

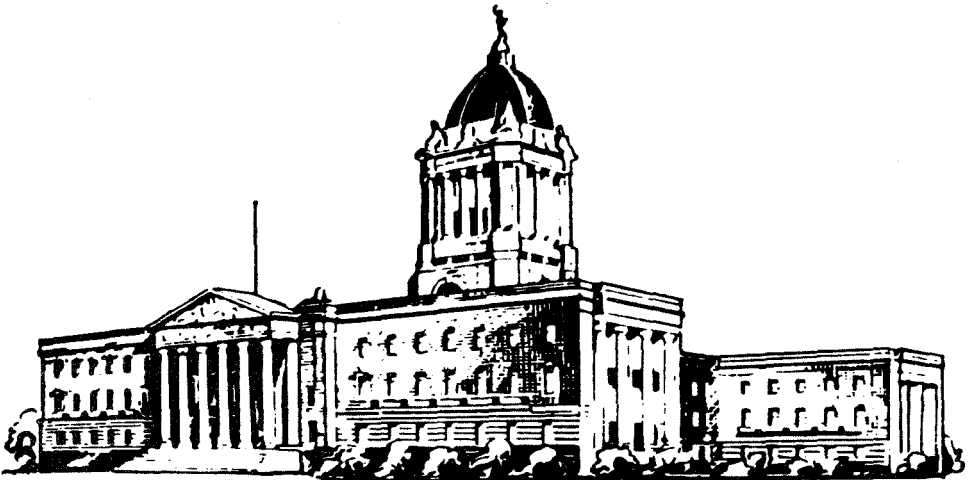


Second Session — Thirty-Third Legislature
of the
Legislative Assembly of Manitoba

STANDING COMMITTEE
on
PRIVILEGES
and
ELECTIONS

36 Elizabeth II

Chairman
Mr. C. Santos
Constituency of Burrows



VOL. XXXV No. 1 - 10:00 a.m., THURSDAY, 9 JULY, 1987.



MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Third Legislature

Members, Constituencies and Political Affiliation

NAME	CONSTITUENCY	PARTY
ASHTON, Steve	Thompson	NDP
BAKER, Clarence	Lac du Bonnet	NDP
BIRT, Charles T.	Fort Garry	PC
BLAKE, David R. (Dave)	Minnedosa	PC
BROWN, Arnold	Rhineland	PC
BUCKLASCHUK, Hon. John M.	Gimli	NDP
CARSTAIRS, Sharon	River Heights	LIBERAL
CONNERY, Edward J.	Portage la Prairie	PC
COWAN, Hon. Jay	Churchill	NDP
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DUCHARME, Gerry	Riel	PC
ENNS, Harry J.	Lakeside	PC
ERNST, Jim	Charleswood	PC
EVANS, Hon. Leonard S.	Brandon East	NDP
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FINDLAY, Glen M.	Virten	PC
HAMMOND, Gerrie	Kirkfield Park	PC
HARAPIAK, Hon. Harry M.	The Pas	NDP
HARAPIAK, Hon. Leonard E.	Swan River	NDP
HARPER, Hon. Elijah	Rupertsland	NDP
HEMPHILL, Hon. Maureen	Logan	NDP
JOHNSTON, J. Frank	Sturgeon Creek	PC
KOSTYRA, Hon. Eugene	Seven Oaks	NDP
KOVNATS, Abe	Niakwa	PC
LECUYER, Hon. Gérard	Radisson	NDP
MACKLING, Q.C., Hon. Al	St. James	NDP
MALOWAY, Jim	Elmwood	NDP
MANNES, Clayton	Morris	PC
McCRAE, James C.	Brandon West	PC
MERCIER, Q.C., G.M.J. (Gerry)	St. Norbert	PC
MITCHELSON, Bonnie	River East	PC
NORDMAN, Rurik (Ric)	Assiniboia	PC
OLESON, Charlotte L.	Gladstone	PC
ORCHARD, Donald W.	Pembina	PC
PANKRATZ, Helmut	La Verendrye	PC
PARASIUK, Hon. Wilson	Transcona	NDP
PAWLEY, Q.C., Hon. Howard R.	Selkirk	NDP
PENNER, Q.C., Hon. Roland	Fort Rouge	NDP
PHILLIPS, Hon. Myrna A.	Wolseley	NDP
PLOHMAN, Hon. John	Dauphin	NDP
ROCAN, C. Denis	Turtle Mountain	PC
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SANTOS, Conrad	Burrows	NDP
SCHROEDER, Q.C., Hon. Victor	Rossmere	NDP
SCOTT, Don	Inkster	NDP
SMITH, Harvey	Ellice	NDP
SMITH, Hon. Muriel	Osborne	NDP
STORIE, Hon. Jerry T.	Flin Flon	NDP
URUSKI, Hon. Bill	Interlake	NDP
WALDING, D. James	St. Vital	NDP
WASYLYCIA-LEIS, Hon. Judy	St. Johns	NDP

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON PRIVILEGES AND ELECTIONS

Thursday, 9 July, 1987

TIME — 10:00 a.m.

LOCATION — Winnipeg, Manitoba

CHAIRMAN — Mr. C. Santos (Burrows)

ATTENDANCE — QUORUM - 6

Members of the Committee present:

Hon. Messrs. Mackling, Storie

Messrs. Birt, Connery, Santos, Scott, Smith
(Ellice)

Mrs. Hammond

APPEARING: Mr. David Swan, private citizen

Ms. Joyce Rankin, Lobby for the Inclusion of
Sexual Orientation in the Human Rights Code

Mr. Rob Samoiloff, Winnipeg Gay/Lesbian
Youth

Mr. Stefan Fedorowich, Winnipeg Gay/
Lesbian Youth

Ms. Lynette Reid, Winnipeg Gay/Lesbian
Youth

Mr. Sidney Green, Manitoba Progressive
Party

Mr. Chris Vogel, Gays for Equality

MATTERS UNDER DISCUSSION:

Bill No. 47, The Human Rights Code; Code
des droits de la Personne

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CLERK OF COMMITTEES, Ms. S. Clive: Committee,
come to order, please.

Before we can begin the meeting this morning, we
first must elect a Chairman. Are there any nominations?
Mr. Smith.

MR. H. SMITH: I nominate Conrad Santos.

MADAM CLERK: Mr. Santos has been nominated. Are
there any further nominations? Seeing none, Mr. Santos,
would you please take the Chair.

MR. CHAIRMAN: Standing Committee on Privileges
and Elections, please come to order.
Mr. Birt.

MR. C. BIRT: Mr. Chairman, I believe we have a long
list of presentations. I think we're scheduled to start
at eight o'clock tonight. I'm wondering if we could
consider moving it till seven o'clock to try and
accommodate more people at an earlier hour, if we go
on perhaps tomorrow afternoon, say starting at 1:00

p.m. instead of 2:00 p.m., again, to try and
accommodate as many people as we can.

I won't make that a formal motion, but perhaps at
the end of the hearing we could consider it.

MR. CHAIRMAN: The Honourable Minister.

HON. A. MACKLING: I think we should take that into
consideration. Later on this morning we'll determine
how much time we likely will need.

MR. C. BIRT: Okay, thank you, Mr. Chairman.

MR. CHAIRMAN: This committee is now prepared to
hear presentations on Bill No. 47, The Human Rights
Code.

The first presenter will be Mr. David Swan, a private
citizen.

Mr. Swan.

MR. D. SWAN: Thank you.

I am presenting on behalf of myself. One of the things
that I would like you to consider is a very good book
written by Ted Millward and Chris Vogel, "Your
Questions Answered About Homosexuality," and that's
available from the Council on Homosexuality and
Religion.

Good morning, ladies and gentlemen. I come before
you to speak in favour of the NDP Government's move
to prohibit discrimination on the grounds of sexual
orientation. I and other homosexuals applaud the
government for moving to ban discrimination against
the handicapped and give protection for religious or
political beliefs and activities. We are also particularly
commending the move to prohibit sexual harassment
or discrimination based on pregnancy.

I come before you as a private citizen with some
nervousness. I am not an expert, but I want you to
learn that we are decent responsible citizens. I have
just retired as a social worker, working with children
and their families for 20 years. It was known by some
of them, parents and teenagers, that I am a homosexual,
and that has made no difference to them.

I come before you quietly determined to provide you
with my perspective of what it means to be an
unprotected citizen in a democracy that measures itself
by concern for minorities and which prides itself for
taking in refugees. I come before you because most
of my brothers and sisters cannot be here, precisely
because we are not protected. I have the protection
of being "out" and of being retired. I came out to my
fellow workers and agency in 1983, and that was a
very positive and liberating experience.

My real concern is for the young emerging
homosexual and those to follow in the years ahead. I
was brought up at a time when essentially Victorian
prudish ideas still held sway and sex was never talked
about. The easy sexuality that is now shown on our

TV's and at the movies is generally accepted, and it is mostly heterosexual. The young gay male or lesbian still has to learn to hide his or her orientation. I think of the Winnipeg 16-year-old who committed suicide when he recognized that he was gay. His family was later to say that they loved him enough to have accepted his homosexuality. Are we, in 1987, coming to the end of the 20th Century going to be victims of Victorian prudishness?

It is my hope that, as you hear the gay men and lesbian women in the days ahead, you will interact with us and you will come to realize that giving us protection under The Human Rights Act is no different than protecting any other minority. We are in every walk of life, every trade, every occupation and every profession in the province. We are in every extended family, every ethnic minority, every religion, and every political party, and have been since the beginning of time.

My presentation is designed to help you, the other legislators, and the general public to understand the issues from our point of view. We know that you and we cannot change centuries of bigotry and prejudice for those who refuse to hear anything factual and positive about us. We do hope that this forum will inform those members of the public who are open to hearing both sides of the issue before making a decision.

There is much misinformation about us, so I have devised a short questionnaire that will provide a way for me to talk about homosexuality. Some of the questions are patently ridiculous to anyone who has thought about the topic. Nevertheless, we are frequently asked these very basic questions.

The first question or statement that I make is: The percentage of people living in the constituency you represent who are primarily of homosexual orientation is 5 percent, 10 percent, 15 percent? The answer to this question is all three. There would tend to be fewer adults living in the rural ridings. Child development clinic doctors say that sexuality and sexual orientation become part of a child's personality and character around the age of three to four. If we take the 10 percent as an easy average, then one child in ten, no matter where they are born, city or rural, will be homosexual. Rural homosexuals may tend to move to larger centres where there are more support services and there is more social acceptance. So the high-density population areas of Winnipeg could run to the 15 percent I mentioned. This generally accepted figure of 10 percent was first noted when, in the late Forties and early Fifties, Dr. Alfred Kinsey, Director of the Institute for Sex Research at Indiana University, published the findings of his research. Since then, surveys have confirmed this figure of 10 percent, in spite of the much greater openness of the homosexual community. In other words, although we are more visible, our numbers do not increase.

Question No. 2: The percentage who would be bisexual in your constituency is 10 percent, 20 percent, 30 percent? The statistical average, as established by Dr. Kinsey and subsequent surveys, is 20 percent. These are heterosexuals who may, only occasionally but with some regularity, seek out a homosexual partner. Similarly, a primarily homosexual person may seek out a heterosexual partner. Like so many other statistical surveys of distributions, sexual orientation runs from the purely or primarily homosexual to the purely

heterosexual. There will be people who may be primarily heterosexual, who nevertheless have had one or more homosexual experiences. We all must remember that what we are talking about is an aspect of human behaviour that is a given, and no committee representing this Legislature can change that. So there will always be the 10 percent of people in your constituency.

At this point, I would like to ask: What difference do the statistical numbers really mean? No matter how few or how many people experience homosexual encounters in their lifetime, there is still the need for legal protection which only you, our lawmakers, can provide. Please don't forget that it could happen to one of yours. That is not a threat, it is a statistical possibility. What would your reaction be if someone you loved told you that they were homosexual?

Question No. 3: A person can choose whether to be heterosexual, bisexual or homosexual, true or false? The answer is false. Much time and effort has been expended on this question. With all the education, sophistication and expertise available to modern-day researchers in the social sciences, there has been no conclusive or satisfactory answer found. In the gay community, we like to say that there has been no satisfactory answer found as to why some people are heterosexual. However, none of us would be here if it weren't for our heterosexual parents, would we?

When I was growing up, the Freudian explanation being used was that for men it was "caused" by a strong mother and a weak father. In the Sixties, both the associations of psychiatrists and psychologists took homosexuality out of the list of illnesses. Some of the causes that have been investigated are genetics, hormonal imbalance, developmental and societal causes. The societal possibilities considered and examined were the influence of teachers, other role models and parental upbringings. Impartial scientific research has found no reason why a person is heterosexual, bisexual or homosexual.

It is a matter worth commenting on that it could happen in your family and you would be powerless to change it. We have all been brought up in heterosexual families in a primarily heterosexual society which teaches us, the homosexual child, early that we are sick, queer, fairies, faggots, dikes. Given that, you cannot honestly believe that anyone would choose to be a homosexual. That is why the 16-year-old and others committed suicide. It is because of what you, the heterosexual majority, have taught us.

Question No. 4: A good heterosexual experience can change a homosexual orientation, true or false? The answer to that question is false. It will be dealt with by the Gay Fathers of Winnipeg and Families of Gays, who have tried to live that scenario. They are usually men married to a woman, believing that marriage would change their orientation. Often they enter into the marriage having discussed the orientation question with their fiancée. The marriage can founder for many reasons, which is typical of heterosexual marriages. But one of them, in this sort of marriage, is that another male comes along and the emotional chemistry is too strong.

Question No. 5: You can tell a gay man or a lesbian woman by their dress, their behaviour, their lifestyle or their occupation, true or false? Yes, occasionally you

can if the person is acting out. Sadly, this is sometimes true of the young gay, who thinks it is the way to attract attention. Generally speaking though, there is no way to distinguish homosexuals by their dress or by their occupations. Most of us have to protect ourselves by appearing to blend into the mainstream. Even homosexuals themselves cannot always tell, unless it is at a homosexual gathering. You can go to a gathering and consider that 10 percent of the gathering are homosexuals and 20 percent are bisexuals and want to play a game, try and guess which they are.

Question No. 6: The majority of your constituents are in favour of you voting to include sexual orientation in The Human Rights bill, true or false? I would like to suggest to you that I believe that this is a true statement. My breakdown is as follows. For inclusion, there would be the 10 percent of us who are homosexuals already, the 20 percent who are bisexuals, 15 percent who are friends and families, 10 percent for civil libertarians, 10 percent religious people who are of liberal persuasion.

Against such inclusion would be: 10 percent of religious people, who are of conservative persuasion; 15 percent, a very vocal minority who have no desire to hear our point of view or our truth or the facts about homosexuality. So that makes 25 percent from whom we need protection.

So with for at 65 percent and against at 25 percent, we are left with 10 percent, which I would like to suggest to you are people who don't have an opinion or don't care.

It is interesting that I made that list out before I phoned the Gallup Poll. A Gallup Poll was done in 1985, asking Canadians if sexual orientation should be covered by the Human Rights legislation. The national figures were: For, 70 percent; Against, 23 percent; Don't Know, 7 percent. On the prairies, it's a bit lower: For is 65 percent; Against is 26 percent; and Don't Know is 9 percent.

I find it incredible that the Progressive Conservative Party is using my humanism, my sexuality, for political gain. I assure them that they are talking to a minority.

Ladies and gentlemen, I chose this form of presentation to provide a very basic perspective of our sexuality by using facts to counter homophobic misinformation. There is just so much of it. It is hoped that you might be better prepared to answer questions that you may be asked by your constituents. As presentations are made in the days ahead, I again hope that you will see our common humanity and not our differences. I believe that people will not be so homophobic when they are better informed, and can see us as being a normal variation of our shared human sexuality.

I want to close with this idea. Should you not act to include sexual orientation as a prohibited grounds for discrimination, as recommended by the Human Rights Commission and the Manitoba Association of Rights and Liberties, both neutral agencies, you will, in effect, be encouraging or giving licence to acts of discrimination. When you do decide to protect us, we will still have to cope with the bigotry and the homophobic groups out there.

Thank you very much.

MR. CHAIRMAN: Thank you, Mr. Swan. Are there questions for Mr. Swan from the members of the committee.

Mr. Scott.

MR. D. SCOTT: Thank you for your presentation, Mr. Swan.

Mr. Swan, you addressed the aspect of the bill attempting to deal with in regard to discrimination in the last aspect of your presentation. The rest of your presentation, would you agree that you are asking, essentially, for society's acceptance of your being and your way of life as a homosexual?

MR. D. SWAN: I'm sorry. I missed one word just in that last sentence.

MR. D. SCOTT: You're asking, from what I can gather, especially on page 5 in your presentation, the acceptance by society of your way of life, your behaviour, your homosexuality, as something that should be accepted by society and not frowned upon by society.

MR. D. SWAN: Yes, I think that that is the appropriate purpose of what we are trying to do, and I certainly hope it succeeds because our differences are much less than our commonality. We share so much with the heterosexual population. We have the same standards of morality and that sort of thing.

MR. D. SCOTT: Thank you very much.

MR. CHAIRMAN: Thank you, Mr. Swan.

MR. D. SWAN: Thank you.

MR. CHAIRMAN: The next presenter will be Joyce Rankin, representing and speaking for the Lobby for the Inclusion of Sexual Orientation in The Human Rights Code.

Ms. Rankin.

MS. J. RANKIN: Mr. Chairperson, honourable members of the committee, citizens of Manitoba, the Lobby for the Inclusion of Sexual Orientation in The Human Rights Act is pleased to appear before the committee today. We congratulate this government, Premier Pawley, and the Attorney-General, Hon. Roland Penner, for introducing to the Manitoba Legislature and the people of this province a Human Rights Code that includes protection from discrimination based on sexual orientation. It is encouraging to live in a province where the government has demonstrated the political will to make changes that will bring about greater justice, equality and freedom for all its citizens.

Our brief will be addressing issues concerning the inclusion of protection from discrimination based on sexual orientation. However, we would like to commend the government for other measures in this legislation that also forward the principle that every Manitoban is free and equal in dignity and rights, and is entitled to the equality of opportunity. In particular, we welcome and support the provisions for protection from discrimination based on pregnancy and gender-determined characteristics, the prohibition against discriminatory harassment, and the requirement for reasonable accommodation.

The Lobby is a self-supporting, non-profit organization that was formed in 1985 to work towards

the inclusion of sexual orientation in The Human Rights Act. Our work has been supported by numerous groups, organizations, and individuals throughout the province who recognize that we are all members of the human family, who understand that the inherent dignity and worth of a person is not dependent on his or her sexual orientation, and who acknowledge that all members of society have equal and inalienable rights.

For the 70 percent of Canadians who support protection from discrimination based on sexual orientation, this legislation gives expression to their tolerance. For the approximate 10 percent of Manitobans whose sexual orientation is homosexual, this legislation is critical. To the 23 percent of Canadians who are opposed to this legislation, Manitobans join voice with the people of Quebec, Ontario and the Yukon in stating that discrimination against people, based on their sexual orientation, will not be tolerated. Through this Human Rights Code, Manitobans give firm support to the principle underlying the Canadian Charter of Rights and Liberties that all of us are equal before and under the law, and have the right to equal protection and benefit of the law without discrimination.

This legislation is essential if we are to move toward our vision of a just society. Today, men and women are confronted with discrimination in employment, in the provision of services and housing, and are subject to harassment and violence based on prejudice concerning sexual orientation. This legislation will provide Manitobans with a legal remedy to counter such discrimination.

As our sisters, brothers, parents, friends, neighbours and co-workers are able to live their lives without concealing their sexual identity, the fears, hatred and stereotypes about sexual orientation will begin to fall away, for these views are built upon unexamined beliefs and ignorance, and are fostered in fear. In their place, tolerance can take root, acceptance can push upward, and appreciation of diversity and recognition of our common humanity can flower.

With this legislation, the contribution to society already made by Manitobans who experience discrimination based on sexual orientation can grow. Energy presently directed to protect themselves or loved ones may gradually be freed to pursue talents, interests and commitments that will benefit and enrich all Manitobans.

While we are pleased that protection from discrimination based on sexual orientation is included in Bill 47, we must now turn to our concerns about the manner in which it has been included.

The definition of "sexual orientation" contained in the code gives rise to these concerns. It reads: "In this code, sexual orientation means heterosexual, homosexual or bisexual and refers only to consenting adults acting within the law." We strongly object to this definition and urge this committee to recommend that it be rescinded entirely or amended to read: "In this code, 'sexual orientation' means heterosexual, homosexual or bisexual."

The present definition excludes persons under the age of 18 years from protection from discrimination based on sexual orientation. This means that children and adolescents, the most vulnerable members of the human family that the preamble to this code promises to protect, may be subject to discrimination and

harassment in school, in work, in the provision of services, etc., based on their actual or presumed sexual orientation.

It also fails to protect children of gay and lesbian parents from similar discrimination. This definition confuses sexual activity with sexual orientation by its reference to "consenting adults acting within the law." Sexual orientation is itself not an activity, but an orientation or aspect of identity.

Many people have a sense of their sexual orientation long before they have known any sexual experience. To illustrate the absurdity of the definition as it now reads and upon which protection under the code will be based, suppose a woman is fired from her employment for the reason that she is a lesbian. She has been fired from her job for a state of being, not for a legal activity with another consenting adult. So given the definition, is she without recourse under the code?

It is apparent that the intent of the legislators has been imperfectly realized here, for this is the very kind of discrimination that is intended to be prohibited. It is possible that this definition has been included in an attempt to address concerns that persons who engage in sexual practices that are illegal may be able to defend such actions by claiming that they amount to a sexual orientation.

These concerns, which are at root homophobic, are better addressed by pointing out that provincial legislation, such as The Human Rights Code, can never alter the legality of matters within federal jurisdiction, such as the Criminal Code. These groundless fears might also be calmed by including an interpretation section in the code that applies to the code as a whole. For example: "Interpretation. Nothing in this code renders legal anything prohibited by the Criminal Code of Canada."

We ask this committee to ensure that all Manitobans enjoy the benefit of the best Human Rights Code possible by deleting this definition, or amending it as we have recommended.

Sunny Manitoba has not been a great place to live, work and play for us all. Manitobans who are homosexual or bisexual have lived with the fear of unjust eviction, have worked with the threat of unjust firing and have played while faced with the danger of violence and the pain and stress of harassment. The discussions in the Legislature and in the newspapers by those who support this legislation, as well as those who oppose it, show a great deal of misunderstanding and confusion around the issue of sexual orientation. But those who support protection from discrimination, based on sexual orientation, have understood one important truth. The sun shines for us all.

MR. CHAIRMAN: Are there some questions for Ms Rankin?

The Member for Portage.

MR. E. CONNERY: Are people born homosexual or do they become homosexual by choice?

MS. J. RANKIN: There's no real clear answer to whether or not someone is born a homosexual, but we believe that sexual orientation is not a choice.

MR. E. CONNERY: Will making it an acceptable lifestyle - I have a lot of difficulty with this particular bill - will this encourage more people to become homosexual?

MS. J. RANKIN: Well because sexual orientation is not a choice, we feel that by including protection that it will guarantee equal rights for homosexuals but that, statistically over history, 10 percent of the population has been homosexual and will probably remain to be homosexual.

MR. CHAIRMAN: Other questions?
The Member for Inkster.

MR. D. SCOTT: Just picking up on the bottom of page 2, on page 3 again in regard to the problems, it's your belief, Ms. Rankin, with this legislation brought in, it would create a more tolerant and understanding society and greater acceptance by the rest of society of homosexuality within society, as equals?

MS. J. RANKIN: That is what we hope. Tolerance certainly is what we're asking for with protection against discrimination, based on sexual orientation.

MR. D. SCOTT: And you believe that legislation will create tolerance?

MS. J. RANKIN: Whether or not it will create tolerance, I guess, remains to be seen. What it does do is give homosexuals who are discriminated against recourse under legislation.

MR. D. SCOTT: Further down on page 3, you make reference to under 18 years of age. This is something I haven't picked up in my reading of the bill in the past. Could you show me where the under 18 years of age would be covered here?

MS. J. RANKIN: I'm sorry, my pages blew away just as you were talking.

MR. D. SCOTT: I'm referring to the 18 years of age, excludes persons under 18 years of age. How, in the act, do you define that a person under the age of 18 would not be covered under this legislation?

MS. J. RANKIN: How a person under the age of 18 would not be covered?

MR. D. SCOTT: Would not be, yes. You said, on page 3, it says the present definition excludes persons under the age of 18. It was my interpretation the under 18 years of age would provide coverage for various legislation that we have on the books currently, using the age of 18 as an age of majority for such things as alcohol consumption and whatever else. It may be used as one of the various grounds of discrimination here on a basis of age, for instance, where age is prohibited from discrimination and where their law states that, under the age of 18, you're not allowed to consume or sell a person alcoholic beverages.

It's my understanding that's the purpose for that being in this legislation. I don't understand why that would necessarily relate directly to homosexual

activities, unless it's strictly with the age of consent. Is that what you're referring to?

MS. J. RANKIN: Because the definition refers only to consenting adults acting within the law, by definition, it excludes anyone under legal age.

MR. CHAIRMAN: Other questions? Hearing none, thank you, Ms. Rankin.

The next presenter on our list cannot appear this morning. Therefore I'll go to the next person who is on the list, Stefan Fedorowich. And along with Fedorowich will be Rob Samoiloff and Lynette Reid, representing the Winnipeg Gay/Lesbian Youth.

MR. S. FEDOROWICH: Good morning.
First of all . . .

MR. CHAIRMAN: Who is this? Mr. . . .

MR. S. FEDOROWICH: Stefan Fedorowich.

MR. CHAIRMAN: Fedorowich.

MR. S. FEDOROWICH: I'd just like to say that we are three members of a youth group. The youth group has about 20 members. The presentation was compiled by four people, not necessarily us, because there's only three of us, we had to rearrange parts. We have one person missing, so whatever we read isn't necessarily what we wrote or necessarily dealing with ourselves as individuals.

As representatives of Gay/Lesbian Youth, we would like to congratulate the Government of Manitoba for realizing the need for Bill 47.

Our group provides support and services that otherwise may not be available to the youth of Winnipeg. Once a month, we hold coming out rap sessions. Here the young people have a chance to talk openly and freely about themselves. It is a place where they can feel comfortable and accepted, where they don't have to feel alone. When the first step of coming out has been accomplished and the young person feels comfortable with him or herself, we offer Sunday Coffee Houses. This provides an alternative to the bar for socializing.

Winnipeg Gay/Lesbian Youth is a group run by young people to help youth deal with their sexuality. It is important that we help eliminate homophobia. There are needless sufferings and suicide among young people today. Many of these senseless deaths have been attributed to the fact that young gay men and lesbians feel they have no hope of living a decent life free from violence and discrimination.

Our presentation will look at and answer some of the questions and concerns raised by the inclusion of sexual orientation into The Human Rights Act. As gay and lesbian youth, we have our own concerns about this act. We will, in our presentation, suggest an amendment to include youth under the age of 18 so that they too may enjoy protection under the law as every other Manitoban.

MS. L. REID: I'm Lynette Reid.

MR. CHAIRMAN: Is this Mr.?

MS. L. REID: Lynette Reid.

MR. CHAIRMAN: Lynette Reid?

MS. L. REID: Yes.

MR. CHAIRMAN: Ms. Reid.

MS. L. REID: There are several ways that those who argue against inclusion have misconstrued the intention of the legislation. The following are some of the questions and concerns we have heard. We will do our best to answer them.

Concern No. 1: Will this legislation endorse homosexuality? Legislation does not affect the process of sexual orientation but only how people react to it. "Homosexuality is as deeply ingrained as heterosexuality so that the differences in behaviours or social experience of prehomosexual boys and girls and their preheterosexual counterparts reflect or express, rather than cause, their eventual homosexual preference." That's from Bell, Weinburg and Hammersmith's "Sexual Preference."

Protection on the basis of sexual orientation no more constitutes endorsement of homosexuality than protection on the basis of religion, race and physical disability has encouraged Catholicism, black skin or deafness. All it will do is protect innocent people from widespread prejudice.

It is really sad to say but gay men and lesbians are still to this day heaped in with alcoholics, necrophiliacs and violent sexual criminals. We would just like to say that we are people, human like everyone else. Granted we are an invisible minority, but it is wrong, in principle, to deny a minority group protection on the grounds that they can conceal themselves. If we upheld such reasoning, it would follow that we need not protect from discrimination on the basis of religion. Such discrimination could be avoided if religious beliefs were simply kept secret.

There is also a concern expressed that the amendment will confer special rights on lesbians and gay men. It is difficult to respond to this criticism because no one who makes it will explain what it means. Perhaps if Mr. Filmon believes that basic human rights are a special privilege to be enjoyed by a few, he should be obliged to defend himself on that point.

Concern No. 2: Will employers be forced to hire homosexuals? No, despite employment discrimination, homosexuals are distributed throughout all occupations, just as they are throughout the population. Affirmative action is unnecessary since most employers already have a percentage of gay and lesbian employees. Whether or not they are able to hold on to their jobs once someone finds out they are gay or straight is the problem. These people who are discriminated against in this way need protection.

Concern 3: Should a gay lifestyle be protected? This use of the word "lifestyle" is puzzling. The Oxford Dictionary describes the word "lifestyle" as an individual's way of life. With most people, sexuality is only a part of their way of life. No lifestyle should not be protected. For the majority of people whose sexuality is a healthy part of their lives, there has to be protection. There are people, both gay and straight, who have

trouble dealing with other's sexuality, and it is from these people that the protection is needed. We could become condescending about the similarities between gay and straight lifestyles but we won't. You know that we get up in the morning and brush our teeth, too. There is no such thing as a monolithic or prevalent gay or straight lifestyle. There is much diversity amongst all sexual orientations. It is very misleading to call heterosexuality, bisexuality or homosexuality lifestyles. Sexualities are only a part of who a person is and a very personal part that should not be a basis of discrimination.

Concern 4: Is this legislation needed? Is there really discrimination based on sexual orientation? We find that discrimination is prevalent. Here are a few incidents that hit close to home for us.

A roommate of a youth group member lost her job at a major insurance company after suggesting in an employee feedback program that the company declare a policy that forbids such discrimination. Other employers, like Great-West life, the Bank of Montreal, the University of Manitoba and Xerox operate under such policies. Despite the fact that she worked frequent overtime and had recently received a raise, she was given two weeks' pay in lieu of notice and told there wasn't any work.

Ron Epp, a youth group member, was fired from a major department store when they learned he was gay. Ron's name appeared in the paper when he was involved in a campaign to promote safe sex.

Robb Samoiloff, who's with us today, was let go from a cafe in Osborne Village for the same reason. After Robb was hired, the owner phoned the night manager to enquire about his sexual orientation. The night manager refused to answer, saying it was none of her business. Robb lost his job soon after.

On an excursion to De Soto's night club after one of our meetings, we were told we had 15 minutes to leave after one of the bouncers seemed to have taken offence to two of the women at the table holding hands.

The next day, we spoke to a group of 30 young parents in suburban Winnipeg and we told them about this and then they protested, well surely such discrimination is illegal. And they were shocked to be informed that it was, in fact, legal. It's also interesting to note that these young mothers all live in Jim Walding's riding. Perhaps Mr. Walding should take a cue from the people that he is suppose to represent.

MR. S. FEDOROWICH: A personal account, one of the misconceptions . . .

MR. CHAIRMAN: Before we proceed, let me caution every member attending this proceeding that there are some rules here that we apply with discretion and flexibility. Normally we don't allow displays and other things like applause. Therefore, use it with discretion or else you lose the privilege.

Mr. Samoiloff.

MR. S. FEDOROWICH: No, it's Stefan Fedorowich again.

MR. CHAIRMAN: Fedorowich.

MR. S. FEDOROWICH: A personal account.

One of the misconception opponents to Bill 47 have is that discrimination towards gay men and lesbians does not exist. This simply is not true. What is true is that many Manitoba gay men and lesbians are afraid to come out and tell their stories of oppression and discrimination in fear that even more hatred will be directed toward them. That is why I am here today, to share with this committee the instances of harassment and discrimination that have been directed toward me because of my sexual orientation.

I first experienced extreme harassment because I am gay when I was 17 years old and a Grade 11 student at St. Paul's High School. Due to my activity in the gay community, I was confronted by students and teachers demanding to know my sexual orientation, even though I never felt it was my right to ask them theirs.

Because it was and still is my strong belief that being gay is not something to be ashamed of, I chose not to decline my peers and teachers. Also, making myself visible to them as a gay shook many of the lies and stereotypes people at school believed about gays in general.

The revelation to them that they had worked and related with a homosexual for three years and couldn't tell must have threatened some of my fellow students and staff at the school, as well. The result was a petition to have me expelled from school, circulated by students and condoned by staff. Not once was this petition condemned by a staff member at the school, and this period of my life was accompanied with verbal and physical abuse that made attending school and simply enjoying Grade 11 impossible.

The final decision of the administration was to ignore the petition with the attitude that I wasn't really gay. Though I was glad not to be expelled from school, I realized an acute injustice could have occurred if those in power made a less benevolent choice. I asked myself: "Did they even have the right to even consider expelling me because I was gay?"

Furthermore, I realized that if this could happen to me, it had happened before and could continue to happen to other people. My involvement in the gay community only further proved to me the widespread extent of discrimination toward gay men and lesbians.

Legally protecting gay men and lesbians won't mean gay and lesbian youth will stop being harassed and battered the day after the bill is passed. What it will do is lay the foundation for a change in social attitudes that will recognize discrimination on the basis of sexual orientation, not only as illegal, but as hurtful and morally wrong.

MR. CHAIRMAN: Mr. Samoiloff.

MR. R. SAMOILOFF: We would also like to propose an amendment to Bill 47.

As Bill 47 does only include sexual orientation for consenting adults over the age of 18, we strongly recommend an amendment to include youth under the age of 18. There are many young people who will need this protection.

The story you have just heard, as well as the youths who have to leave home when their family learns and cannot accept their sexuality, speak clearly of the need for youth to be protected. It is important to note that

nearly all homosexual suicide attempts take place between the ages of 16 and 18; after 21 they almost cease. Paradoxically, suicide attempts in the whole population are uniformly distributed between the ages of 19 and 40. This seems to show that homosexuals have greater psychological stability and more capacity for putting up with their own inner contradictions once they have cleared the "coming out" fence.

Depending on what you do with this bill, you can make that "coming out" fence a little easier to get over. If the youth of Manitoba know that they have protection under the law, many of them may choose their life, which is protected, rather than death. Many youths choose death because they feel helpless in this world that doesn't recognize them as being worthy of any human rights. Think of your own children or those of your friends, 10 percent of whom have already made, or may some day, make the discovery that they are gay. Would it not be morally right to stop these senseless deaths?

You are in a position where you can make a difference. When the Government of Ontario passed this same legislation last fall, they had the wisdom to extend protection to youth under the age of 18. In Ontario, they extended the rights to youth 16 and 17 years old who were outside their parents jurisdiction.

MR. S. FEDOROWICH: A religious viewpoint.

Some of you may have religious backgrounds and, therefore, may have apprehensions about this bill. We would like to share this letter that has helped many religious gay men and lesbians come to an even better understanding of their homosexuality. Many gay men and lesbians have asked and waited for God's answers and now they have it. In time we believe, if you become open to God, your questions and concerns will also be answered.

The letter reads: "We are Baptists and raised our children in the best Christian home we knew how to give them. We love our children, but our eldest son is our special joy. Of the three, he is the most thoughtful, the most helpful, the most concerned about us. Perhaps we actually love him the most. Surely he needs our love more than the others. You see, he is gay. Living in today's world, he needs all the love we give him.

"It was a shock to us when he told us, now almost three years ago, though the two younger ones had apparently known for some time. He told us one evening as we gathered for family prayers more or less in this way: 'I want to tell you something, and I want you to pray for me. Don't pray for God to change me because there can't be any change. God made me this way. Pray that God may use me even in the way He made me.' And then he told us he is gay. For a few minutes, we just sat in silence. Then I knelt and began to pray aloud that God would lead us, that He would open our hearts, as well as our minds, to His will.

"The answer did not come at once, nor did it come easily. It came in part through the positive Christian attitude of the younger two. We listen to our children. We discuss things with them and weigh what they have to say; and so the answer came gradually.

"We observed no outward change in Peter, except that he seemed even happier than usual, if that were possible. He is, in fact, the same fine person he was

before we knew. We soon realized that his habits had not changed. He was still a good influence in the church and in the community. We continued to pray for God's guidance, and eventually the answer came. We at last knew that God was saying to us, 'This is your son. He is the way I made him, love him. Love him the way he is.' We know in our hearts that this is the answer God has given us. But we still pray daily that God may protect them from a hostile world and use them in His own way."

Whether or not you agree with our sexuality, please remember that we are human and deserve protection under the law as any other Manitoban. God created us all equal.

MS. L. REID: Significance of the legislation.

This legislation is not a cure-all for the problems caused by discrimination against gay men and lesbians. No one expects that gay-bashing (the phenomenon of people being beaten, even to death, simply because they are - or someone thinks they are - gay) to stop the day after the bill is passed. No one expects that employers won't continue to fire lesbians and gay men for spurious reasons.

No one expects that parents who turned away gay sons and lesbian daughters, and thereby caused great mental anguish, will call their children home again. Despite the fears of Archbishop Exner and perhaps the hopes of Catholic lesbians and gay men, it won't force the church to hire gay people, any more than the current act forces them to ordain women. In the terms that have become common in this debate, the amendment won't legislate acceptance - insofar as simple legislation can never force acceptance - it will only enforce tolerance and the justice that is due to any minority group unfairly treated in our society.

What this bill does offer is a means for lesbians and gay men to protect themselves from their employers' excuses for injustice. What it does do is send a message to employers and to gay-bashers that the persecution they perpetrate is no more socially acceptable or morally justifiable than persecution on the basis of race, religion, or any of the other protected grounds.

What it does say to the parents of a lesbian or gay youth is that they no longer have to fear that their child's sexual orientation is going to prevent him or her from living a full life and pursuing the career of his or her choice. And what is most important to us as Winnipeg Gay/Lesbian Youth, it will let young gays and lesbians coming to terms with their own sexual orientation, often in complete isolation from any social support for the decisions they must make, know that they don't have to worry so much about the most obvious kinds of discrimination. When a young person is coming to one of the most difficult and necessary decisions of his or her life, the last thing needed is the added stress of worrying about loss of job or accommodation.

This legislation cannot force acceptance. Acceptance only comes about through the day-to-day interaction between gay and straight members of a family or gay and straight co-workers, as those who previously held bigoted and uninformed opinions about lesbians and gay men begin to see that the lives of individual gays and lesbians are of no less dignity, integrity, and value

than their own lives. This legislation removes one barrier between gay people and their straight friends and, as such, can only aid in the process of acceptance.

And if you, the legislators, are serious about ending injustice; if you are serious about allowing the 10 percent of your constituents who are gay or lesbian to live their lives freely; if you care about the people who are hurt or who die at the hands of gay bashers; if you are concerned about the large number of gay and lesbian youth who turn to suicide in confusion and fear over the persecution they fear they will face if they choose to live the only way they can live and be healthy, then this prospect of increased acceptance is not a deterrent to pushing forward with this bill, but a strong argument in favour of this legislation.

We have nothing to fear of this legislation that allows adults a position of responsibility to live their lives as open lesbians and gay men. For gay and lesbian youth, such openness can only result in an experience of positive role models on which they can build their future, role models much better than the ones offered now to those children who hear nothing from the media of homosexuality except reports about hustlers on the hill. For heterosexual youths, such openness will not change their sexual orientation. It will only teach them a response to human diversity that is more respectful than just those they learn now of violence and hatred.

MR. CHAIRMAN: Are there any questions from members of the committee?

The Member for Portage.

MR. E. CONNERY: Do you support bisexuality?

MS. L. REID: Well, some people are bisexual and I believe that they are deserving of human rights, yes.

MR. CHAIRMAN: Other questions?

The Member for Inkster.

MR. D. SCOTT: On page 7, your proposed amendment suggests that young people aged 16 and 17 years of age who have left home would have protection under the act extended to them. The very next page, you promulgate a very stirring letter, a comment made by a parent in the acceptance of their child. Would you not be afraid that including that in the legislation would encourage young people, who need the love of their parents, the understanding of their family, to leave home so that they would have protection under the legislation?

MR. R. SAMOILOFF: No, I don't believe that. I believe that what it would do, by including people under the ages of 16 and 17, we're not proposing that you include people under the ages of 16 and 17, only the ones who are out of the jurisdiction of their home. This is what they've done in Ontario. We're suggesting that you include people under the ages of 18, regardless of the jurisdiction.

MR. CHAIRMAN: Other questions? Hearing none, thank you.

The next presenter will be Beverly Scott, representing Families of Gays. Is Beverly around? One more time, Beverly Scott.

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The next presenter will be Mr. Sidney Green, representing the Manitoba Progressive Party.

MR. S. GREEN: Mr. Chairman, and members of the committee, I'm appearing here to deal with the bill, generally, but I will also make some remarks with reference to the particular subject which has been addressed by other members who have appeared before the committee.

I don't think that there is any secret, Mr. Chairman, although if there is then I would quickly dispel it, that I have not been a fan of this type of legislation. I'd like to remind the members of the committee that, if they will go through history, they will see that man has been inhumane to his fellow man in every generation that history has recorded itself, and legislation has never proved to have been an amelioration of this condition.

I think one of the notable attempts at legislation was in the 1935 Constitution of the Soviet Union where anti-Semitism was made a crime punishable by death. And don't you believe it! It did not result in any diminution of anti-Semitism in the Soviet Union. This I'm not certain of, but I believe the Constitution has not changed, that it is still a crime. I don't know whether it is punishable by death for anti-Semitism to exist in the Soviet Union but, if anything, anti-Semitism has increased since 1936, rather than gone down.

So my presence here today is not because I believe that people should be able to treat each other in an improper or immoral way. My presence here today is to suggest to the committee that, first of all, legislation doesn't change it or improve the situation and, secondly, that legislation can do great harm.

I heard a young person here say today that, if you pass this legislation, young homosexuals will know that they have nothing to fear any more. And I say that is the most misleading and dangerous message that you can communicate to young homosexuals, just as it is the most dangerous and misleading message to communicate to Jews or Sikhs or any other people who feel that they have been discriminated against because they are an ethnic minority, that now that the Human Rights Commission and the Legislature has passed this law, you have nothing to fear. This does a great disservice to the people who will have to deal with discrimination in a fundamental and conscious way throughout their lives, rather than getting the impression that there are some protections available to them which will undo the fear.

The legislation doesn't undo the discrimination. The legislation makes dishonest people out of people who wish to discriminate. It compounds their position. Now they not only discriminate, but they make up reasons for it which don't exist and they pretend that they are not discriminating.

At least in the civil rights movement in the South when the Southerners were discriminating against blacks and said so, the black population was able to militate against those people and render tremendous economic hardships and boycotts on them because of that discrimination. That was the success of the civil rights movement in the South, not the legislation that was subsequently passed. The legislation came afterwards.

But if the legislation were valid, then I object strongly to the draftsmanship. You have here 35 to 40 pages

of complicated legal jargon which tells people how they will not be discriminated against and really, if the law worked, it would require one of two sections, and you can take your pick.

It could say: Every person shall love thy neighbour as himself, and any person who does not love thy neighbour as himself shall be subject to fine or imprisonment if guilty upon summary conviction. And that's it. You don't need any other section; you don't need any other provision. And you could try people for not loving thy neighbour as thyself, because that's what you're seeking to do by this legislation and it is a perfectly legitimate and honourable motivation. If it worked, it would have been passed 3,000 years ago and we would all be loving our neighbours as ourselves because there was a law that required us to do so.

But if you don't like that one, if that might suggest some type of sexual connotation, which people are trying to avoid, you could say: Every citizen shall not do unto others as they would not have others do unto them. And then you could say, subsection 2: Every person who does unto others what they would not have done unto them shall be guilty on summary conviction of an offence and shall be subject to fine and imprisonment. And you could throw out the 35 pages of provisions.

Now, the reason that no legislative draftsman nor Legislature has found this idea which I have suggested to you commendable to them, it's not that it's not a better idea than what you have done. It's because they have rightly come to the conclusion that there is no law which can require free citizens of society to treat each other as equals. That has to come about through the development of civilization and the organization of society to such a state that it is amenable for people to treat each other as equal human beings.

And by the way, we didn't do so bad. I'm not saying that everything was perfect, and I'm not saying that there isn't and wasn't discrimination between certain citizens and other citizens. I'm suggesting that it will never go away.

But in 1969, Mr. Chairman, and I use that date partly subjectively but - it occurred beforehand - but in 1969, the people of the Province of Manitoba, without a statute telling them that they were to treat each other equally as people of different ethnic backgrounds, elected a government that was headed by a person of German ethnic origin that had three Jews in the Cabinet, that had a Pole, a Ukrainian - I believe there were even some Anglo-Saxons that sneaked into that Cabinet - there were two people of French ethnic background. The Government of Manitoba and indeed the Legislature was a kaleidoscope of the population of the Province of Manitoba.

I use 1969 because I think probably the development had progressed at that point to a degree where we could all see what was happening and pride ourselves in it. I don't take away 1966, and I don't take away 1962. If I ever had such tremendous subjectivity, it has long ago disappeared, but nevertheless we did pretty good. We had a Mayor of Winnipeg who was of Ukrainian ethnic background who used to top the poll in River Heights, and we did it without legislating to people as to how they will treat one another. I believe it is Mike Dittka of the Chicago Bears to whom the remark is attributed - but if it isn't, it doesn't matter - he said: "If it ain't broke, don't fix it."

Well, I'm suggesting to you that it wasn't "broke" and the attempts to fix it are far worse than the disease which it is intended to fix. I'll deal with this as I dealt with it because it's not something new that I'm saying. This legislation pretends that there will be no discrimination in employment based on political views or opinions.

Now don't we all recognize that as a pretense? I mean, will the NDP Government - and I defend their right - not say that they would prefer to hire New Democrats rather than Conservatives? Are they prepared to go to a Human Rights Commission and somebody makes a complaint, let us say, I know that almost every Cabinet Minister or every MLA who previously was a New Democrat almost was given some type of sinecure by the NDP Government, and I defend their right to do so.

But Mr. Hanuschak wasn't given a sinecure. Mr. Boyce wasn't given a sinecure. When they went around the world looking for labour lawyers to help them with their act, they said they went everywhere, they couldn't find one in Manitoba. So they found one in Saskatchewan. Are they now telling me that I don't know anything about labour law?

But I defend their right to say, we won't hire that man because of his political views. They are antagonistic to us. They have a right to do that and they should not pass a law saying that they are not doing it because it doesn't change things. It just makes us live in a world of hypocrisy where everybody becomes a hypocrite. That's what the legislation does.

I told the Legislature when I was standing in my seat and I told them in committee, you have passed a law saying that I have to hire anybody regardless of their political opinion. I am stating now that I will not hire a Nazi. I am stating that I will not hire a Nazi, and I will not say I didn't hire that Nazi because he was incompetent, he wasn't as good as the next applicant, he didn't have as nice an appearance. I will say, I didn't hire that person because he was a Nazi, and I don't want to have a Nazi in my employment.

The Attorney-General of this province and members of this Legislature are saying that they are going to bring me up before a Human Rights Commission. They're going to make me hire him, which they won't, because they can tie horses to my hands and to my legs and pull in different directions and I won't hire him. Then they are going to say they are going to fine me and, if I don't pay the fine, they are going to put me in prison.

I'm going to be in prison as a logical extension of this law because I wouldn't hire Mr. Keegstra to work for me. Now, does that make sense to anybody in this room? It doesn't even make sense to the NDP.

SOME HONOURABLE MEMBERS: Oh, oh!

MR. S. GREEN: Well, perhaps it does make sense to them. But the fact is that is what they are doing with this type of law. That's what the law said before, and I say to you that the law is getting worse, because they used to say you will not hire a Nazi. Now they say that discrimination means - and I want to read this to you - I don't know if you people have read this. Discrimination under 9(1) means "differential treatment

of an individual on the basis of the individual's actual or presumed membership or in association with some class or group." Differential treatment, that means if I treat the person differently because of his membership in a group. There are some of us Neanderthals who will still open the door of a car for a woman, but they won't open the door of a car for a man. This is illegal now, because it is differential treatment. Now it used to say, "in employment," etc., but now it says differential treatment is illegal - also, "failure to make reasonable accommodation for the special needs of any individual or group, if those special needs are based upon any characteristic referred to in subsection (2)".

Therefore it's not simply a question of legislating against the same treatment but, if somebody requires differential treatment of a special kind, some Human Rights Commission can say that that's what is needed and that will be done. Well, we've heard talk about - I'll leave the issue of homosexuality aside for the moment and take the position of the political treatment.

A Conservative goes to the Human Rights Commission and says that there have not been any Conservatives appointed to boards and commissions of the Province of Manitoba. The Conservatives received as many votes in the last election as the NDP did, within 10,000, 20,000 - I can't remember the figure, but very close. Therefore, we are entitled at least to equal representation on boards and commissions. We believe we are being given differential treatment because of our political views and we want the Human Rights Commission to institute an affirmative action program. We go to the Human Rights Commission and the Human Rights Commission looks and they say, it's true. These people are disadvantaged because of their political opinion and we direct the government that they are now to see to it that an equal number of Conservatives are put on boards and commissions as have been New Democrats.

Maybe this commends itself to people who think that other people should be treated equally, but I suggest to you, Mr. Chairman, that it makes absolutely no sense. I'm going to show the government that it makes no sense to the point that even some of them will agree, although they will maybe stick to their position because they feel some sensitivity about it.

Section 9(2), these are the characteristics on which you do not treat people differently - and by the way, there is a very important section in this legislation. It supersedes or is paramount to every other act of the Legislature. If you look at page 2, it says: "These various protections for the human rights of Manitobans are of such fundamental importance that they merit paramount status over all other laws of the province."

Now, as I understand it, at the present time, a non-citizen cannot vote. Am I not right? He can't vote. But you cannot have differential treatment on the basis of certain characteristics and you cannot have differential treatment on the basis of nationality. Under 9(b), it says "nationality or national origin." But you are now providing for differential treatment as to voters on the basis of nationality, but this act is paramount so does this act now say that all non-citizens can vote?

It's not presently in The Farm Lands Protection Act, but there was an attempt to say - as a matter of fact the present Minister at this meeting was one of the main proponents of this type of legislation - that non-

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nationals could not own farm land in the Province of Manitoba. Well, I don't believe that's what the legislation now says, but it may. But certainly that was one of the strong arguments that was advanced by the present Minister of Labour who is sitting here, that non-nationals should not be able to own farm land in the Province of Manitoba. But here it says that this act is paramount and no person shall be afforded differential treatment by reason of his nationality and the Crown is bound by this legislation, so you cannot have it both ways.

You cannot say, Mr. Chairman, that there shall be no differential treatment on the basis of a person's source of income. There are a group of young people and older people who are now working for Westfair Foods. They are working there because it is their view that they have a right to work there, and there's another group of people out there who say that they have no right to work there and they call them scabs and they call them other names and they treat them badly. They confer upon them differential treatment. Well, you have made it a law that people cannot be treating people differentially on the basis of their source of income, clause 9(j), so the source of income is something which you cannot treat differential.

Now, I'll go further, Mr. Chairman. There is a man in Winnipeg, assume, who is an agent for a South African country that is selling South African goods. The Minister of Labour is one of the strong advocates of boycotting South African goods. Canada boycotts South African goods. This man is boycotted, because he is from South Africa and selling South African goods. Is that against the law by virtue of this legislation? That's what the legislation says.

The doctors in Manitoba are the only group of people that I am aware of - and I stand to be corrected - who cannot make an individual contract with a patient as to services and to what their fees will be; that is against the law. Even if the patient doesn't want Medicare, even if the doctor makes no claim on Medicare, they cannot make a separate deal as to their income. The government has legislated against that. But you say that there will be no differential treatment on the basis of a person's source of income, and the doctor's source of income is a patient who makes no claim on Medicare, and he makes no claim on Medicare, and that's the only reason.

This act is paramount. Does it say that the other act is illegal? What if, Mr. Chairman, what if somebody disagrees with people receiving an income from a source that they don't happen to like and, therefore, treat that person differently? If I say - and I'll go back to the Nazi's or maybe, to make it easier for my friends over here - somebody who works for the National Citizens' Coalition, and he receives income from the National Citizens Coalition. As a result of that, the NDP Government refuses to consider an application for employment because they don't want to employ anybody from the National Citizens Coalition. Is that a differential treatment in accordance with this act which is prohibited by the act?

Mr. Chairman, I'm not suggesting that there shouldn't be a better feeling as between human beings. I too, if I thought it would work, if I thought it would do any good, I would stand here and vote with the people in this room. Thou shalt love thy neighbor as thyself, passed unanimously because nobody would dare to

vote against it. But what value is there in the legislation, and what possible harm is there?

You cannot discriminate against anybody on the grounds of physical or mental disability. A person seeks employment on a straight laboring job, straight laboring doesn't really involve a great deal of intelligence. Two people come for the job. One is adjudicated by the employer to be quite an intelligent person, and the other one a person of lesser intelligence. The person who, here in this room, said God made all equal made a very bad mistake. God made us all unequal. There are no two citizens in the world who are equal. And the employer says, it didn't really matter that much for the job, but I preferred the guy who was a little more intelligent. Somewhere down the line, his intelligence is going to do him some good. Is it against a provision of this act because a person has been discriminated against because of mental disability? How far do you go into that? I mean, do you have adjudication on whether the discrimination was on mental disability or was for some other reason, or how much of a mental disability involves a discrimination and how much does not?

I may say, Mr. Chairman, that I've seen lots of legislation and, with all due respect to the drafters - don't know whether they are in this room, but it's never stopped me before, so it won't stop me now - this is the worst drafted piece of legislation that I have ever seen in all of the years I'm involved with the Legislature, and I don't care who drafted it. I'll get to the one that is most peculiar, and that is the definition of sexual orientation.

"You shall not discriminate against somebody because of sexual orientation." One of the young ladies said you should throw out this definition, and I sympathize with her because, if you were sincere in what you are doing, you wouldn't have this definition. And I'll deal with that in a moment.

So the law is I'm not to discriminate against somebody because of sexual orientation. Then I say, well, what am I prevented from doing? It says sexual orientation means heterosexual, homosexual or bisexual and refers only to consenting adults acting within the law. Doing what? I mean, playing checkers? Doing what? A homosexual engages in many, many, many activities; a heterosexual engages in many, many, many activities; a bisexual person engages in many, many activities which are within the law. So what you have not yourself had the fortitude to say is that you are dealing with the way in which human beings obtain sexual gratification of their sex-drive needs. That's what you are dealing with, not how homosexual people act, or bisexual people act.

What you are intending to deal with, but what you don't say so is that you will not discriminate against a person because of the way in which he seeks sexual gratification. I don't wish to be judgmental on that, provided that is within the law. That's why a young lady here, who at least is logical in her position, says, why do you put that in within the law because there are means of obtaining sexual gratification. The law at the present time recognizes two biological human being types, male and female. A male can be a homosexual and a female can be a homosexual; a male can be bisexual and a female can be bisexual. But biologically, we recognize two forms of human being, one male, one female.

What this legislation does, and which I strongly object to, is attempt to classify human beings on the basis of the manner in which they obtain sexual gratification. I submit that if it was done before, it was crazy before, and the attempt to do it now, it's crazy now. Because I sincerely believe, although others have to be the judge, that I am absolutely non-judgmental on how other people obtain sexual gratification and I don't wish to discuss with them my means of obtaining sexual gratification, but it now becomes a subject for discussion by legislation. If it does become a subject for discussion, then I would like the drafters of this legislation, unless they are ignorant, to understand that there is an infinite number of ways of obtaining sexual gratification, infinite number. They are not limited to the ones in your present imagination. They are unlimited and, if you embark on this road, then the road doesn't stop at this corner, it goes on.

What you are presently attempting to deal with is pressure groups who are dealing with a particular form of sexual gratification. May I say, Mr. Chairman, that if a person was working for a firm, was married, had a family, but said that he or she didn't get sexual gratification from their spouse and that they liked to have 15 different sexual partners - now remember we are not going to be judgmental anymore. These things are neutral - and I happen to believe that, with me, they are - but these things are neutral. Any way is okay and, not only is it okay, but it can be announced, propounded, and you are not to be affected by the pronouncement or the propounding of it, because to the young person - and I was very much sympathetic - who said they were at St. Paul's and they were going to be expelled from a school, I believe it would be a total violation of our public school system to expel any child on the basis of that person's sexual means of obtaining sexual gratification. If St. Paul's can do it, then I'm not sure - mind you it is a private school in which we do not like to interfere, although the government is starting to fund them and, if they're going to fund them, they're going to interfere with them.

There is no person who could be dismissed from a job who had a collective agreement on the basis of their sexual orientation. No arbitrator would uphold such a dismissal, and I'm not aware of any that have been upheld. So if they are covered by a union contract, they cannot lose a job for that reason. If it's in terms of hiring, I say that the sexual orientation of the person seeking a job and the sex is none of the business of the management. I don't know that has been a problem but, if it has been, it's one that's not going to go away, Mr. Chairman, by the passing of legislation.

By the way, we said - and I don't mean this as a joke - that there were 57 members of the Legislature elected in 1969 and again in 1973 and again in 1977. If the figures that are given to us are right, a certain percentage of them were homosexual and they were elected by the people of this province, and nobody was prevented from running or seeking office on that basis.

Therefore, it's not in an attempt - now let us assume that this person is employed by the Great West Life and the manager calls him in and says, he or she, look, you've got a wife and family; we like a certain stability. We know that you are running around and we don't want such a person working for us. Has not that person the same right as the people in this room to come and

say it is no business of the employer to know of my particular means of my particular sexual gratification? I want a law that you include, sexual orientation means heterosexual, homosexual, bisexual and philanderers, no discrimination on that basis.

Or the next person comes in and he says, I am not married, I live with four people, whether it's a woman or a man, and that is the way in which I obtain sexual gratification. If we are not being judgmental - and I assume we are not - and that the way in which an adult gets his or her sexual gratification is strictly up to that person, we should have a law saying that person shall not be discriminated against in accommodation or rental, or what have you, or employment, even though an employer could say I don't like that type of person working for me, whether it's right or wrong for he or she to be sexually involved in that way.

Then we come to another group who say, my means of achieving sexual gratification is with animal life and, of course - (Interjection) - well, there's somebody laughing. Why are you laughing? Some people do it that way and, if we are not being judgmental, why is it not perfectly acceptable? There will be no discrimination, because they put in that it has to be acting within the law. But quite properly, a young lady got up and said, that definition is hypocritical. Why should we complain about a person strictly within the confines of their own establishment obtaining sexual gratification in a different way? Now, Mr. Chairman, I insist to you, I am not being judgmental.

The means and the ways in which a human being will obtain sexual gratification are infinite and undefinable, and none of your business and none of my business. We should not be passing legislation to try to set up the acceptable and unacceptable patterns of obtaining sexual gratification and pretending that society - not society, that another human being - has to close his eyes to it.

I might not like a certain person because he drinks too much. I might not like a certain person because he doesn't drink enough. Are you going to tell me who I have to like, who I have not to like, who I should hire and who I should not hire, on the basis of their sexual orientation? Because that's what this legislation intends to do, and that's my argument with the legislation, Mr. Chairman. When you go that direction, there is no place to put on the brakes, there's no place to stop except to undo it. In saying so, I do not wish to discriminate against my fellow citizen who is homosexual or bisexual. I don't want him to be talking to me about the way he or she obtains sexual gratification. That's his or her business and my way is my business.

Now, what is happening is an attempt to obtain legislative recognition of a certain form of sexual gratification, and I submit that is not an attempt to undo discrimination. When I was a Minister of the Crown, two people, some of them may be in this room, came to me - they were both males - and said they wanted me to pass a law that there will be a marriage certificate, that they would be entitled to get a marriage certificate. I said, look, really I don't care how you live, that's your business. Maybe your way is better than my way. I'm not saying it is or it isn't, but a marriage certificate is a document that we confer upon a husband and a wife, the husband being male, the wife being female. If you want the equivalent, there's no law that

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says you can't go out and form a contract between the two of you that all of the incidents of marriage, legal incidents, will apply to us, and you can both sign it and that contract will be recognized. But a marriage certificate is an attempt to take a biological circumstance and turn it into a sexual circumstance, and that is not what we are dealing with.

Now that is the attempt that is being made in this particular piece of legislation and, Mr. Chairman, I submit to you that attempt will do no good to the people who think that it will establish rights for them. As a matter of fact, it will do them great harm because the attitude of a person toward another person on the basis of the way in which they achieve sexual gratification is something that is not predictable. If, as young people here have come and said, we will now be able to announce it and don't have to feel embarrassed about it, how many of you in this room, how many others, other than the people who want to say that this is how we wish to have our way of life?

How many of you run around in public saying, this is the way I get my kicks, with a wife or a husband or anybody else? It is not a discrimination to say that the sexual practices of one group of people will be regarded in the same way as the sexual practices of another group of people. It's their business. And the laws, with regard to discrimination, I've already put them. They don't do any good but, to the extent that they do do some good - and I say they don't - do not apply in the same way to males with homosexual tendencies as to males who have no sexual tendencies or females.

As much as some people would find this difficult to believe, there are such people who are asexual in terms of the sexual practices. They are either male or female biologically but they have no means - and some do it all by themselves. Are we going to make a law for those too?

Let's say my sexual gratification, I deal with myself. I want the world to know it and I don't want any discrimination. I want you to treat me exactly how you would treat anybody else, even though you are unable to control your feelings as to how people obtain sexual gratification.

Now, Mr. Chairman, this bill is, in my opinion, a dangerous bill. It is an unnecessary bill, and it is rooted in ignorance. One of the most dangerous features of the bill is that a bill which is rooted in ignorance puts a positive mandate to educate, because there is a positive mandate in the bill that they're going to educate people as to the desirability or undesirability of sexual practices. It's right in the bill.

"The responsibility of the Commission is to disseminate knowledge and promote understanding of the civil and legal rights of residents of Manitoba and to develop, promote and conduct educational programs for that purpose." Now, where does that begin and where does it end, because it's right in the bill.

It grieves me, Mr. Chairman, to see the development of this type of legislation. Someday, somewhere, someone can put on the brakes. It would appear that ossibility exists in the Province of Manitoba. The Province of Manitoba can do a great thing. It can say, instead of following this insane pattern, we're going to stop. And, as I understand it, you're one vote away from stopping it - one vote.

Because it was 27-24, one of the people who voted for it said, I'm against it, but I'll let it go to committee.

Hopefully, he will learn something or have his views disturbed at committee. That would make it 26-25. If it lies within the provision of one person to bring sanity to the Province of Manitoba, and I will give you the key. They say this is a caucus vote, oh there's the caucus chairman. He tells people how they shall vote. He is going to discipline Mr. Walding for voting in a particular way - (Interjection)- the Whip, the Whip. Here's that group which believes that each person is entitled to human rights, not to be treated differently on account of political opinion, to have free choice of mind, but they say, you will vote with this or you will undo - now is that not discrimination on the grounds of political opinion?

A MEMBER: I think so.

MR. S. GREEN: If you carry it that far. But . . .

A MEMBER: Pretty funny, isn't it?

MR. S. GREEN: Well, they regard it as a joke. Mr. Desjardins has pointed out the way. Mr. Desjardins said that no political party can ever tell him to vote against his conscience. Now those of us who have been around for awhile, we know that Mr. Desjardins has a very facile conscience. When his political life depends on his conscience, his conscience is very flexible and he votes that way. But nevertheless, I assume that every other New Democrat is just as holy, a man of just as much integrity as Mr. Desjardins. If Mr. Desjardins can say no political party can dictate to him how to vote, then surely that applies to every other member of the NDP. Well, Mr. Chairman, we found out how that worked with such a simple matter as seat belts, but no political party can tell him how to vote. No political party can write letters to the constituency saying your man isn't doing a good job or things of that nature - conscience at all cost.

Well I ask the members of the NDP to look at this bill and say, in their conscience, can they decide at this time to set up a separate category of individuals in the Province of Manitoba by legislation, based not on their biological features, male and female, but based on the way in which they obtain sexual gratification? That's the only thing that this bill does and, I submit to you, it is totally unnecessary and demonstrably dangerous.

Thank you.

MR. CHAIRMAN: Are there any questions?
The Member for Fort Garry.

MR. C. BIRT: Thank you, Mr. Chairman, and thank you, Mr. Green.

There are three areas of the bill that I have some concern about and I would like to get your comment on. The old act allowed a decision of an adjudicator or a judge, in the old Human Rights Act, to be appealed to the Court of Appeal, and you could do it on a point of law or it could be retried.

This particular act basically closes off that process to the courts except to restrict, in very limited or narrow ways, such as you can deal with the question of error of jurisdiction, the principle of natural justice, or

principle of fairness in the course of adjudication. In your opinion, should that closing off of the right of the courts to review the matter, however the applicant wishes, should be allowed or should this type of restrictive appeal to the courts be allowed?

MR. S. GREEN: Mr. Birt, you asked me a very difficult question, since I don't agree that the Commission should do it, I don't agree that the courts should do it. I cannot put myself in the position of condoning anybody to tell me how I am to feel towards you or how I am to feel towards Mr. Mackling. I can tell you that, if I held a government position, I would not hire Mr Mackling and it would be based on his political opinions and I would be proud to say so. I don't know why you take away that right of anybody else.

So, to me, the fact that one appeal feature has been removed doesn't make the legislation any better or any worse. Once you start on this path, you can't make it better by providing appeals. It's like being partially pregnant; it doesn't happen.

MR. C. BIRT: Mr. Chairman, through you to Mr. Green, I would agree with your comments. Facing the numbers that we have, this legislation may go forward, and I'm attempting to see if there can be some changes to at least modify or cut down on some of the wrongs in it, as I see it. I agree with you. I don't think the principle should be there, but we're faced with a set of facts right at the moment, assuming it passes through.

One area I would like your comment on is in the old act. Before a criminal prosecution was obtained or could be launched, the approval of the Attorney-General had to be obtained. This act gives the commission the right to bring its own prosecution for violation of the act, without obtaining some approval of the Attorney-General when, in fact, that other safeguard was removed.

As I understand, at the present moment, with the Blue Jeans incident, there are negotiations going on between the commission and the Attorney-General's department to try and work out a settlement. Some people will plead guilty; some people will not, and financial consideration will flow. In other words, the tool of the courts, and possible threat of jail and fine, is being used to try and bring about a solution.

Now I'm not condoning the acts that went on. What I'm concerned about is the power of the state in attempting to extract a judgment. In your opinion, should that power of the review by the Attorney-General be left in or removed?

MR. S. GREEN: I regret, Mr. Birt, not to give you any satisfaction. From my point of view, it's six of one and half a dozen of the other. I don't trust the Attorney-General any more than I trust the commission; I don't trust the commission any more than I trust the Attorney-General to tell me how I am to feel toward my fellowman. If I've committed some wrong, then the regular court procedures will deal with it but, as to how I am to feel toward my fellowman, I believe that I am best able to decide that point. My own history in dealing with my fellowman is, in my opinion, not such as to require me to have legislation as to how to do it; whereas the means which I've seen others deal with them, legislation won't help.

So when you ask me whether the state should be bargaining in such a way as to tell a person that, if you don't do these things, we're going to be able to prosecute you or impose a fine on you, I say that is not an acceptable form of bargaining in any event.

MR. C. BIRT: Thank you, Mr. Chairman.

MR. CHAIRMAN: The Member for Lakeside.

MR. H. ENNS: Mr. Green, just one question, and I don't want to go over the ground that you've stated several times in response to my colleague, the Member for Fort Garry, about what your feelings are with respect to the effectiveness of this kind of legislation, but I seek counsel from you and take the opportunity to seek legal counsel from you in your interpretation . . .

MR. S. GREEN: Free.

MR. H. ENNS: . . . about what you think of the bill. Yes, free. Section 18 of the bill deals specifically with discriminatory signs or statements: "No person shall publish, broadcast, circulate or publicly display." Again, without commenting about your feeling of how adequate this type of legislation is or not, but does that put that in a similar vein as, for instance, other legislation that we pass from time to time which attempts to control human behaviour, for instance, anti-discriminatory laws that we have with respect to anti-semitism on the books? Not how effective they are, but the question that I'm coming to: Will statements made, broadcast or published by individuals or groups that are discriminatory toward a particular lifestyle, will that be considered as hate literature under the law?

MR. S. GREEN: I believe that the question is a very important one. I didn't see - I have a notation beside the section, but not your particular question, although I am indebted to you for bringing it out. Let us assume that some preacher of some fundamentalist church says - and, by the way, I don't agree with this - that homosexuality is an abomination. I don't know whether he can be prosecuted under this section.

Now the Minister may say, well we've accepted something that is fundamental to a religion. All right, let's say that somebody else says that homosexuality is an abomination. I mean, are you asking me whether people shouldn't be permitted to say that? I'm saying that people should be prevented to say heterosexuality is an abomination, and the homosexual's lifestyle is the only right style. They should have a right to say that. I don't have to agree with them, but they should have the right to say it. This may take away that right, and certainly this may take away the right of the government - it says, "incites, advocates or counsels discrimination." It may take away the right of the government to incite discrimination against South African wine, because it is made in South Africa.

MR. H. ENNS: Thank you, Mr. Green.

MR. CHAIRMAN: Other questions? Hearing none, the committee thanks Mr. Green.

The next presenter will be Mr. Chris Vogel for Gays for Equality.

MR. C. VOGEL: Thank you, Mr. Chair. I won't take as long as the previous speaker.

Gays for Equality was established in 1972 and set to work immediately to provide peer counselling and professional referral and public education on the issue of homosexuality. Immediately after we opened our phone lines, which have been in existence ever since, we began to receive calls from individuals who had experienced the kinds of discrimination that are covered by this legislation. That is, it had been discovered in each of their cases, by some means or other, that they were homosexual or they had been perceived or presumed that they were, and they either lost their jobs or were evicted from housing or refused rental housing or refused services in business premises. While there's been indisputably a growth in tolerance and acceptance toward homosexuals in our society since that time, the instances of these discriminations do not seem to have diminished.

I won't, of course, read you our brief which, since we've been at this so long, is becoming somewhat lengthy, but I want to draw your attention to two parts in it, two pages. The first of those is amongst the pages which list the religious organizations which have explicitly declared their support for the legal entrenchment of the human rights of homosexuals, particularly on pages 14 and 15 of the brief. I want to say, to begin with, that these are not individuals or churches who have merely said that people ought to be nice to homosexuals or that no one ought to have their human rights offended but, in almost every instance, are individuals and magazines and organizations who have explicitly stated that they believe that sexual orientation or an equivalent phrase should be imbedded in existing civil and human rights legislation.

I referred specifically to pages 14 and 15 because on those are listed the Roman Catholic organizations. There are other denominations, of course, who take part in this dispute. The one which is seen to be most prominent, it seemed to me in this one, was that particular denomination. I wanted you to know quite a large part of it believed that this legislation should pass, having supported similar legislation in the 40 or 50 other jurisdictions which have had it in force for greater or shorter periods of time. Those were usually the occasions on which they made their statements.

The final page of the brief, page 34, indicates the most recent of the several public opinion polls conducted in this country on this issue. You can see from the question given at the top of the table that it dealt specifically with the legal entrenchment in human rights legislation of protection for homosexuals. Like all of the public opinion polls conducted in this country on this issue, the majority favoured the kind of legislation that is being discussed by this committee today.

Specifically, part-way down, the second band in the table, you will see a subdivision by region, showing that, on the prairies, those who favour this legislation outnumber those who oppose it by more than 2 to 1. I don't know that it can be said that Alberta and Saskatchewan, who I presume are the other constituent elements of the prairies, are more liberal than Manitoba. So the figures given here, I think, constitute at least a minimum amount of support in Manitoba.

Even more surprising in this respect is a poll recently conducted by the Progressive Conservative Party in

Manitoba, apparently amongst its own members, in which they discovered that, quite apart from the actual provisions of the legislation, as they reported, 10 percent to 20 percent of their members favour special rights for homosexuals.

We're grateful that this many Progressive Conservatives support us in this way, but we do not think it is necessary. We seek only the same kinds of legal rights as are provided in human rights acts for other minorities, such as on the basis of marital status, source of income, mental and physical handicap, sex, age, religion and national origin and so on.

I think some clarity needs to be placed upon the role of this legislation in the process of increasing tolerance for homosexuals in our society. I don't have to tell you that this process began some time ago. This legislation is a product of that process. As human rights is accorded or as toleration increases for minority groups, as these minority groups, unpopular groups like ourselves, assert ourselves, inevitably a reaction occurs.

On one hand, we are more evident and open, more vulnerable and susceptible to discrimination and, on the other, those who disagree with this social change seek to oppose it where they have the power and ability to do so by firing us, by preventing us from obtaining housing and so on.

This means that the legislation is not so much a cause of social change but a product of it, a temporary expedient, as is all human rights legislation, which will remain in place only so long as it needed and hopefully will be rendered unnecessary once discrimination ceases altogether.

Of course, it constitutes a kind of classification of the people involved. It must do so in order to function effectively. If it did not matter to anyone what our sexual orientation was, we would not be interested in human rights legislation. Similarly, if such legislation did not exist, we would be not in a position to demand that laws be implemented which required people to treat us fairly.

But human rights legislation does exist and it is enormously important to people, what is the sexual orientation of their potential employees, tenants and so on. As a sort of convenient evidence, I suggest that you read the Hansard on the debate on this issue. It makes an enormous difference to lots of members of the Legislature that some people are homosexual and that some of us engage in homosexual relationships.

Many have said that they do not believe we should receive protection from discrimination. This suggests to me, as some have explicitly said, that they believe that they should be entitled to discriminate. I think they represent the views of some of their constituents. They, too, believe that they should be entitled to discriminate. Because this discrimination exists, because this discrimination is advocated, anti-discrimination provisions are necessary in human rights legislation on this ground, as for the others in which this phenomenon occurs.

It may not be the case that legislation can foster tolerance. Perhaps it is not proper for legislation to undertake to do this, and maybe it is not possible. We certainly do not expect The Human Rights Act to increase tolerance. We expect it only to protect us in individual instances of discrimination. It has often been said - and I think it is true - that the forum of gay

liberation is not the Legislature or the streets, but the living room. Those people who have positive attitudes towards homosexuals, who do not care about our sexual orientation, are those who know us. Those whose views are antagonistic or hostile are typically those who have not met us, as persons. They may, in fact undoubtedly do, know many people who are homosexual but they, like most homosexuals today and in the past, have been forced to conceal their sexual orientation.

When we seek to end this hypocrisy, this lying, this pretence of heterosexuality, when we seek to be honest about our human relationships in the same way that our parents and heterosexual brothers and sisters, in the same way that you are about your heterosexual relationships, then we become subject to discrimination. We believe it is unhealthy to lie. We believe it is unhealthy to hide our relationships. We believe it is unhealthy to hide our nature. We believe that all would be better off when everyone is honest about their sexual orientation.

There may be some dangers arising from the implementation of the legislation but I can assure you, on behalf of myself and the thousands of homosexual men and lesbians that I know, that we prefer the partial and perhaps conditional protection provided by human rights legislation over there being no protection at all.

There have been a number of suggestions also that the addition of sexual orientation to the legislation will eventually result in the addition of other categories of other sexual behaviours to the legislation. That is of no more concern to us than it would be to you as heterosexuals. If those who are pedophiles and bestialists and so on seek one day to provide protection against discrimination for themselves, I presume we will consider that, but that will be your job and not ours, your interest and not ours.

It might also be observed the two characteristics of human rights legislation. The definition says, "homosexual, bisexual or heterosexual." This refers to a state of being, not an act. All forms of discrimination imaginable are perfectly legal under past, current or proposed legislation, except those specifically prohibited. All forms of action, all forms of behaviour constitute legitimate sources of discrimination. For example, if a day care centre wishes to not hire Fred or Mary, the pedophile, then they can do so on the grounds that the individual is a pedophile. That is not one of the sexual orientations described in the legislation. They can do so because the individual has a criminal record; they can do so because they consider the individual might sexually abuse their child; they can do so because of the colour of the individual's eyes, the colour of his hair, the type of car that he drives. Under this legislation and under the bill, all forms of discrimination are legal except those specifically prohibited. What is prohibited is sexual orientation, which is defined as being heterosexual, homosexual and bisexual, and nothing else.

Finally, I wish to deal with one amendment which we propose to the legislation, and that is the elimination of the portion of definition of sexual orientation which says, "amongst consenting adults acting within the law." In fact, the age of consent in this country for homosexual acts is 21. The legislation, as it presently exists, the bill as it presently exists would not provide protection against discrimination for those who are 20 years old

and younger. Similarly, it does not specify which adults must act within in order to be eligible for protection. I presume therefore that, if I had obtained a parking ticket or a speeding ticket, my employer could legally fire me because I had not acted within the law. This is an unusual definition, a confection I believe for the purposes merely of this bill. We are not able to find anything like it in any of the other pieces of legislation passed in other jurisdictions, which provide protection against sexual orientation. In the Province of Quebec, having used this legislation successfully for 10 years, the definition simply says, "heterosexual, bisexual or homosexual." We believe that is sufficient.

I have one final note. It is purely parenthetical. A couple of individuals have noted that parallel legislation in existence, municipally, in the City of Minneapolis and in the surrounding Hennepin county had required the Big Brothers Association in those jurisdictions, not only to accept gay Big Brothers but to be unable to report to the mothers of the prospective little brothers that these were homosexuals. It is incidentally, in these systems, always up to the mother to make the final decision as to the acceptability of candidate Big Brothers. In fact, this is not so. I don't know why anyone would say that it was, but it isn't. The final and definitive determination was made by the Supreme Court of the State of Minnesota in the case of Coleman (phonetic) versus Big Brothers and Big Sisters Association of Greater Minneapolis.

Thank you very much.

MR. CHAIRMAN: Are there questions for Mr. Vogel?
The Member for Brandon West.

MR. J. McCRAE: Mr. Vogel, you spoke very quickly near the end . . .

MR. C. VOGEL: Well, it's getting late.

MR. J. McCRAE: Would you just run that business about Big Brothers past us again? You're telling me that case was thrown out by the Supreme Court there?

MR. C. VOGEL: It happens that, in those jurisdictions, the Human Rights Commission and the manner in which the law is written obliges anyone offering forms of employment, either paid or voluntary, to the public must do so without discrimination. So that, like other Big Brothers Associations who have chosen to do so voluntarily, as some have done, allows Big Brothers who are homosexual to be candidates. The process of determination of when an individual should actually be matched with a little brother requires a report to the mother and a determination of her acceptance of each individual Big Brother candidate.

Big Brothers Association in Minneapolis in Hennepin County, of course, reports to each mother, where the candidate is a homosexual, that he is so, and the same thing with the Big Sisters Association. She is allowed to make her determination on that basis if she wishes. What was being said in public was that this was not possible, that somehow the association was obliged to conceal the homosexuality of the candidate Big Brother, a question which they always ask everywhere incidentally, and that is not so. The Supreme Court of

the State of Minnesota said that the Big Brothers and the Big Sisters Associations in those jurisdictions may tell anyone they want about the sexual orientation of candidates. That information has then become public.

It happens in that jurisdiction and a few of the others that some of the mothers prefer that. Some of their sons are homosexual and they are concerned that, in this circumstance, they will suffer a great deal of harassment as they have normally done from their friends, from social workers and so on. They wish to provide some kind of role model to these young men which shows them that they can be happy and healthy through the rest of their lives, that they can engage successfully within a career and they needn't consider themselves to be monsters. They find that the most successful mechanism of achieving this end is to provide a successful happy homosexual engaged in a proper homosexual relationship.

MR. J. McCRAE: As I understand it, the Big Brothers in Manitoba would prefer not to have homosexuals as Big Brothers. Is that also your understanding?

MR. C. VOGEL: Apparently, as I understand, in Manitoba the analysis has always been that private clubs, voluntary organizations and charitable institutions, as well as religious bodies, have always been exempt from the provisions of the act under a section which has now been extended to everyone without its terms having been changed. It's called the BFQ clause and it simply means that, if you can assert successfully that the qualifications which you are requiring or the manner in which you are conducting your operations do not fall, are not unreasonably within the act, then you are exempt. That has always been the case here and everywhere else. Nowhere, for example, has the Roman Catholic church or a Roman Catholic institution been obliged to hire women or Lutherans or people who are homosexual.

On the other hand, in Quebec, for example, where separate school systems were successfully able to discriminate against homosexuals and divorced persons or persons living together unmarried in their employment, they were obliged to offer on equal terms the facilities that they rented to the general public in the evenings. For example, gay organizations had the same access to the use of school premises in the evenings as did other organizations because there were being offered publicly.

MR. J. McCRAE: I haven't been able to read through your written presentation. Perhaps I'm taking this out of context but, on page 10, it says: "Similarly, the Big Brothers Organization has refused to allow qualified men to become Big Brothers if they are known to be homosexual, perpetuating the myth that homosexuals are child molesters." Should a homosexual, after the passage of Bill 47, apply to the Big Brothers Organization to become a Big Brother, are you putting the organization on notice that they'll find themselves before the Human Rights Commission?

MR. C. VOGEL: Well, I don't know. It's not up to me to make those kinds of decisions. We put that in to indicate, as the rest of the items on the page indicate,

the extent to which homosexuals are seen somehow to be inferior and have characteristics which make them unsuitable for such positions. We're simply trying to indicate the atmosphere in which we are living. Whether or not Big Brothers are compelled to observe human rights legislation would be a function of the legislation as it was passed. It seems to me that the clause which protects them is the same clause which has always protected them and has always succeeded in preventing the kind of case that you have suggested from succeeding.

However, it has to be recognized that social patterns change and, one day, either this Big Brothers Association - like Big Brothers Associations in other places already - will decide that it doesn't matter to them, it makes no difference what the sexual orientation of the Big Brother is, and that they need to determine the suitability on the basis of characteristics which do matter.

MR. J. McCRAE: Are you suggesting that the clause dealing with bona fide and reasonable conditions or qualifications could be used as a defence against an application by a homosexual?

MR. CHAIRMAN: It has successfully been used this way in the past and, since the terminology of the clause has not been changed, except the removal of its restriction for use entirely by religious and fraternal organizations in the old legislation, since they've removed that restriction, it's now available to anyone. But apart from that, the Big Brothers and everyone else have the same entitlement under it that they always had.

Those entitlements have always been successful to date in allowing them to pick and choose as they like, including discriminating on the basis of sexual orientation. What sometimes happens, incidentally, in situations of this sort, as already happened, is the gay organizations establish parallel institutions and provide services of the same sort independently.

MR. J. McCRAE: I assume though, when I look at the presentations, this is one of a list of areas where the Gays for Equality feel there has been discrimination. So I assume, by the tone of what I read on page 10, that the position of the Gays for Equality would be that homosexuals should be allowed to become Big Brothers after the passage.

MR. C. VOGEL: That's right. But what we may want bears no necessary relationship to the effect of the legislation. There has been a good deal of talk about it which seems to suggest that because we want something, toleration for homosexuals, that will automatically be achieved by the legislation. Well, of course it won't. We didn't write it. In fact, we had almost no influence in the drafting of it, and there are some parts of it with which we disagree, as I've already said. What the legislation will do is entirely different from what might be our objectives.

MR. CHAIRMAN: The Member for Kirkfield Park.

MRS. G. HAMMOND: Mr. Vogel, I have a question.

You mentioned that there would be some mothers who would want homosexuals as Big Brothers because of their children's sexual orientation. At what age would a mother become aware of her child's sexual orientation?

MR. C. VOGEL: Well, not having been a mother, I don't know that I can say that. The women to whom I have spoken who have concerns about this sometimes are mistaken. They identify other behaviour traits erroneously as being signs of homosexuality. So a suspicion of this sort might be unfounded, even though it occurred at an early age.

But it seems to me, especially amongst the young people that we have counselled since we began our phone line, that most of them recognize their sexual orientation when they reach puberty. It was an automatic process of identifying to those to whom they were attracted. That age, for boys - girls are somewhat younger - but the age for boys, I believe, is between the ages of 9 and 11.

Now that wasn't true for older people like myself who grew up in a much more repressive era. It sometimes took years to achieve that recognition but, amongst young people, I would say that they might recognize that in their early teens at least. Whether or not they would do anything in a way that their mothers would recognize it or not is another matter. Most don't. Most are anxious. Most have received - we're the members of one of the few minorities who realize how hated we are and are convinced thoroughly by our own parents that there is something really awful about us before even we recognize our membership in a minority.

That results in an enormous amount of self-repression and concealment which continues to be reinforced by the fear of discrimination and by public comments by those who feel no hesitation in saying how horrible homosexuals are. So many teenagers, although they realize themselves they are gay, don't reveal this to their mother. But some do, some do. We find, for example, in working with boys who are hustlers, that many of them are gay and many of them have simply been thrown out of their homes because their parents hate their homosexuality so much. That suggests to me that it is possible in the early teens for young men and women to either deliberately or inadvertently reveal their homosexuality and to suffer the consequences.

Not all mothers are so constructive as to say, well, now we must deal with the situation in a way that results in a happy outcome; we must find you a way to live productively and constructively. Some of them simply say, get out, you've disappointed my expectations, you're not what I wanted. I don't want to have anything more to deal with you. And that, of course, is very regrettable.

MRS. G. HAMMOND: Are you expecting this legislation to change that?

MR. C. VOGEL: No. I expect this legislation to protect us from discrimination in employment and housing and services, when that occurs on an individual basis. I don't know that it's possible to have legislation that does the kinds of things that I would like to have happen. For that reason, we've been doing it by ourselves for years.

We don't receive the kind of government grants - we make the applications; we just don't get the money - that other minority groups do. So by our own resources, we've engaged in as much public education and things of that sort as we could.

If that has been sufficient - perhaps it has - perhaps that's why such an overwhelming majority of Canadians and Manitobans want protective legislation because they've come to accept us, at least to that extent to not fear us. Obviously, we have a great deal more to do and we have no choice but to do it. I don't think the legislation will do it; I think it's up to us.

MRS. G. HAMMOND: Just one last question, would this legislation, as you see it, force parents to keep their teenagers in their home if they, as you say, wanted to throw them out because of their feelings?

MR. C. VOGEL: Well, no. The legislation deals with employment, housing and public services. I don't see how it could be employed in any other area. Do you?

MRS. G. HAMMOND: I was asking you.

MR. CHAIRMAN: Other questions? Hearing none, thank you, Mr. Vogel.

It's now almost 12:30 p.m. May I ask the will of the committee?

MR. C. BIRT: Mr. Chairman, before we make a decision as to whether we will rise or not, what about the earlier suggestion I made about perhaps reconvening at seven o'clock tonight?

MR. CHAIRMAN: That can only be done in the House by announcement because we have publicly announced 8:00 p.m. It would have to be decided by the House Leaders.

MR. C. BIRT: Well, if the people who are here could at least be told we are going to start at seven, we could make it formalized later on and maybe have the Clerk's Office do some phoning in case there are people who are not here who had scheduled to come for eight, but I'd at least like to advise those who couldn't get on this morning to be able to come.

MR. CHAIRMAN: The Member for Kildonan.

MR. M. DOLIN: If you look at the schedule you'll note that the committee is tentatively scheduled for 8:00 p.m. this evening, and 2:00 p.m. and 8:00 p.m. tomorrow and that, I gather, has already been decided between the House Leaders, the times of sitting if we go over. So I assume that we will adhere to that schedule.

MR. C. BIRT: All I'm asking is to change it so we can accommodate people.

MR. M. DOLIN: I think that would have to be dealt with between the House Leaders.

HON. A. MACKLING: Mr. Chairperson, I sympathize with the concern, but the House Leaders do schedule meetings of committees and I don't think we should

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deviate from this, not on the eight o'clock time. If the member had some suggestions about confirming perhaps the need for further time, I think that could be considered by the House Leaders.

But it's been announced for eight o'clock and there may be people who have already scheduled themselves. They've realized the time on the list, and they have other commitments at seven and wouldn't want to lose their place and will be here at eight.

MR. C. BIRT: Mr. Chairman, I think we're getting ourselves into a conundrum. I'm sure there are enough people here who are presenters who could come on at seven o'clock. Those who are still coming at eight could come at eight. I mean a show of hands surely will tell how many people are here, that we can proceed.

If it means that we have to have our two House Leaders change the thing so we can start at seven, I'll raise it in my caucus and I don't feel there will be any problems. I'm sure there'll be no problems on the government side. Instead of sitting till one or two o'clock in the morning, let's start a little earlier and try to accommodate the public.

HON. A. MACKLING: What we can do is indicate to those who are present that we will discuss the - I, on

behalf of the committee, will discuss this with the House Leaders and they should call the Clerk's Office to determine whether or not the committee is meeting at seven o'clock.

MR. CHAIRMAN: Mr. Smith.

MR. H. SMITH: Well, as much as I am sympathetic with this request - and I think it can be achieved, if your side can guarantee that your House Leader will go along with the suggestion, I think we can basically probably do the same thing here. So let's set a time and get it . . .

MR. CHAIRMAN: What is the pleasure of the committee?

HON. A. MACKLING: Accept the recommendation, and committee rise.

MR. CHAIRMAN: Committee rise.

COMMITTEE ROSE AT: 12:28 p.m.