

If there is a problem of cashing a social assistance cheque in Manitoba, it is for the small number of people who do not have adequate identification. As opposed to passing a law that does not address the real problem of lack of identification, we suggest that the social assistance department offer a cheque-cashing photo identification card to those recipients that request it. This is a simple solution that would solve 100 percent of the problem. Money Mart's customers have the option of purchasing for \$10 a Money Mart cheque-cashing photo identification card. This identification card is optional for Money Mart customers. However, it is recognized as excellent identification by most Money Mart competitors, including some financial institutions. So far in 1990, Money Mart in Winnipeg has sold over 500 of these identifications.

Money Mart in Winnipeg is a member of the Chamber of Commerce and of the Better Business Bureau. To the best of their knowledge, in eight years of operation there has never been a single complaint by a consumer to either the Better Business Bureau or the Department of Consumer and Corporate Affairs regarding Money Mart's operations. Considering the 50,000 customers they have on file and the hundreds of thousands of transactions they have had with consumers, this should be an indication that the services offered to the consumer are desired services and are offered at a fair price. If it were not, the consumer would vote with his feet and not use Money Mart.

One other point needs to be emphasized. If the consumer wants to cash any cheque without any fees, he can do so by simply taking the cheque to the bank branch it is drawn on and presenting it for payment. If the cheque is good it is required by law for the bank to cash the cheque without charge. This option is open to all consumers.

I thank you for this opportunity to address the committee.

**Mr. Derkach:** Mr. Gustavson, are you aware that this is not a Government part of the Bill? You say the proposed Bill No. 63. It is not in the amendments to Bill No. 63. You are aware of that, are you?

**Mr. Gustavson:** Yes, I am now. Thank you.

**Mr. Maloway:** Mr. Chairman, I had a couple of comments and questions to the presenter about—you indicated that you have I believe 110 outlets across Canada right now. I recall seeing a program, I believe it was last year on perhaps Marketplace. Am I correct on that?

**Mr. Gustavson:** You are correct.

**Mr. Maloway:** I believe, at least the impression I got from listening to that program was that in fact Money Mart was getting out of the poorer areas of towns and working its way into the more affluent suburbs as sort of a long-range goal in its corporate plan.

**Mr. Gustavson:** In certain cities, the market is more developed; say Edmonton, where there are 16 stores, and they have moved into middle-income areas.

**Mr. Maloway:** I do not have a problem with that. The impression I got though was the suggestion that a very small percentage of your overall transactions really revolved around social assistance cheques. Am I correct in that?

**Mr. Gustavson:** If there are a billion people in the province and 23,000 on social assistance, when you have 299 of them used Money Mart last month, we would go broke if we did not aim our target market at a broader spectrum.

**Mr. Maloway:** My question really is, what percentage of your total number of transactions are social assistance cheques?

**Mr. Gustavson:** In my presentation, of the total cheques cashed in 1990 by Money Mart in Winnipeg, 1.4 percent were social assistance cheques with the average social assistance cheques cashed by Money Mart in Winnipeg in December 1989 to be \$254.05.

**Mr. Maloway:** That is what I thought you had indicated in your presentation and that squares with what your president or whoever was on Marketplace last year indicated, that in fact a very small percentage of your actual transactions were social assistance cheques, which brings me to the point then that if we did have a ban on cheque-cashing charges then how could Money Mart be terribly adversely affected by that measure, if it only affects 1.4 percent of your business?

**Mr. Gustavson:** Right. But instead of using a rifle you have used a shotgun. You have hit Crown corporation pay cheques, you have hit your pay cheque, so that you have federal employees, provincial employees, the kids that cut the grass for the city, it is—where are you drawing the line? If it was just social assistance cheques, we have no problem with whatever legislation you wish to propose.

**Mr. Maloway:** Mr. Chairman, what percentage then of your total transactions would be Government cheques?

**Mr. Gustavson:** I do not have that information with me right now, but I will see if I can obtain it. The truth

is that we do not separate a pay cheque that is issued by a Government agency. It could be quite difficult to obtain that information.

**Mr. Maloway:** Mr. Chairman, I anticipated that comment actually from the Members opposite in the past committee, and I am glad you brought that up. The fact of the matter is that the Opposition Critic asked at the last Session or one of the previous Sessions of the committee as to how does one distinguish between a social assistance cheque and another Government cheque. I know that they are interested in trying to draw that distinction with the intention of drafting an amendment to our amendment, which is fine with me, that would tie it down to social assistance cheques only.

Of course we have long gone away from a system now where people walk in to a facility with a welfare tag across their forehead because that is what in fact they are suggesting. If you come up with a different colour cheque for social assistance recipients that is in fact what you are doing, stigmatizing people. That is a fundamental problem then with trying to separate one type of Government cheque out over another.

\* (1220)

**Mr. Gustavson:** I hope you really take to heart my suggestion that the province issue identification to those persons that request it, not necessarily those on social assistance, if you are worried about stigmatizing them. It is a simple solution that will solve 100 percent of Mr. Maloway's concerns, I think.

**Mr. Maloway:** Mr. Chairman, what is your current rate charged for cashing Government cheques at the current moment?

**Mr. Gustavson:** The low rate is 2.9 and there can be a surcharge of 1 percent on Government cheques, never 2, depending on the ID presented.

**Mr. Maloway:** So, Mr. Chairman, then without ID does that maximum of 4.9 apply here or where does that 4.9 come from?

**Mr. Gustavson:** The majority of cheques that are charged 4.9 are postdated payroll cheques.

**Mr. Maloway:** Postdated payroll cheques, Mr. Chairman, to the presenter, so that as far as Government cheques are concerned we are talking about 2.9 percent with a surcharge of 1 percent?

**Mr. Gustavson:** Correct.

**Mr. Maloway:** That is if they do not have identification.

**Mr. Gustavson:** Correct.

**Mr. Maloway:** Mr. Chairman, what has been your experience with people who cash cheques without identification and in fact have simply stolen the cheque from somebody's mailbox. Do you have a serious problem with that?

**Mr. Gustavson:** No, we do not because we have a unique verification system. Anyone that knows Money Mart knows you cannot cash someone else's cheque there. At best they will refuse it; at worst they will phone the police.

**Mr. Maloway:** Mr. Chairman, how do you determine that?

**Mr. Gustavson:** That is the unique system. Let us patent it.

**Mr. Maloway:** Mr. Chairman, I would like to allow others to ask questions and then I will come back.

**Mr. Chairman:** Mr. Minenko. I am sorry, Mr. Minenko. I think Mr. Uruski was ahead of you. I am sorry. My apologies to you. Go ahead, Mr. Uruski.

**Mr. Uruski:** Mr. Chairman, just a couple of questions to our presenter here, and I would like to thank him for the depth of the survey they have done to make this presentation.

I would like to know, and that is what I underlined, what is your unique verification system in terms of how does one qualify for, I guess the basic rate is 2.9 percent and then from there you would go 2.9 percent plus 95[ and then up to 4.9. Would the 4.9 also have a 95 cent charge as well?

**Mr. Gustavson:** Correct.

**Mr. Uruski:** Would it be open to you to share with us what the unique verification system is that you use?

**Mr. Gustavson:** It is a system developed by National Money Mart back in 1982. It has been refined over the last eight years. I am sure if you phoned Mr. Clark he would be more than happy to sell you a franchise, but I am not at liberty to go into depth of how we verify the cheque because if it did become public knowledge then that could jeopardize the system.

**Mr. Uruski:** Mr. Chairman, that is a fair comment since you are in a cheque-cashing business. In your brief, you indicated that part of the service that you provide for that is open to customers, the fee on cheque cashing, is the whole area of money orders and that your money order fee is substantially lower than that of banks or financial institutions whom you compete with. Can you bear some clarification on that?

**Mr. Gustavson:** Our fee for a money order for say yourself would be 79 cents; for Mr. Maloway, who is a customer, it would be free. Mr. Maloway visited our outlet once and he is now on file. I would like to comment also, he cashed a \$5 cheque and was charged 2.9 percent which is about 13 cents. We waive the 95 cents when the cheque is below a certain level.

**Mr. Uruski:** Mr. Chairman, if the cheque was a Government cheque—I guess Government in the sense that that is where your concern is, all encompassing—at the \$800 to \$1,000 range, you have indicated that

your maximum fee on Government cheques hits 3.9 percent, is that correct?

**Mr. Gustavson:** Correct.

**Mr. Uruski:** No charge beyond 3.9 for whether you are an employee I guess of Hydro, Telephone, the Crown agencies, where the concern arises and/or social allowances is the maximum fee that you charge.

**Mr. Gustavson:** If the cheque was postdated, which has never happened in Manitoba, the charge could be 4.9, but Government cheques in Manitoba are not postdated.

**Mr. Uruski:** The only—if there is a postdated Governmental cheque that would hit 4.9, what about ID or lack of ID? Would that move the charge to 4.9 if there was a lack of ID as well?

**Mr. Gustavson:** In Manitoba, no, 3.9 is the maximum charged on a Government cheque.

**Mr. Minenko:** You had mentioned that a number of your locations had closed. What were the reasons for their closing, in general terms?

**Mr. Gustavson:** In general terms, like any other business in Manitoba, just not enough customers to pay the bills in given locations that you had thought would be successful.

**Mr. Minenko:** You mentioned and provide us with a profile of who your typical customer is. This profile that you indicate and is part of your material that you have dated January 25, 1990, is also part of and appears to be almost the same as the profile from your yellow questions and answers of a survey done in 1988.

**Mr. Gustavson:** That is correct. That is where that information was drawn from.

**Mr. Minenko:** You have not really done any independent verification that these figures in fact would apply in Winnipeg then. Where was this previous study completed?

**Mr. Gustavson:** The study was completed across Canada. Basically a survey was presented to each customer right across Canada. They got to fill it out anonymously and then either drop it in the mail, which was free of charge, or they could leave it in a box in the lobby.

**Mr. Minenko:** What percentage of responses did you receive from the people that you had questioned?

**Mr. Gustavson:** I have been told it has been in the thousands.

**Mr. Minenko:** As a percentage, though, do you know at all?

**Mr. Gustavson:** No, I could not say.

**Mr. Minenko:** You have again basically used those figures for your typical customer here in Winnipeg then. Can you provide verification that that is fact, is correct for your—

**Mr. Gustavson:** We could do a survey here if you really desire it. We have no objections to doing so in providing you with the information.

One point is that all of our advertising in Winnipeg is geared for that market. We are in the Sports section of the Sun, and we are on what is considered the hard rock and roll station, which is where the 25-year-old male in the labour force is listening.

**Mr. Minenko:** Why do you necessarily gear yourselves towards that group? What are the factors suggesting they would be more tempted to use your services than any other service, as the banks or credit unions, things like that?

**Mr. Gustavson:** As a rule they work not nine to five, so they can avail themselves of the services after five o'clock. Their lifestyle is suited to 7-Elevens and convenience cheque cashing. They are a large target market as opposed to any other market.

**Mr. Chairman:** Is that it, Mr. Minenko? Okay, Mr. Maloway.- (interjection)- One more, Mr. Minenko.

**Mr. Minenko:** I would just like to comment on some of Mr. Maloway's gratuitous comments. I see now, and even when he made those comments, that he had a bit of a smile knowing, in fact, that he was putting a particular interpretation on any questions another Member of the committee was asking. I am sure he appreciates the difference of information and what he had suggested. I am sure he would be prepared to withdraw that particular statement and suggestion.

**Mr. Maloway:** Mr. Chairman, I sense that the time is getting late, and we do want to close down. I would like to ask a very quick series of questions, so we can perhaps get some answers, and then you would not have to come back again.

The first comment I have is, with all due respect to the Opposition, I feel they may be a little sensitive here. I am trying to give them an opportunity to rethink what their critic said last time, a couple of meetings ago, when he had indicated—and to be fair to him—he had indicated that he would like to see a limit of 6 percent placed on the cashing of cheques.

If you read Hansard closely, what he is suggesting is for businesses that are only cashing cheques at 6 percent—to be fair to him he was not suggesting that across the board, he was just saying for businesses such as yourself. I guess if one were to follow his suggestion that would be giving you licence to charge even more than you are right now. You do not charge anybody 6 percent.

**Mr. Gustavson:** That is correct. The 6 percent was a rate that was standard in the industry a number of years ago, quite a number of years ago, that the

marketplace has driven down. In fact in certain cities the 2.9 has been driven down by the marketplace. I expect that—okay.

**Mr. Chairman:** The time being 12:30 p.m., what is the will of the committee? -(interjection)- You have one more question?

\* (1230)

**Mr. Maloway:** No, I have about four little wrap-up questions.

**Mr. Chairman:** Four little questions. Okay with the committee? Okay, we will carry on. Mr. Maloway.

**Mr. Maloway:** Just to finish up on the 6 percent, it just seemed to me that 6 percent of \$1,000 is \$60, that is a very large fee for anybody to be paying to cash a cheque. I do not think that anyone, even they, would agree with that suggestion.

Mr. Chairman, to the presenter: are you considered a financial institution?

**Mr. Gustavson:** By who?

**Mr. Maloway:** Well, that is my question.

**Mr. Gustavson:** By you, maybe; by the Government, I do not know.

**Mr. Maloway:** Your status is such that you do not come under the Bank Act. Are you not regulated by any provincial statutes?

**Mr. Gustavson:** No, as long as we are not a deposit-taking institution, we are not regulated under the Bank Act.

**Mr. Maloway:** Also, as far as your business in Quebec is concerned, do you have any outlets in Quebec, do you have any experience with the Quebec—

**Mr. Gustavson:** Yes. Money Mart has 12 stores in the Province of Quebec, and they are currently challenging the law before the Supreme Court of Canada, Quebec, sorry.

**Mr. Maloway:** That provides us with a very interesting situation because here we have Money Mart operating in Quebec now I take it for a number of years, but at least operating successfully in the Province of Quebec with 12 stores, where in fact they do have a ban on cheque-cashing charges on all Government cheques of all levels. Is that not correct, and you are making money there?

**Mr. Gustavson:** I have not seen the financial statements, whether they are making money. I know they have spent a substantial amount of money on legal fees to prepare the factum, and they are extremely confident that it will not withstand the court challenge, that it is a direct stepping on federal jurisdiction.

**Mr. Maloway:** Mr. Chairman, just three final real quick questions that can be answered in 30 seconds, I am

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sure. I guess I would comment before I ask those though; that is the same kind of argument that the Irwin Toy people made, too, until they lost the case in court. I mean, everyone that has a disagreement in a court case involving a piece of law will argue that it is unconstitutional, but it remains to be seen. Of course, in the case of Irwin they argued that, but they lost in court.

I would like to get the rates that you charge for the following: Family Allowance cheque, without identification.

**Mr. Gustavson:** 3.9 percent.

**Mr. Maloway:** 3.9, thank you. A cheque for CRISP, without identification.

**Mr. Gustavson:** 3.9 percent.

**Mr. Maloway:** 3.9, and the final question was a social assistance cheque, without identification.

**Mr. Gustavson:** 3.9 percent.

**Mr. Maloway:** 3.9 percent.

**Mr. Gustavson:** Plus 95 cents, always.

**Mr. Maloway:** Plus 95 cents. Thank you, Mr. Chairman, and to the presenter.

**Mr. Gustavson:** May I make one statement? In Manitoba the social assistance cheques are extremely small because the province disperses the rent portion of your assistance directly to the landlord. So to use this suggested legislation as a hammer, that is going after a very small problem in my opinion.

**Mr. Chairman:** Do I get anymore questions to Mr. Gustavson? If not, I would like to thank Mr. Gustavson for his presentation.

Is it the will of the committee to rise? Committee rise.

**COMMITTEE ROSE AT:** 12:36 p.m.