

**LEGISLATIVE ASSEMBLY OF MANITOBA**  
**THE STANDING COMMITTEE ON**  
**PRIVILEGES AND ELECTIONS**  
**Thursday, 9 July, 1987**

**TIME — 7:00 p.m.**

**LOCATION — Winnipeg, Manitoba**

**CHAIRMAN — Mr. C. Santos (Burrows)**

**ATTENDANCE - 11 — QUORUM - 6**

*Members of the Committee present:*

Hon. Messrs. Cowan, Harapiak (Swan River), Penner

Messrs. Birt, Connery, Dolin, Johnston, Maloway, Santos, Smith (Ellice), Mrs. Hammond

**APPEARING:** Mr. Phillip Graham - Oscar Wilde Memorial Society

Mr. Rick North - Winnipeg Gay Media Collective

Dr. A.E. Millward - The Council on Homosexuality and Religion

Mr. Lyle Dick - Project LAMBDA Inc.

Mr. Nick Ternette - Urban Resource Centre Inc.

Mr. Abe Arnold - Manitoba Association for Rights and Liberties

Mr. Harry Peters, Manitoba Association for Rights and Liberties

Ms. Marilyn Wolovick - Manitoba Action Committee on the Status of Women

Ms. Bonnie MacQueen - Manitoba Action Committee on the Status of Women

Mr. Edward Lipsett - Private Citizen

Mr. Peter Williams - The United Church of Canada; The Conference of Manitoba and Northwestern Ontario

Mrs. Audrey McLennan - The United Church of Canada; The Conference of Manitoba and Northwestern Ontario

Ms. Judy Tozeland - Manitoba Ass'n of Social Workers

Mr. David Swan - AFFIRM

Mrs. Betty Gross - Private Citizen

Mr. Horst Backe - Winnipeg Gay Community Health Ctr. Inc.

Ms. Mona Brown - Manitoba Ass'n of Women and the Law

Mr. Darryl Kippen - Private Citizen

Ms. Bev Suek - Manitoba Advisory Council on the Status of Women

Ms. Judy Balabas - Manitoba Teachers' Society

Mr. Glen Murray and Mr. Ron Harris - Village Clinic

Mr. Walter Buchko - Private Citizen

Ms. Judy Hill - Clinic Community Health Centre

Ms. Shirley Tervo - Clinic Community Health Centre

Ms. Susan Smiel - Univ. of Wpg. Women's Centre

Ms. Chi Emerawa - Univ. of Wpg. Students' Association

Mr. Mark Hughes - Private Citizen

Ms. Shellyse Szakacs - U. of M. Womyn Centre

Ms. Manuela Dias - U. of M. Women's Studies Association

Mr. Jake Bergen - Private Citizen

Mr. Ron MacLean - Private Citizen

Mr. Eric Anderson - Private Citizen

Mr. John Dean - Private Citizen

Mr. Davie MacLean - Private Citizen

Mrs. Ethel Beck - The Lydia Fellowship Inc. of Canada

Mr. Michel Aquin - Private Citizen

Mr. Kelly Stephens - Private Citizen

Mr. Peter Hagenlocher - Private Citizen

Mr. Rick Schmidt - Private Citizen

Ms. Kathy Hanan - Private Citizen

Mr. Ken DeLisle - Dignity Winnipeg

Mrs. Anne MacLean - Private Citizen

Mr. Jonathan Much - Private Citizen

Mr. David Neufeld - Private Citizen

Mr. Wayne Charski - Private Citizen

Mr. John Neufeld - Private Citizen

Mr. Reinhard Neufeld - Private Citizen

Ms. Rhoda Neufeld - Private Citizen

Mr. Karl Neufeld - Private Citizen

Mrs. Eva Stephens - Private Citizen

Dr. J.R.M. Smith - Private Citizen

**MATTERS UNDER DISCUSSION:**

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

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**MR. CHAIRMAN:** Committee, please come to order. The next presenter will be Mr. Phillip Graham, representing Oscar Wilde Memorial Society.

**MR. P. GRAHAM:** Mr. Chairman, I'm very happy at last to be able to advocate inclusion of sexual orientation

in The Manitoba Human Rights Act. I believe it is going to be amended to exclude that little bit about consenting adults because of course, as has been presented before, we often identify ourselves as being homosexual long before we've had any sexual gratification, as Mr. Green has put it.

I am representing the Oscar Wilde Memorial Society which operates a private club for gay people and their friends, their family, and it is open to all their friends and family of any age and any sexual orientation, I should say.

I'm going to give a little bit of history of how we have come this far so slowly. We made our first presentation to the government back in 1974. Now the first social gay clubs, I guess, were organized in 1971, and it was a private club mainly for the entertainment of its members. They had no gay liberation spirit because most of them were professional people and were too afraid to come out in case they may lose their jobs.

I was a gay farm boy from the country. I was brought up in a very religious area and I guess you can imagine the difficulties I had equating my homosexuality with what I read in the Bible. In fact, I didn't even know homosexuality existed until I read it in the Bible. I thought it was kind of neat when I read Leviticus because nobody else obeyed anything else that was said in Leviticus, so I didn't think there was any harm in my beliefs. However, I soon found out that was in the contrary from the attitude of people.

Everybody has concentrated on homosexual orientation, but we must also remember that it's also an affectional orientation. I remember, at 14, I felt a great love, a great needing to be close to my male friends. I hung around them a lot, I wanted to be close to them. They did not know I was gay. I got a great deal of satisfaction in being with them and discussing their ideas, their beliefs, what they did. I was a good friend and, in many cases, I have continued to be a good friend. They had absolutely no idea I was gay.

The area I come from, which is in the Virden area, I have subsequently found there are of course other gay farm men and women who I have now met in the various gay establishments in the city. Just pointing that out and being that this might be reported in the media, people back home may think, who are they. They'll probably not know who they are and, if they have any suspicions who may be or who may not be gay, because of this, this legislation will not only protect gay people but will protect people who other people may suspect may be gay.

A friend of mine had a social, a wedding social, the other day at the Concord. One of his friends went to the washroom there and he was beaten up because people thought he was gay. So this legislation will not only protect gay people, it will protect the friends with whom I associate. I am proud to associate with many straight colleagues and friends. Our gay establishment is open to our parents, our relatives and our friends. We want this legislation to protect them, as well. Because they attend that place somebody will say, oh, look at so-and-so going in there. They may be gay, which is not necessarily true.

Now I graduated in agriculture the same time as Mr. Downey, Jack Murta, Felix Holtmann. I know these people; I do not know their attitudes. I do know Mr. Downey's attitude toward the situation, at least as

reported to me. I'd have to hear him report it directly before I would make any judgment.

I was on the executive of the student council. I performed my duties well, was well liked in the faculty. People, of course, were later surprised I was gay but then, when I said my major was horticulture, there was a snicker. Now, that snicker indicates that people do have some prejudice, some foregone conclusions of the occupations gay people may be in, because there are certain occupations, they say, well, you know, so what if this guy's in this type of occupation. That means he might be gay.

Our legislation also has to protect people in all occupations, whether it's those that people may be in, where gayness might be more accepted, or in those occupations where gayness is not accepted at all. I think that's a very important point.

So we're not just protecting ourselves. We're protecting our friends, we're protecting our other workers who may be in the same occupation as we. I do not want my friends to be discriminated against because they happen to know me. So we have to change the mindset of the people in the province and, of course, across the country. We do this first by introducing this legislation, just to kind of educate the people that it is not okay to discriminate against gay people.

Now, I did not get into this gay liberation thing easily. I was in the closet. I had the very similar attitudes toward gayness as some of the members of the legislation. I was very negative against it because that was the type of community I was brought up in. I began to hate myself. By the time I was in my mid-20's, I was at the point of considering suicide because I did not think I would be accepted as a gay person. I could not relate to my friends, which I was very close to. I've always been close to my male friends but I thought, if they knew I was a fag, they would not like me. They would reject me.

Well, fortunately, in 1969, I got involved with a gay liberation group at the University of Minnesota. After I graduated from the University of Manitoba, I took my Master's in Horticultural Science at the University of Minnesota and, very reluctantly at first, joined a gay organization, because I was scared. That did give me the courage to go and tell some of my straight friends that I was gay. Fortunately - and I think many people have experienced this - they said, it doesn't really make any difference to them.

Then I got a little bit gung-ho in this gay liberation bit and started running around with Gay Pride buttons and things like that. That did upset them because they were afraid of what other people may think of them. I said, well, you're only feeling some of the fears that I have felt for years. Our organization - we had kind of a counselling organization at the University of Minnesota, which encouraged gay people at the appropriate time to let their parents know that they were gay. The appropriate time is when you're feeling comfortable about being gay yourself, that you have the economic background, you have the emotional stability or the emotional strength to take the possibility of immediate or sometimes a short-term rejection by parents.

I do not expect people to accept within a few hours my sexual orientation which took me 26 years to accept, that's how long. So it takes a little while for some of

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my friends to turn around and accept me as a gay person. However, I was surprised, in most instances, how quickly this change came. This has borne out, with only a few exceptions, that most of the people I have known well before have accepted me, but that does not protect me from people I do not know well - people like landlords, people who may be my potential employers. These are people I did not know before. They only see that I may be gay.

Now I am taking considerable risk, of course, appearing here, being unemployed, looking for a job, being in the public eye. I may be discriminated against and I have been, being gay. In one case, I applied for a job in horticulture and, in one of the letters of references, a person also included that I was gay, which had nothing to do with the position whatsoever.

If this legislation went through, that written record could not have been made. That written record is probably still in the files at the personnel department in Alberta. So this type of legislation will keep that type of record from being put in anybody's permanent file.

Now, I felt so good about coming out in Minnesota, of course, I came home and told my parents. It was no big hassle. In fact, I was a little bit disappointed. My mother got more reaction when my sister came home and said she had to get married. But sometimes I'm disappointed at the reaction, I expected more than there is. That just shows that most people can accept it. If my parents can accept it, I think a lot of other people can.

Anyway, when I got to the University of Manitoba - gay liberation was a big thing in the States - I helped bring the gay liberation movement onto campus at the University of Minnesota. I came back here, there was no organization in Manitoba as yet. There were some organizations in Ontario, and the Counselling Department had some literature from the Ontario organizations. I approached Gordon Toombs, who was a counsellor there, and Mac Watch, who was a chaplain there, and he said, yes, there is a need for gay liberation. Well, he said, for a group - they didn't call it gay liberation, they weren't ready for that yet - for a group of gay students at the University of Manitoba, because they've had people approach them - I'm gay, I'm troubled about it, I don't know where to meet other gay people. I don't like the gay scene as it was then, which was explore the bars and sleazy places to meet.

So we formed our organization and, if you want to blame anybody for the gay liberation movement, you can first blame me. I started it. I'm not the main person who built it up; I initiated it. But anyway, we started an organization and many others very quickly became involved, some at considerable risk to their employment, especially a captain in the Air Force, who participated quite actively in our organization.

Now, there's one thing we advocated right from the beginning was the inclusion of sexual orientation in The Human Rights Codes of the Province of Manitoba, of the country, in union contracts. In some cases, we have been successful, and other cases we are awaiting success.

Our organization first built up from that, and it has branched out into many organizations and many representations from which you have heard from already today and from which you will hear more.

I was very pleased to hear the quality of presentations of the people who presented on our behalf. It fills me

with pride that this has happened, although it has taken some time, because it was true when the people who first came to our organization said you can't change things overnight. What good are you going to do us? In a way it was true. We could not change things overnight. We're still awaiting legislation, but we have changed a lot.

When I first entered the gay scene, we could not be mentioned on radio until after ten o'clock at night. I was on the John Harvard Show and the Peter Warren Show in '72, but it could not be mentioned. We could not say that the gay lifestyle was a good one. It was, from our point of view, equal or could be equal to any other lifestyle. I say it could be equal because, until we get sexual orientation included in the Human Rights Act, it cannot be equal because a lot of people are too afraid to admit, let alone to themselves, to their parents, to their friends that they are gay.

Now what has this got to do with the Oscar Wilde Memorial Society? We established an organization before this one called Project LAMBDA, which was to raise funds to establish a gay community centre. We felt that there were not enough services offered to gay people, giving them support. We first started counselling services through GFE, which Chris has already elaborated on, but we felt that we needed a community. The gay scene does make a small community out of a large one, but we wanted a place where gay people and their friends, straight or gay, and their parents and kids could meet in comfort. So we began to accumulate funds in order to establish this organization. Then, the Oscar Wilde Memorial Society was created to manage the community centre. The Project Lambda has gone on to other activities.

The Oscar Wilde Memorial Society was established in 1980. We established our facility, which was a restaurant, a licensed club, library, counselling services, counselling line, and with referral services to health and legal services. We were forced to move to our present location where we did lose our restaurant which a lot of people did enjoy, because they'd come there for a meal.

People would come to the meal, straight or gay, because we had many straight friends who have been at that facility to enjoy our meals. We still have a gay club. It serves short-order food, it's a licensed premises. It does have a library, for which we have reference books which are open to anybody who wishes to use them and guarantee the return of the books.

We support other organizations. Instead of the money of private bars just going into the owner's pocket, our profits go back into the community in this form of various services, whether it's increasing the library, whether it's supporting the other organizations, such as Gay Youth Counselling and Homosexuality in Religion, or other national private funds, which we do donate to, so any profit goes to that. So the people who are spending money at that place can rest assured that any profit being made goes back into the community and serves the community.

I must say the other gay club does also contribute to the gay community, although they are a closed club. That is, they do not like other people in there who are not gay, although that does not stop straight people from going there if they wish to declare that. These new rights may be of some problem to them. I covered the facilities of the organization.

Now I think we have to pick up on what this human rights includes. I see three different areas in human rights.

First is segregation. Segregation means separate. In a way, we have been self-segregated and, in a way, we still are, because we are offering services to our members which, by rights, should be offered by society as a whole. But because we have not been able to get proper services from the rest of society, we have set up our own at very little expense to the provincial Treasury. They have helped, on occasion, on some of our forums. I'm not saying they haven't; we're thankful in any help they have provided. They also helped with some of our literature, which we dispersed earlier in the Seventies, early Seventies. Now segregation, we hope segregation can end. It may not always totally end, because gay people may wish to associate with gay people in certain situations.

Now there's also another part of it is prejudice. Prejudice means pre-judging. That's pre-judging the type of people we are. We are all types of people. Some of us do fit the stereotypes; most of us do not. I have been a victim of prejudice, both as a gay person and of course as a blind person, because everybody has some ideas what blind people can and cannot do. I will get back to the comparison a little bit later.

There is also discrimination. Now discrimination means I don't like you because of the way you are. It may not be based on prejudice. They may know that I can perform my duties well, but just because of very many beliefs. That is the one that's hardest to deal with. That says, I don't want you living in my apartment because you're gay, not because they have a prejudice, just because of plain discrimination based on maybe personal beliefs.

As I said, I have been discriminated against as a gay person and as a blind person. I would do anything to get my eyesight back and eliminate that part of prejudice against blind people, although I would certainly continue to fight for the rights of the handicapped. I would not do anything to change my sexual orientation; I like it.

I believe it's equal, from my viewpoint, to any alternative lifestyle. But my life would be much more effective, and those of my gay brothers and sisters if we had sexual orientation included in the Manitoba human rights. It would start changing the person's mindset. It would end the devaluation of our relationships. If I meet a guy who I think is neat, I want to introduce that person to my community and to my friends.

Many of my friends, who I have an affection for, are straight. Some are gay, many are straight. Just because they are straight or gay does not mean that I may not feel a very deep closeness to them. I have maintained these close relationships over many, many years. I've had one guy lived with me for seven years - perfectly straight. It has been a beautiful relationship. I just hope that relationship does not jeopardize his chance at getting a job because he chose to be friends with me.

I want to change the minds of people to saying that homosexuality is okay. It should make no difference in jobs, in housing, so that both gay people and their friends, that friends of gay people should not have any fear of associating with other gay people because their job also would not be in jeopardy. We want to have our lifestyle recognized as a one of value.

Remember, I said it's also an affectional relationship. My sexual orientation was well established long before I had any personal sexual experience. I was a homosexual, as I now realize, at age of puberty or shortly thereafter.

Now, I think I've come to most of the points I wanted to cover. What I have covered does not exactly cover what's in the brief because you can read it. I'm not that fast at braille yet, because I've only recently lost my eyesight and just have kind of headlines here in braille in front of me.

In conclusion, I have found in the population that I have been well accepted, even the rural areas of Manitoba where many of our Conservative members do come from. I know gay people from small towns all over Manitoba. Unfortunately, some of them feel that they have to move out of those areas to come into Winnipeg; some do not want to. There are even a few gay farmers which we do meet in the city, on occasion, when they can get away from their occupation. It is very uncomfortable for some of them out there because most of them are not out and they are afraid of what the reaction of the community may be. But what is more fearful is those people who already have jobs especially in those occupations such as teaching, the Armed Forces, in churches, just because certain organizations, church organizations - and I can name even fundamentalist ones - do have gay members in their church, who may be actively participating in church activities such as choir, laypeople in that church. They find it very difficult to reconcile the attitudes, especially of the more fundamentalist church, and their homosexuality because they do want to have a relationship equal before God. They would like to have - and if they have a strong belief in God - to have them recognize their affection for a fellow person of the same sex.

We want, of course, equal treatment under the law, not special treatment. We want to be able to redress any grievances we have, if we feel that we have been discriminated against in a job with an unnecessary firing because somebody has found out that we were gay. We have been booted out of our residence because the landlord does not want gay people in the residence. This may become more important with the recent increase in homophobia because of AIDS. I'm sure this won't last long because, as you know, this affliction is spreading rapidly through the straight community, unfortunately. But anyway, we want equal treatment under the law, not special treatment.

Equal treatment does mean that, if I have a person who is in a special relation to me, I want to be able to leave him, in a will, my property. I would like that so it's uncontested that he can inherit that without paying exorbitant inheritance tax as a non-relative would. If I establish a relationship - I don't know who might be the senior working partner - that I would be the recipient or he'd be the recipient of special benefits, as resulting of either of our employment. Retirement benefits, that could be very important because, as a gay person, I maybe dedicate my life to another person, just the same as a straight person may dedicate their life to another person. They can receive benefits. If I do that, I cannot receive the same benefits as a spouse in a heterosexual marriage. Now some people have asked why do people . . .

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**MR. CHAIRMAN:** Order please.  
There are 75 people on the list.

**MR. P. GRAHAM:** Okay, I will just conclude that, as an organization that caters to both gay and straight people, we need this protection, not only for gay people but also for those who are our friends and who affiliate with us.  
Thank you.

**MR. CHAIRMAN:** Questions? Hearing none, we thank Mr. Phillip Graham.

May I request all presenters on the rule of consideration for others that their presentation be long enough to be relevant, short enough to be interesting? There are 75 people and we want everybody to have an opportunity. We are ready to stay here until the wee hours of the morning, if necessary.

Mr. Rick North, representing the Winnipeg Gay Media Collective, is the next presenter.

**MR. R. NORTH:** I'm representing tonight the Winnipeg Gay Media Collective, but many of you are familiar faces to me. There are a few new faces but, in a way, it feels a little bit like coming home for me.

I think I'd like to start out by reading a couple of excerpts from the brief. The first section in the brief is a short description of the organization that I represent and what it does. The Winnipeg Gay Media Collective is an organization of gay men and women, which produces regular radio and television broadcasting and audio-visual educational materials on topics relating to homosexual persons.

The Collective began the production of a weekly radio program in 1977, which was followed by weekly Cable television programming since 1980. In total, we have produced and aired nearly 500 broadcasts. In addition, we have cooperated with other broadcasters, including the CBC, in the production of special programming for their use. We offer a wide range of educational materials on homosexuality in video and audio formats, both derived from our weekly programming and also developed specifically for educational purposes. Our objective is to provide to both gay and non-gay people an accurate and complete impression of the lives of homosexual men and women.

Now I'd like to skip to the end of the brief and simply read the concluding section in the section, "Our Observations," and then "Our Conclusion." Section (e), because the Manitoba Human Rights Act exists and, more importantly, because it enumerates prohibited grounds of discrimination, a failure or refusal to include sexual orientation specifically authorizes continued persecution of and discrimination against Manitobans who are homosexual.

This addition of the act was composed in the midst of the debate about the social status of homosexual persons. At each stage of the development of this legislation, it was proposed that sexual orientation be added. In other words, ample opportunity and prompting has occurred to permit the inclusion of protection against sexual orientation discrimination. Since sexual orientation was self-evidently not included heretofore in the act, it is evident that Manitoba's legislators did not mean to include it. The conclusion

which is drawn from this, by reasonable persons, is that sexual orientation discrimination is permitted by nothing less than the province's chief statement against discrimination.

The same conclusion will be drawn from a new act if it is not passed with sexual orientation included among the prohibited grounds for discrimination. The Government of Manitoba will have sent a clear signal that the traditional and habitual contempt felt towards homosexuals is endorsed, and that discrimination against us is approved, having been by your very proceedings, considered and authorized.

Our conclusion and our recommendation: We conclude from all this that there is no good reason to oppose and much to require the provision of protection against civil rights abuse for Manitobans who are homosexual, and that can only be accomplished by adding sexual orientation to the prohibited grounds of discrimination in the Manitoba Human Rights Act.

**MR. CHAIRMAN:** Are there questions for Mr. North?

**MR. R. NORTH:** I had a few points that I wanted to make in addition to the brief itself. In considering this legislation, the Opposition arguments have always begun, we're not opposed to discrimination, but including sexual orientation as prohibited grounds means that the legislation gives special status to this particular segment of the population. It somehow will make homosexuals a legitimate minority group. Somehow it makes homosexuality an equivalent lifestyle or that it will make homosexuality acceptable. That has been the thrust of the argument.

It seems that nobody is opposed to the protection of people, for whatever reason, from discrimination. Now it seems to me that, if that's the position of all of the members of the Legislature, there's no reason why they would object to the passage of this legislation. That's all it does.

If the legislators would simply stop at that point, saying we're opposed to discrimination and refrain from going into all of their conjecture about what protecting the human rights of this minority group might entail, then the legislation would proceed as it should. Unfortunately, the Opposition has introduced a whole lot of arguments about what might happen if sexual orientation is added to the Human Rights Act.

Now these arguments are not specific to sexual orientation. They are equally applicable to any other prohibited ground in the legislation. For instance, consider sex. It might very well have been argued that, by including sex in the Manitoba Human Rights Act, it is going to make it a lot easier for women to enter the labour force to the extent that you decrease discrimination against women in the labour force. It makes it a lot easier for them to get jobs. Now that might result in a lot of women who might have stayed at home and raised their children and spent that time in motherhood pursuits, utilizing day care and getting jobs. That's a kind of lifestyle factor that could be considered to be a result of protecting the human rights of women in regard to equal access to employment.

Similarly, marital status, you might have argued when marital status was included, well this is going to mean that people who are divorced have an equal status with

people who are married. It constitutes a kind of condoning of divorce, and that's against many people's religious and moral beliefs. The Catholic Church doesn't recognize divorce.

If you're going to utilize the Human Rights Act to enshrine a particular moral code, then you should be consistent. Marital status shouldn't be in there if you think that The Human Rights Code should follow the religious beliefs of the Roman Catholic Church for instance.

Now the question of whether or not providing simple recourse in cases of discrimination is going to lead to greater acceptance, that is an extremely kind of vague argument. It's obviously the case that, to the extent that you remove taboos or sanctions against something, people are going to feel less threatened.

It was said that, until recently, there were no homosexuals in Red China, a country of - what is it? - 700 million people. The penalty for homosexuality was death in Red China. Obviously, you weren't going to be open about being homosexual in that sort of situation. Similarly, you might have argued in 1969, when homosexual acts were decriminalized, this is just the foot in the door. If we decriminalize these acts, what's going to happen next? It's going to undermine the entire moral order.

It is the case, it seems to me - and we would be misrepresenting the situation if we claimed that when people are no longer in fear of losing their jobs or being evicted from their housing - that they are not going to be as covert about being homosexual. They're not going to live the hypocritical lives that they have had to until this point. To that extent, to the extent that you have removed one of the sanctions against being a homosexual in our society, people are going to be more open about themselves.

My experience in my life has been that, while at first for my family and friends it was difficult, they're extremely supportive now. I have a large extended family all through rural Manitoba, and they've been terrific - extremely supportive.

They have accepted me in a way that they couldn't at the start. I believe that the extent to which people are open about being homosexual, people will come to understand that they are not destructive, that their acceptance in families and so on is not going to represent any kind of undermining of the social order, and so there will be a growing acceptance.

But that was the case with all of the other prohibited grounds. Political belief - it could have been argued that if you remove the sanction against, well, Communism and Nazism, are the obvious political beliefs that have been persecuted in our society, that people are going to feel freer to be Communists or Nazis and they're going to feel freer about expressing their opinions.

To a certain extent, that's true, but the point is we live in a pluralistic society in which it's accepted that there is not a monolithic social order. The people have the right within the parameters of the criminal law to choose how to live their lives so that, by providing simple basic protection in employment, housing and accommodation of public services, it may result in more openness.

But quite frankly, my belief is that these kinds of ordinances make very little difference. If you look in

other cities and particularly in the United States, some of the most powerful gay communities exist in places which still don't have any kind of human rights protection. The gay movement, the kind of emergence of a gay community in society, it's happening quite independent of changes in law, and I don't think this is going to have much influence at all in terms of what happens.

What it will do is simply provide individual people with some kind of recourse when they experience discrimination. When someone is fired from their job, they'll be able to go to the Human Rights Commission, make a complaint and the commission will have some kind of jurisdiction to investigate that complaint. All of this other speculation about endorsing homosexual marriages or teaching it in the schools, I mean this is just a lot of nonsense. It has absolutely nothing to do with the nature of human rights legislation or the intent of including sexual orientation. Sexual orientation will do nothing more nor less than give people, when they're fired from their jobs, some kind of recourse.

I would just like to conclude by reading a few pieces of evidence which indicate that currently there is no protection from discrimination and that, if it is in fact the case that you believe discrimination is wrong, then I think you're under an obligation to do something about it. When you express your concerns, you should have some concern about discrimination which is going to go unaddressed unless you add specific reference to the act, and I would just like to read these pieces of evidence.

In 1974, there was a story in the paper about a case in which a printer refused to print a pamphlet which was submitted by a homosexual group. "Jim White, Manitoba's chief human rights officer, said yesterday, 'Unfortunately there is nothing in the act that covers the people in that movement. As a group they have no protection.' He said that sometimes he can do something for individual cases, but there is nothing that legally protects homosexuals from discrimination; they're going to have to push the public for it." That was 1974.

In 1976, at that time Harvey Motz was the executive director of the commission, and he stated: "At present, cases involving homosexuals are termed 'b' cases, and the legislation gives the commission no power to prohibit discrimination against homosexuals."

Another case, the headline is, "Not illegal to deny jobs to homosexuals - judge." This was actually a story about a case in Saskatchewan. "Denying employment on the basis of homosexuality or sexual orientation cannot be interpreted as sex discrimination under the Saskatchewan Fair Employment Practices Act, Justice Johnson ruled." Mr. Justice Johnson held that the provision of the act prohibiting employment discrimination on the basis of sex would generally be considered to be about whether the person in question was a man or a woman, not on the basis of sexual orientation.

A letter from The Human Rights Commission to Gays for Equality - Gays for Equality had complained about a case of discrimination. It's Harry Monk, a human rights development councillor, and he writes: "As you indicated quite correctly in your letter, Mr. Struther's complaint cannot be processed by the commission at this time because sexual orientation has not yet been

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included among the prohibited grounds for discrimination contained in section 6(1), which of course deals with employment practices."

And then of course, the case in 1983 which has provided the Opposition with a lot of fuel for their fire, about the Rothstein decision, the extension of spousal benefits to the partners of homosexual employees, "Gay civil servant loses benefits battle." The ruling said that the denial of dental benefits is because of Vogel's sexual preference, not his gender, but because there is no reference to sexual orientation under The Human Rights Act. Adjudicator Marshall Rothstein said he could not rule on whether Vogel was being discriminated against because he is homosexual.

I would like to read from that judgment: "There is no expressed reference to sexual orientation as a basis on which discrimination is prohibited under section 6. The absence of such words suggests that the intent of the Legislature was not to cover sexual orientation as prohibited grounds of discrimination. Had that been its intention, there has been ample opportunity for the Manitoba Legislature to amend the Manitoba Human Rights Act to cover homosexuality or sexual orientation, and its failure to do so confirms that it did not so intend. To hold that the Manitoba Human Rights Act covers homosexuality or sexual orientation would be to legislate in an area that Legislature did not intend."

So it's very clear that there is no protection under the current act and that, if you believe discrimination is wrong, then you have an obligation to provide some reference in the act which will provide protection for discrimination on this ground.

One other little thing I would like to finish up with, you seem to be very concerned about spousal benefits. Well, I'm the spouse in question and I can tell you my teeth are fine and I'm perfectly prepared to go without any benefits under the employee benefit plan, providing that we don't have to pay for benefits that we don't receive. If Chris receives some kind of rebate for benefits that are systematically denied to him, then there's no issue as far as we're concerned. For us, it's a simple example of discrimination, systematic denial of benefits which are provided to other employees for which we must pay equally. The issue for us is fair treatment and the argument that we're seeking some sort of special status is, in our opinion, nonsense.

Thank you very much.

**MR. CHAIRMAN:** Are there questions for clarification? Hearing none, thank you, Mr. North.

**MR. R. NORTH:** Thank you.

**MR. CHAIRMAN:** The next presenter will be Dr. A.E. Millward, representing the Council on Homosexuality and Religion.

Dr. Millward.

**DR. A. MILLWARD:** Mr. Chairman, members of the committee, the Council on Homosexuality and Religion is a Manitoba based non-profit organization founded in 1976 with a membership comprising both individuals and religious and social service agencies.

Our primary object is, through the dissemination of information, to eliminate the unwarranted prejudice

against homosexual persons, specifically in the religious context.

The work of the Council brings us into contact and communication with individuals and organizations far more numerous and varied than our own membership. We are enabled to become familiar with the circumstances and experiences of many homosexual women and men, and with the attitudes and perplexities of many non-homosexual persons.

Our intermediary function thus gives us an unusually balanced insight into the diverse factors at work in the interaction between the lesbian/gay community and society at large.

The Council supports the amending of The Manitoba Human Rights Act so as to include sexual orientation as a prohibited ground of discrimination. We note that this prohibition has been enacted in the Provinces of Quebec, Ontario and in the Yukon Territory, and has been proposed for inclusion in the federal act upon the recommendation of the House of Commons Committee on Equality Rights.

We believe that sexual orientation needs to be named explicitly in human rights legislation, because it has been amply demonstrated that neither the general provisions of such legislation nor any present specific categories afford protection to sexual minorities. We believe that it ought to be named explicitly because the minority sexual orientations are, at present, exposed to discriminatory acts which are not justified through any social harm inherent in the orientations as such.

There ought not to be but there is still need to emphasize that, in seeking this protection, the minority sexual orientations are not seeking to be protected against the consequences of wrongdoing, of law-breaking, of incompetence or of any penalized disability. This suspicion is not raised when other protected categories are under scrutiny. That it is raised in the case of minority sexual orientations is a measure of the prejudice which needs to be curtailed and eradicated.

Legal protection does not eradicate prejudice, but it can curtail the manifestations of prejudice, while public education works at eradicating the prejudice itself. It appears to us that, on each side of this controversy, there are two main categories of argument. For us who urge the amendment of the act, there is first the fact of discriminatory acts which would not have taken place or which would have been reversed if sexual minorities were already protected; and secondly, the expectation of discrimination which presently beclouds the lives of all those belonging to a sexual minority.

For those who oppose the amendment, there is first the belief that the encouragement which would thus be given to the sexual minorities would lead to several specific deplorable social consequences; and secondly, the fear that any attempt to protect these minorities will divide and damage the social fabric. To make an adequate examination of these four categories would require treatises far exceeding the scope of this brief, but we think it useful to comment upon them.

It has become commonplace for the opponents of the amendment to assert that anything which could be taken to legitimize minority sexuality will contribute to the disintegration, rather than to the affirmation of the family unit, which is seen both as the characteristic unit of our society and as the necessary source and defence of whatever is valued by our society.

In the view of the Council, the open acceptance of homosexual persons holds no threat at all to the family structure, nor to anything else valued by and valuable to Canadian society.

The encouragement of self-disclosure which legal protection would give, would not, could not increase the number of homosexual persons, but it would enable all that number to make a more integrated contribution to society. It would not reduce the number of homosexual persons living in family units. Rather it would increase the number living in units less liable to fracture, because less strained by sexual incompatibility or by social hostility.

One factor contributing to family disintegration is the ignorance of individuals about the nature of sexuality, and about the sexual characteristic which make for family stability. This ignorance will continue until openness about sexual diversity is encouraged by prohibiting discrimination. In general, it may be said that homosexuals grow up imbibing the values of the heterosexual majority surrounding them. To the extent that those values are embodied in forms made inaccessible to a homosexual, for example, present marriage forms, the homosexual is bound to be critical of the forms and may seem, in criticizing the forms, to be criticizing the values. When homosexuals are free to create forms for themselves, the forms remain embodiments of the values they have learned from their society.

Again, it is asserted the children will suffer if sexual minorities are freed from constraint. It is asserted that they will suffer either directly, through physical molestation or through being seduced into joining a minority, or through coming to believe that members of these minorities can be suitable role models. None of these is a substantial argument.

Human rights protection is not a protection against infractions of the law. It is amply documented that child molesters are proportionally as insignificant among sexual minorities as among the sexual majority. It is amply documented that whatever goes into the making of a member of a sexual minority, the most negligible element is solicitation by an older member. It is a strange comment upon our society if we want to shield our children from persons different from themselves for fear that they might see something admirable in those persons.

On the other hand, children are among the victims of the present discrimination. If they belong to the sexual majority, they learn an intolerance which is harmful to themselves and to others. If they belong to a sexual minority, they learn an unwarranted and crippling shame of their own nature. If they have a parent belonging to a minority, they are liable both to the pain of a divided home and to the ridicule of their innocently ignorant peers. A beginning of alleviating all these regrettable situations lies in amending the act.

Again it is argued that members of the sexual majority ought not, because of legislative provision, to have to tolerate the open presence of sexual minorities on their property, in their businesses. They seek to retain the same kind of freedom as is cherished by the whites of South Africa and of the southern States. All of us, to be sure, would prefer to be free from whatever happens to grate upon us. The law gives all of us a measure of that freedom, but it must also set limits upon it.

Those who oppose the amendment hold over our heads the threat of the rending of the social fabric. In the experience of the Council, this concern arises among religionists and politicians. In each group, there are those who have been persuaded that this amendment is both needed and just, but who recognize also that they have colleagues and constituents who are so rootedly opposed that they would rather rend the institution, parish or party than agree to this amendment. Consequently, the advocates of reform go as far as making statements supporting the amendment, but stop short of taking any active measures.

(Mr. Deputy Chairman, M. Dolin, in the Chair.)

In our view, if those who assume a responsibility for the welfare of their people, whether in church or in state, do not put that responsibility and that welfare first in their concern, then they have ceased to fulfill their own social role. In both church and state, it has become an easy argument to say that there is a responsibility toward the proponents of the status quo, as well as towards the advocates of change. What is obscured by this excuse for inaction is the fact that the status quo favours the majority, disadvantages the minorities, whereas the proposed amendment would protect the minorities without any illegitimate disservice to the majority.

Employment, housing and the use of public facilities generally are the areas of most immediate concern in the application of human rights legislation. These are all areas in which the sexual minorities suffer discrimination. Documentation is inadequate to the reality because the minorities have learned, on the one hand, the futility of the feeling to human rights tribunals which can acknowledge no responsibility towards them; on the other, the risks attended upon drawing attention to the cause of their injuries.

Other areas of concern may not come directly within the purview of human rights legislation and may not be so universal in their application, but will nevertheless, in the long run, be affected by this amendment either through indirect legal implications or through the effect upon attitudes.

There is a whole range of issues attached to long-term homosexual relationships and their recognition in law, questions of tax and insurance benefits, of property and inheritance, of child custody.

There are other matters where the law is explicitly discriminatory, as in the age of consent or where it is commonly interpreted or administered in a discriminatory fashion, as in the regulation of public conduct. Where any form of this discrimination comes into play, it is either a direct expression of prejudice or a consequence of prejudice-inspired fears.

Whether the prejudice is a result of ignorance or is merely a distaste for the unfamiliar, it is unacceptable as a norm for regulating society. If, on the other hand, the lawmakers suppose that the prejudice is justified by the reality, they have a responsibility to demonstrate that the reality is detrimental to society and is rightly constrained by discrimination in law.

The Council is convinced that no impartial examination of the realities of homosexual life will justify either the discrimination or the prejudice. It is easy enough for any individual to misapprehend the attitudes



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of another but, so long as the misapprehension exists, the consequences are as if it corresponded to the reality. Those of us whose circumstances have encouraged or enabled or compelled us to declare our divergence from the sexual norm have often discovered that the consequences were less disastrous than we had expected. Those persons of importance, materially or emotionally in our lives, did not uniformly cast us off. This experience tends to make us somewhat impatient of others who remain attached to the fears we ourselves once held and to make us forgetful of the many other circumstances which lead to less happy conclusions.

Many homosexuals in fact still have good reason for continuing to conceal their orientation. Family and friendships are still disruptive, jobs are lost and careers thwarted. Because these are facts in the lives of many homosexuals, the fears they inspire dominate needlessly the lives of many more.

In the opinion of the Council, the damage caused in this way is far more extensive and perhaps also far deeper-reaching than the damage of particular acts of discrimination.

One can deal with and dispose of any particular injury. A lifetime is often not long enough to heal the wounds of that more nebulous dread, and it will need a new generation brought up in freedom to grow unscarred by the ways all of us here have known.

One cannot legislate away an atmosphere, but legislative reform will open up a number of arenas in which the sexual minorities can move more freely. It is not only the minorities. Employers, for instance, who are at present pressured less by their own prejudices than out of a cautious regard for the presumed prejudices of others could then concentrate upon the relevant qualifications of employees.

Reform will encourage more individuals to be open and honest about their nature and their life and, in so doing, they will simultaneously give hope and confidence to their fellows and belie the erroneous images held by others.

In conclusion, the Council wishes to emphasize what is at stake and the choice before the Manitoba Legislature in accepting or rejecting sexual orientation as a prohibited ground of discrimination in the Human Rights Act.

We know that the life of the ordinary homosexual woman or man is as blameless and as productive as that of any other member of our society. But we say that to continue the exclusion of the sexual minorities from protection is equivalent to saying that existing prejudices are warranted, that existing myths are fact, that existing injuries are merited, that the intolerance meted out on the one side and the indignities suffered on the other are in accordance with justice; in a word, that black is white and falsehood is truth.

To accept the inclusion of sexual orientation is one step toward righting the wrongs of generations against women and men whose different sexuality has exposed them to every degree of persecution. To accept the inclusion is one step toward freeing not only the sexual minorities but all women and men from a tyranny imposed upon all, majority and minorities alike, by the misunderstanding and thwarting of human sexuality.

Thank you.

**MR. CHAIRMAN:** Questions to Dr. Millward? Hearing none, we thank you, sir.

For record purposes, we understand the person next on the list acting through another will simply submit a written brief for distribution.

So we go immediately to Constable K.R. Elliott or D.J. Hamilton, representing the Brandon City Police Department.

Constable Elliott, D.J. Hamilton, second time. Having no response, we go to Constable R. Christmas, Brandon City Police. Constable R. Christmas. No response.

Mr. Lyle Dick, Project LAMBDA Inc. Mr. Dick.

**MR. L. DICK:** Mr. Chairman, just a small correction, my name is Lyle Dick, but thank you very much. I'm pleased to appear here before you on behalf of my organization, Project LAMBDA Inc.

Here are copies of my brief for distribution and, just before entering into it, I would like to just make a couple of preparatory comments, brief comments if I may.

First of all, I was very surprised to hear on an early afternoon newscast this afternoon, on CBC a.m. radio, that gay rights organizations were opposing the government's sexual orientation initiative, because I was here this morning for the entire committee hearing and that certainly does not jibe with what I heard. What I heard was gay organizations strongly commending the government for its sexual orientation, human rights initiative, and pointing out that they believed, in order to achieve the aims intended in the legislation, that an improvement in the textual wording of the definition of sexual orientation should be given serious consideration. I understand, from a later news broadcast, that the Attorney-General is taking those suggestions under advisement and is preparing an amendment.

So I just want it to be absolutely clear to the CBC and everyone else that gay and lesbian organizations of this province are highly supportive of the government's initiative, and we congratulate the Attorney-General and the government for taking a courageous and very far-thinking approach to this legislation.

Secondly, I would just like to very briefly address one of the comments made earlier by Mr. Sidney Green, leader of the Progressive Party, in which he equated sexual orientation with sexual gratification. I think we are very disturbed by this misconstruction of what it means to be gay or lesbian, because to be gay or lesbian is to have a collection of attributes which goes far beyond one's means of sexual gratification. In fact, there are a number of gay and lesbian people who don't have sexual relations. That is their choice. But to be gay or lesbian means to have the capacity to enter into loving relationships with other human beings, among other attributes, and we very much regret this reduction of our identities to the seeking of mere sexual gratification. Let that not stand, in any way, as an accurate definition of what it is to be gay or lesbian. Having said that, I'd like to enter into my brief, which is not very long.

Mr. Chairman, ladies and gentlemen, Project LAMBDA, a non-profit gay community service organization in the Province of Manitoba, appears before you to support the inclusion of sexual orientation among the prohibited grounds of discrimination in the Manitoba Human Rights Act.

We applaud the Attorney-General and the government for taking this very important human rights initiative at this time, and we endorse the other positive reforms in Bill 47 relating to prohibiting discrimination on grounds of pregnancy and political activity. The sexual orientation amendment will do much to reduce discrimination against gay and lesbian people, and will contribute to our developing a genuinely pluralistic society in Manitoba.

One of the most regrettable by-products of non-inclusion of minority protections in the Human Rights Act is violence against unpopular minorities, as has occurred against such groups as Jewish and black people in the past. It was not until their rights were entrenched that violence against these groups was reduced. A 1983 study cited numerous examples of unprovoked violence against gay men in Winnipeg, including at least one murder. The usual assailants were street gangs of young men. On June 8 of this year, a news story on the CBC television program, "The National," indicated that such examples of homophobic violence have recently increased, largely as a result of the public's paranoia over AIDS and is blaming gay men for its spread, and that story was prepared in Winnipeg, based on Winnipeg evidence.

Clearly, these wanton acts have emerged in a social context in which gays and lesbians have been devalued by hideous stereotypes. We simply do not see this kind of street terrorism being carried out against heterosexuals on the basis of their sexual orientation. We believe that the great majority of Manitobans do not support the commission of violent acts against anyone, gay or straight, but all of us must recognize our collective responsibility to establish a social and political climate in which such violence will be discouraged rather than passively encouraged.

In terms of denial of services and employment, a number of cases of clear-cut discrimination have occurred in our province in recent years. At least one serviceman, stationed in Winnipeg, was thrown out of the army because he was discovered to be gay in his private life. On another occasion, all the gay employees on a tourist leisure craft were fired wholesale because the management decided they didn't want homosexuals working for them.

There have been other instances of teachers being told by principals, on discovering them to be gay, to leave quietly rather than face open dismissal. In none of these reported cases was there any question of impropriety or incompetence. Their offence was simply to be homosexual in their private lives, and is that an offence? Were these people's human rights already protected under existing legislation, as some opponents of the sexual orientation amendment claim? Did they have full recourse to the full protection of The Manitoba Human Rights Act? For those persons who have experienced direct persecution and the loss of employment because of their sexual orientation, this argument must surely seem a cruel joke.

Some critics argue that the inclusion of sexual orientation in the Human Rights Act would confer on gays and lesbians a "special status," while at the same time stating that they do not believe that homosexual lifestyles should be equal to heterosexual lifestyles. The claim, moreover, that the passage of this legislation would encourage young people to adopt homosexual

lifestyles, that these arguments are not well-founded is easily demonstrated. To be protected from injury is not to be treated specially, but to be accorded the right, like everyone else, to live a peaceful life free from harassment.

The argument that the legislation would make homosexual lifestyles the equal of heterosexual ones is similarly not true. The revised Manitoba Human Rights Act says nothing about condoning lifestyles. It states simply that there should be no unreasonable discrimination against homosexual, bisexual or heterosexual persons. With respect to the argument that prohibiting discrimination against gays and lesbians would promote the adoption of homosexual lifestyles, there is absolutely no scientific evidence to support this contention.

Psychologists, psychiatrists and sociologists generally agree that sexual orientation is formed quite early in life. Eliminating discrimination might make it easier for gays and lesbians to acknowledge their sexual identities, rather than to live in terror of discovery. The passage of a provincial statute has never been known to alter a person's sexual orientation.

We, in Project LAMBDA, understand that a considerable degree of opposition to our rights still exists amongst constituencies such as some religious groups, who choose to regard homosexuality as a sin. We realize that these views are often deeply felt and we do not criticize those who hold them. But as we do not presume to tell Manitobans what religious beliefs they should hold, we must insist that likewise no group should impose its values on our right to live free from discrimination. To suggest that one should do so runs absolutely counter to all principles of freedom in a democratic society.

It therefore behoves all of us to come to terms with our differences and to try to co-exist in mutual respect and cooperation. We assert that this is the only prescription for survival in the 1980's. It is a far bigger issue than the rights of one group or another. This is one step that we all must take if we are to move toward the goal of developing a truly human community.

In the last decade, greater numbers of gays and lesbians have found it less necessary to conceal their sexual orientations to friends, families and others. We are increasingly visible in asserting our rights to live openly just like everyone else.

In the face of empirical evidence that we are and always have been law-abiding, responsible, contributing members of society, the old stereotypes are crumbling fast. We are seen to belong to all vocations and social groupings. We work as plumbers, doctors, athletes and accountants and many other professions. We contribute to and organize public educational, sporting and cultural events, even film festivals, and we pay a thousand times as much in taxes as we receive in government grants for these events. If some of our province's citizens have given up on us, we have not given up on society. We remain deeply committed to helping build a more tolerant and democratic society.

A sexual orientation amendment to the Manitoba Human Rights Act will go far to speed this process. We do not ask for any favours or special status, but rather the right to live knowing that we cannot be fired, evicted or refused services simply for being who we are. We have much to give our province and country

and we say that all Manitobans, not just gays and lesbians, will benefit from this legislation.

We respectfully urge all members of the Manitoba Legislative Assembly to support it.

Thank you.

**MR. CHAIRMAN:** Questions?  
The Member for Brandon West.

**MR. J. McCRAE:** Sir, one of the first items you referred to in your presentation had to do with violence against what you called minorities, and you said that one of the most regrettable by-products of non-inclusion of minority protections in the Human Rights Act is violence against unpopular minorities.

The Criminal Code deals with violence and it makes no mention of violence against minorities. It just makes mention of violence against individuals. In each case, there are sanctions. In the case of assault, very serious sanctions are provided and it doesn't talk about who is the subject of the violence. The Criminal Code is there to protect people from that.

**MR. L. DICK:** Sir, I'm glad you raised that point because indeed the problem is, in the current climate, the vast majority of victims of homophobic violence are so afraid to reveal their sexual orientations for fear of reprisals. Indeed the laying of charges would entail their having to come out to declare themselves in terms of their sexual orientation, that regrettably the number of prosecutions which we see is nothing but a very tiny minority of the overall incidents of homophobic violence. We can arrange to give you a copy of this report, published in 1983, which documented numerous examples of unprovoked, hideous beatings of gaymen, for no other reason than they were gay, most of whom were afraid - for fear of losing their jobs - to come forward to press charges or to report these crimes to the police.

**MR. CHAIRMAN:** The Member for Portage.

**MR. E. CONNERY:** You said that your sexuality is determined early in life. Do people not acquire homosexual tendencies later in life? My concern is: If it's made an alternate lifestyle, will we encourage people to become homosexuals?

**MR. L. DICK:** Sir, I don't believe there is any danger of that happening. Psychologists have written extensively on this question and the general consensus is that, if homosexuality is acquired, it is acquired within the first two to three years of life. It is true that, in many cases, one's sexual orientation does not become obvious to the person himself or herself until the age of puberty, when we acquire those secondary sexual characteristics and we begin to feel attracted towards one gender or the other. That's when it becomes apparent.

Now it is true that many gay and lesbian people, myself included, were forced to try to suppress our feelings, because we didn't want to face up to the kinds of stereotypes that we grew up believing that homosexuals were. I didn't come out of the closet until I was in my 20's. I spent my teens basically trying to

deny my basic identity. I don't think it is possible - and certainly this is the consensus of scientists - to change a person's sexual orientation, no.

**MR. E. CONNERY:** You mentioned being free from discrimination and the beatings. I have to agree with you that those things are repulsive that, because you're a homosexual, you should be beaten for that particular reason or fired from a job.

Do you think that homosexuality should be taught in school or exhibited as being a normal alternate lifestyle?

**MR. L. DICK:** Sir, I don't know whether I want to deal with that in terms of what I believe because we're addressing a Human Rights Code which in no way provides for those sorts of things.

I believe the children actually should be given straight answers by qualified professionals regarding sexuality at an age at which they're capable of handling the information. If children want to find out about homosexuality, I believe somebody should be in a professional situation to give them the information they need, but whether the proper forum for that is in Family Life Education courses or whatever, that is a decision for governments to make. In any event, your question does not relate in any way to the provisions of the Manitoba Human Rights Act.

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

**MR. L. DICK:** Thank you very much.

**MR. CHAIRMAN:** The next presenter is Mr. Nick Ternette, Urban Resource Centre Inc.

**MR. N. TERNETTE:** Mr. Chairperson, committee members, before I begin with my brief, I'd like to preambule.

Having listened this morning to the comments to The Human Rights Legislation Act, especially Sid Green's very interesting comments, philosophical comments, I'd like to just clarify some perspectives on legislation, what legislation is and what it can or can't do. Legislation does not legislate morality. At least, I've never believed any legislation ever legislates morality or feelings, as Sid Green might have suggested. If it does, I wouldn't believe in the human rights legislation either.

Legislation does not stop discrimination; it never has and never will. If it did, we wouldn't need a Human Rights Commission to enforce the legislation. We would just have the legislation, as Sid Green indicates, and carry on that way. But what it does do, legislation is a tool, a tool for individuals to use to protect their rights under whatever circumstances. Just like strike is a tool; like pickets are a tool; boycotts are tools; and demonstrations are tools, so is legislation, and that's the way this kind of human rights legislation should be viewed.

Now, I'm here today on behalf of the Urban Resource Centre to comment on the proposed bill as a whole today and its implication to society as a whole. While it's unfortunate that the NDP took over four years to

bring forth this progressive legislation, as this Human Rights Commission had held public hearings in 1983, I still must congratulate the NDP for taking the courageous step in introducing this new human rights legislation and ensuring that people's rights are protected, and moving this province into the mainstream of society as a whole.

Firstly, let us deal with the homosexual clause - and I won't deal too long with it. There have been far more eloquent speakers than myself on this particular issue which, by the way, as some people have mentioned, does not only include homosexual, but heterosexual and bisexual consenting adults which I think that clause should be amended - I agree with all the other speakers on that - thereby ensuring, in fact, that all human rights of all Canadians are protected, not just minority rights, if we include heterosexual as part of that clause, which it is.

Secondly, a large increasing minority of homosexual and bisexual, ranging anywhere statistically from 10 percent to 15 percent of the total population will now be given the same human rights, not more rights, as any other minority individuals, those who belong to political or religious minorities, bringing this province in line with two other provinces who already have such legislation, namely, Quebec and Ontario, and I understand the Yukon has just also adopted this particular situation.

In fact, in spite of the protestations of the Catholic Church and other religious leaders, as well as a lot of members of the Progressive Conservative Party, the human rights legislation neither approves nor disapproves of homosexuality or heterosexuality or bisexuality, but deals with the issue of sexual orientation in ensuring that all sexual orientations are protected in regard to services, accommodations and employment.

In fact, it amuses me to some extent to hear about some church members attacking the homosexual protection rights when, in fact, in all the churches, you will find a great deal, many homosexuals who have been in the church community, as well as the priesthood, being homosexuals. Whether they are practising or not is certainly not the question. We're not dealing with lifestyle. We're dealing with the protection, particularly relating to the issue of sexual orientation. So in fact, in these cases, I would argue they need protection both on religious rights and sexual orientation rights.

The only other comment I wish to make, in some of my personal experience, a limited experience, that I've had working in a community as a community activist in the field, I have noticed and seen many older generations of homosexuals who have achieved high status in the social services fields - executive directors of many agencies, etc., etc.- who were repressed homosexuals because they feared for their lives to ever be exposed as homosexuals. That kind of fear and that kind of terror undermined their ability to function in such a way that I feel anything that allows those people to be able to live their lives more freely would assist them in continuing to do a better job than they could possibly do because of their repression of their own homosexuality.

It is unfortunate, however, I think that both the Progressive Conservatives and the media have focused exclusively on the issue of homosexual rights to the

exclusion of other even more significant clauses, within the new proposed Human Rights Act, which need to be addressed herewith.

Firstly, we congratulate the NDP Government for extending the concept of political belief and protection against discrimination on the basis of political beliefs, to not only include political association but political activity. However, I do need to caution members of this Legislative committee concerning putting in words that have no specific definitions which undermine the work of the Human Rights Commission in dealings with discriminations. I know, because I was involved in a seven-year case which I will talk about, relating to the issue of political beliefs.

The concept of political belief was introduced by the Ed Schreyer Government in the early Seventies, and I was one of the first individuals personally to test that particular clause in 1977. There were only about two individuals previously, between 1975 and 1977, who ever went to the Human Rights Commission to protest that they were discriminated on the basis of political beliefs. And surprise, surprise, the Human Rights Commission could not deal with the issue because they had no definition, at that time, of what in fact political beliefs meant. It was never included in the act, nor was it included in any kind of amendment or by-laws separate to the act. It took us two years to finally get - with the help of the Ombudsman, Mr. Maltby at that time - two years to get a definition at that time, in 1979, of political belief exclusively being the membership in a political party, which I thought was a very narrow perspective of what it meant to be a political belief.

It took us another four years, until 1983, to get the Human Rights Commission to look at political beliefs and political activities and define it in the following way. This is the letter that I have received from them in 1983 but which was never adopted, either as an amendment or has never been included in legislation. This is what the commission in 1983 felt political activity and belief should be defined as. The commission interprets political belief to mean "having a belief as to what is happening, or should be happening in society, or government, or both, and to include participation in organizations or activities which express or advance that belief. The test of political belief is the nature of the value structure of the individual as it relates to relationships amongst groups of people, as expressed through their institutions. Each case must be decided on its own merits, and the benefit of the doubt as to the existence of a political belief should rest with the person whose belief it is."

I think it is very significant that we require, if we're going to include not only political beliefs but political activity, to be fairly clear in definition of what political activity is, especially if we're going to now move from religious beliefs to religious activity. What is going to be defined as religious activity? Are the Bakker-type of mentality, of what's going on in the United States, is that going to be defined as religious activity? I don't know. The problem with that is that, if we don't have something to work with, the commission cannot act on and will either have to interpret itself and not have input from the Legislature.

So I'm simply saying I believe it's a positive step forward but, without some clearer guidelines,

amendment type, in relating to this particular clause, you're going to leave it wide open to no interpretation or an interpretation that nobody shares. I don't think that's fair to anybody who wants to use the actual process of the Human Rights Commission to get justice done.

Furthermore, the Urban Resource Centre and myself are substantially concerned with clause 14(1). We consider that a very significant clause which we feel is actually very dangerous in many ways. I understand the reason for it being implemented is the Keegstra clause, as Roland Penner himself personally has told me. While I'm very sympathetic to the issue of not allowing people like Keegstra, of his kind or his ilk, to allow to be taught in Manitoba, I am concerned about the wording of this clause which is so vague and subjective as to cause more problems than it's worth to keep people like Keegstra out of Manitoba or other teachers like him. Out of all other professions, the problem lies in individuals using the human rights legislation for their own particular cause to deny individuals within any occupation to promote or teach values which are not in accordance with their own value system.

An example, under this clause, individuals of certain religious beliefs could charge teachers for teaching dominism re the creation of human life as promoting values contrary to subsection (9), which says that you're protecting on the basis of religious beliefs. Unfortunately, badly worded clauses allow individuals to impose their views on others, using the Human Rights Commission forum to do it.

I think a clause that says that nothing in this section prohibits the lawful disciplining of any employee or person in an occupation who violates the duties, powers or privileges of the employment or occupation by improperly using the employment or occupation as a forum for promoting beliefs or values based upon any characteristics referred to subsection (2), is just too vague and too confusing to open up to all kinds of misuse and abuse. It either should be removed completely or it should be amended in such a way to be clearer to what, who, and what you're aiming at in this particular clause. Otherwise, you're going to create a nightmare for a good deal of problems that the Human Rights Commission will have to deal with when individuals start taking this particular clause to the Human Rights Commission, laying charges against people who have different employment or different occupations. I think it's a very serious issue that needs to be looked at. The kind of wording and the way you express yourself can create more problems than it's worth.

Now, in regard to section 18 of the proposed new human rights legislation, we're kind of pleased that the word "hate" literature has been formally removed from it, particularly. However, we are concerned with the concept of what is bona fide or reasonable cost. There's again no real clear definition of what is bona fide or reasonable in this case. What about broadcasting of possible hate material? Will it be done after? Who will stop it? Who will monitor it? Will it be done after the broadcast occurs, or will it occur before the broadcast? Who is to judge what is discriminatory? I mean in obvious cases the display of a swastika, I can obviously accept that fact, but what about such grey areas, such

as protesters handing out literature protesting someone's political or religious beliefs, or sexual orientation, for that matter? How are you going to handle that particular thing?

Again, the intent is positive, the intent is clear, but I am worried that again the wording is such that it allows too many loopholes and it doesn't clarify the grey areas which it ought to. Either amend it to strengthen it or leave it open in such a way that it does not undermine the Human Rights Act.

Finally, in the same area, we can look at the issue of section 19(2) on the issue of sexual harassment. Fundamentally, we agree to it, that we must have something relating to sexual harassment, but we have trouble with some of the subjective word meanings, like vexatious and unwelcome conduct or comment, for example. What one individual may make a comment about to someone may be unwelcome to one individual, but may not be unwelcome to somebody else. How do you judge? These are all subjective terminology which undermine the implementation of the act, which is well-intentioned, but you can't continue.

We feel words like "demeaning" and/or forms of reprisal, specific sexual harassment should be defined in the clearer language and leave out subjective terminology that can be misinterpreted by all kinds of people from both the left and the right, or from other groups who feel that they can use this kind of language to create all kinds of nuisances, possibilities. I think it needs to be clarified.

In general, in conclusion, all I can recommend is the speedy implementation of this act to recognize that legislation is only a tool to provide some form of change and that, while the intent is fantastic, we approve of it - I think it's the best possible legislation coming forth. The wording has to be careful and, in this case, I will agree with Sid Green. If the wording is unclear or general or vague, it will be misused. You've got to give some guidelines, because I went through that process. It took me seven years to get a definition of political belief, and I don't want any other individual to go through that process. I think it's important that this committee start looking at some of the wording, because some of the wording in this legislation, the intent is good, but the wording is poor. I hope you take that into consideration.

Thank you very much.

**MR. CHAIRMAN:** Any questions? Hearing none, thank you Mr. Ternette.

The next presenter is Mr. Gerry Brydon, private citizen. The second call, Mr. Gerry Brydon.

The next presenter will be Mr. Abe Arnold and Mr. Harry Peters, Manitoba Association for Rights and Liberties.

Mr. Arnold.

**MR. A. ARNOLD:** Thank you, Mr. Chairman.

I am happy to be here in association with the president, Mr. Harry Peters, of the Manitoba Association of Rights and Liberties. We also have with us on our delegation, who might come to our rescue if we have a problem, Bill Converse, the co-convenor of our Charter of Rights Committee. I will make an introduction to this presentation.

The Manitoba Association for Rights and Liberties is a public interest, human rights advocacy body. MARL is the primary organization, assuring volunteer participation in the advocacy and protection of human rights and civil liberties in Winnipeg and Manitoba for all its citizens.

MARL's objectives are to promote respect for and observance of fundamental human rights and civil liberties and to defend, extend and foster the recognition of these rights and liberties in the Province of Manitoba.

This brief on the Human Rights Code tonight virtually coincides with the ninth anniversary of MARL's first presentation to a Legislative Assembly Committee, in July 1978. That presentation dealt with a bill proposing amendments to the then existing Human Rights Act. The Progressive Conservative Government of that period paid close attention to our submission and accepted some of the proposals we made for changes in the bill then being considered. Since that time, one of MARL's primary ongoing efforts has been to seek revisions to The Human Rights Act. The new Human Rights Code now before the Legislature goes a considerable way in putting forward many of the changes we have been calling for.

Before going on, I think it is important to recount just a little bit of the history of human rights acts in Canada. We have had human rights legislation in this country since the late 1940's, when the Saskatchewan Government under Tommy Douglas introduced a provincial Bill of Rights. The human rights acts which are now in force in every province, as well as in the federal jurisdiction, were developed out of The Fair Employment and Fair Accommodations Acts first introduced in the early 1950's by the Progressive Conservative Government of Ontario, and then by the other provinces.

In the 1960's, after John Diefenbaker introduced the Canadian Bill of Rights, the provinces, again led by Ontario, began to consolidate their fair practices legislation into human rights acts and to set up commissions to enforce these acts. The Manitoba Human Rights Act did not come into place until 1971. By 1975, every province had its own Human Rights Act and commission and, in 1978, a federal act and commission were established. In 1984, Judge Rosalie Abella, who headed a Federal Commission on Equality in Employment, declared that the Human Rights Commissions, as then constituted, were unequal to the task of dealing with unfair discrimination in employment. This was due largely, Judge Abella said, to the failure of the case-by-case approach to make a dent on systemic discriminatory practices.

Now, what we have before us tonight is a bill which attempts to amend, to deal with some of those problems. We are particularly satisfied with certain portions of the bill which represent a substantial improvement on the present Human Rights Act.

One of these with which MARL agrees is the provision for "reasonable accommodation" in section 9(1)(d). We are of the opinion that it is de facto discrimination to fail to make reasonable accommodation for the special needs of the disadvantaged.

We are also pleased to note that "perceived race" has been used in section 9(2) instead of "race" or "alleged race," as it is often not a person's actual racial

origin that exposes them to discrimination but rather other people's perceptions of what that person's racial origin might be.

We already indicated our support for the inclusion of sexual orientation under the prohibited grounds of discrimination.

We are pleased with the way in which unintended discrimination is now clearly stated as systemic discrimination. We note that, in the Second Reading debate, the Attorney-General cited the example of the five-foot, seven-inch minimum height which was formerly enforced for police officers as a case of systemic discrimination. Consideration might be given to a more formal definition of systemic discrimination along the lines suggested by Judge Abella in her report on Equality in Employment - I'm going to paraphrase the quotes.

The way I would describe it is that we should consider referring to it as a discriminatory effect resulting from a system designed for a unicultural community - that's a); and b), a discriminatory impact resulting from practices based on stereotyped characteristics ascribed to an individual, because of the group to which he or she is a member.

MARL also endorses section 11 of the Code which permits affirmative action programs. We see this as a means of turning equality of opportunity in employment into reality.

We are also pleased with section 56(1) on contract compliance and are happy that it has been included.

In addition, we welcome the inclusion of section 60 which provides for the commission to enlist the Ombudsman or other human rights agencies to perform some of the duties of the commission. We hope this option will be used to improve processing of complaints.

One more point that I should mention is the section on advisory opinions which we hope will be used to a considerable extent on a cooperative basis to possibly develop preventive situations which will eliminate the need for people to make complaints.

We do have some concerns, in addition to the things that we applaud, and I will ask our president, Mr. Peters, to deal with some of those concerns.

**MR. CHAIRMAN:** Mr. Harry Peters.

**MR. H. PETERS:** Good evening, gentlemen.

Our first concern is with the independence of the commission. Pardon me, excuse me. I blew it? Okay. This is actually, I'm sure for many people, a very exciting highlight in their life, and I apologize for missing a lady at the table.

Ladies and gentlemen, our first concern is with the independence of the commission. The Code proclaims that the Human Rights Commission shall be an independent agency - that's section 2(1) - but it does not follow through by providing for the appointment of the commission on the recommendation of a committee of the Legislature which would be an all-party committee.

We urge that the Code provide for the appointment of a Human Rights Commission on a non-partisan basis as recommended by MARL in our 1979 study, and as proposed in the draft Code of 1984. It should be the object of an all-party committee to ensure a non-

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partisan approach in the nomination of commission members.

Some may argue that members of the different political parties always carry their partisan views with them. As demonstrated in the appointment of the Ombudsman, however, we believe this is not necessarily so. We suggest that members of the Legislature need more opportunities to set aside partisan views. The selection of members of the commission, as we are proposing, would be an important opportunity of this kind.

We further suggest that an all-party committee, if accepted, could meet at prescribed times to recommend members of the commission for appointment. At the same time, it could also recommend a number of alternatives who might be called upon should a regular commission member be obliged to resign in mid-term.

We're also concerned with respect to the legislation's requirement, vis-a-vis reporting to the House. The commission should report to the House through the Speaker, we believe, as does the Ombudsman, rather than through a Cabinet Minister.

Another area of concern is the adjudication panel. We support the appointment of adjudication panel as proposed in the Code, and we recommend that the members of the panel also be appointed by the all-party committee process.

We note that it is proposed to name at least five members to the adjudication panel in section 8(1). The earlier draft Code suggests that the number of panel members be set at six to ten with one of them being named by the chief adjudicator.

We believe this to be a more desirable approach. The chief adjudicator, rather than the Attorney-General, could assign each adjudicator to a case on a rota basis as proposed in the Code under section 32(2). The chief adjudicator might also be given some responsibility for research into adjudication methods, practices and policies.

With respect to the Attorney-General's role, our concern is that, if the foregoing proposals are accepted, the Attorney-General may serve as chairperson of the all-party committee of the House. It would still be responsible for commencing a prosecution when requested, as provided for in section 23(3)(b).

Another area of concern we have is with the prohibition on designation. Section 32(3) of the proposed Code suggests that a member of the adjudication panel shall not be asked to adjudicate a complaint if he or she has previously been involved in any capacity relating to the complaint. This is understandable. However, it might be preferable to state that no one shall be appointed to the adjudication panel who may be involved in any way in the commission process prior to the adjudication stage.

Mr. Arnold has some other remarks.

**MR. A. ARNOLD:** We do accept the new definition of unfair discrimination as differential treatment on grounds not related to individual merit, which is in section 9(1), and the extended grounds of discrimination outlined under "applicable characteristics" in section 9(2). We hope that, over time, more intensive educational programs on human rights will play a

preventive role that may lead to the gradual reduction of need to bring complaints under the various grounds of discrimination.

We are surprised that so much of the debate on the new Human Rights Code to date has been given over to the issue of protection for sexual orientation. MARL agrees with the inclusion of sexual orientation under the prohibited grounds. We point out, however, as we are doing tonight, that the new Code includes a whole number of new and expanded grounds of discrimination, including those dealing with religion and political belief. There is general agreement that such protection should exist. Now, no one would assume, however, that these protections for religion and political belief confer a right on the members of any religious or political group to go into our schools to teach the tenets of their faith or ideology as equal to, or better than, the beliefs that students acquire from their family traditions or from independent study during their years of schooling. Why then should anyone assume that granting protection from discrimination on the grounds of sexual orientation may confer the right to teach the viability of a homosexual lifestyle?

We do find fault, as some other speakers have mentioned, with part of the definition of sexual orientation, and we also suggest that the definition which reads " 'sexual orientation' means heterosexual, homosexual or bisexual," should end at that point, and that the words, "refers only to consenting adults acting within the law," should be dropped. Protection against discrimination on grounds of sexual orientation should extend to all persons, and not only adults.

There's been a lot of talk, and criticism of this section has been based on the feeling of some people that sexual orientation is, in itself, a perversion, and I think we should take a little closer look at the kinds of words that we are using. In the dictionary, I found the word "invert." This is used by authors, and it is explained in the dictionary to mean "someone who does something differently," and it also describes a homosexual, but it is a non-judgmental word. We all know that "pervert" is a judgmental word and, in the dictionary, it says that pervert "may be a person who practices sexual perversion," but it does not say that homosexuality is a sexual perversion, and that is in the Oxford dictionary. I suggest to you that, when you're talking about a sexual pervert, you're talking about a rapist who may be a heterosexual or a homosexual or you're talking about a pedophile who may be a homosexual or a heterosexual. So we should be very careful in the use of words.

The next point I want to deal with is the matter of promotion of beliefs. We have a serious concern with section 14(11) which allows the disciplining of an employee who violates the duties or privileges of his or her position by improperly using it to promote beliefs based on characteristics related to the prohibited grounds of discrimination. The Attorney-General, Mr. Penner, has described this as the "Keegstra clause." We believe that accused of abusing positions as educators or in any other capacity should have access to the human rights process to adjudicate those charges in the same way as all others who believe they have been discriminated against. Members of the education profession, among others, have often experienced instances of teachers being disciplined in their

employment because, on occasions not necessarily related to their professional activities, they have espoused unpopular views.

The ordinary and usually existing requirements that employees fulfill the responsibilities of their jobs are more than sufficient to allow employers and professional associations to prevent abuse of professional positions. The Human Rights Commission should be encouraged to work directly with professional associations and other organizations in preventive educational programs. We would, therefore, urge the removal of section 14(11) of the proposed Code.

**MR. H. PETERS:** Another area that we have concern is with employee benefits, as dealt with section 15(2) of the Code, permits the Lieutenant-Governor-in-Council to make regulations that override any individual contracts or collective agreements and are automatically deemed to be bona fide and reasonable. We object to the granting of this overriding power to Cabinet. This provision creates the impression that the government intends to set discriminatory terms for agreements, or continued discriminatory terms of agreements. It also creates the impression that the government is prepared to override the collective bargaining process. MARL believes the government should not exempt itself from the provisions of section 15(1) barring discrimination in contracts.

Discriminatory signs and statements, MARL believes that section 18 dealing with discriminatory signs and statements is an improvement over section 2(1) of the present Human Rights Act. However, the broad wording of the section still constitutes a serious limitation on freedom of expression. Human rights legislation should apply to conduct, not to comment. Section 18(b) refers to potential discrimination and is, therefore, only opinion. Since it also relates to "any activity or undertaking to which this Code applies," in combination with all the enumerated characteristics, its ramifications are unforeseeable and could have a chilling effect on freedom of expression.

The additional stipulation that there must be a bona fide and reasonable cause for the discrimination means that anyone expressing an allegedly discriminatory opinion would have to justify it. For example, in the case of religious beliefs regarding homosexuality, it could, on the one hand, be impossible to prove reasonableness or, on the other hand, it could be all too easy to establish that the reason, the belief, is bona fide. In a democracy, it is not the role of the State to determine the reasonableness and good faith of people's opinions. We would, therefore, recommend that section 18(b) be deleted from the code.

Harassment, we believe that section 19 on harassment is also too broadly drawn and may result in limitations on freedom of expression. In particular, the application of section 19(1) should be narrowed. It should only apply to such activities as are genuinely destructive of human rights. Section 19(1)(a) should limit the ban on harassment to activities in employment, accommodation or services, as covered in the Code. Section 19(1)(b), which in effect deals with vicarious responsibility, should apply only to employment and accommodation.

Time limits is also another matter which gives us grave concern, gentlemen. Section 26 deals with the

investigation of complaints. Leaving the commencement of investigations to such time "as is reasonably possible" is not acceptable. The Code has many provisions where definite time limits are set, the most important of which is the six-month limitation imposed on the filing of complaints in section 51(4). If individuals are expected to be aware of their rights and file official complaints promptly after they have been violated, they should be assured of an equally prompt investigation of those complaints. Particularly in situations involving discrimination in housing or services, which much valuable evidence not to mention the persons involved themselves may well have disappeared if complaint investigations are delayed.

**MR. A. ARNOLD:** Our brief concludes with a summary of the recommendations which you have before you and I shall not repeat, but I would like to say as a final word that we hope that these amendments can be seriously considered and perhaps some action taken on them, but we would certainly not want to see this bill delayed beyond the end of this Session, and we would want to see it adopted. We hope that some people who have been basing their opposition entirely on one particular clause will see the wisdom of reconsidering their position so that there can be some consensus between the government and at least some members of the Opposition to get this bill through.

Thank you.

**MR. CHAIRMAN:** Thank you. Are there any questions? The Attorney-General.

**HON. R. PENNER:** I have two questions, perhaps to the president, Mr. Peters because they perhaps are questions that touch on legal issues.

I'm referring to page 6 of your brief, your reference to section 15(2), your concern about the power of the Lieutenant-Governor-in-Council to make regulations. This section basically, although in a somewhat different worded way, has been in The Human Rights Act for some considerable period of time.

How would you deal with this situation then, Mr. Peters, where it is generally the case that, if you're a late applicant for term insurance - let's say the advanced age of 55 - you may get it subject to rigorous medicals, but your premium increases year by year significantly until age 65, taking into account certain statistical knowledge about the life expectancy as you move?

Now that seems to be something which, (a), is statistically justifiable but, (b), would on the surface appear to be discrimination on account of age. Surely, you would agree, particularly if the recommendation comes as it is designed to come, from the Human Rights Commission itself, based on actuarial evidence, there should be the right to take into account situations of that kind. Would you agree?

**MR. H. PETERS:** I have trouble with the example you're giving, Mr. Penner, because I think there are equally serious areas of discrimination that the government is practising now by denying spousal benefits to homosexual spouses that need to be addressed in this section, permits the continuation of that denial and, I submit, that this section needs to be looked at in light of the pros and cons, once again.



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Now I agree with you. Statistically, there may be reasons for discriminating, but where does that apply in the government's treatment of contracts it has with its own employees? Are you speaking, indicating an intention to expand into the area of insurance law? I don't understand the question.

**HON. R. PENNER:** We seem to be not dealing with the same section, Mr. Peters. The government is covered by The Human Rights Act; it always has been and all the more so because of the paramountcy clause. It's clearly designed to deal primarily with life insurance, accident and sickness insurance or life annuities, that's what it says. There are statistical problems which bias, on account of age, apparently with statistical justification. I asked you a very simple question. That is, do you not recognize the need for such statistical differentiation, and should not there be the power to regulate in that area?

**MR. H. PETERS:** I understand your comments now. I must admit I misread the section somewhat. But I can see that there is statistical justification for discrimination, but can't that be worked out, looking at the whole area of all the people who the government is purchasing accident and sickness insurance for? Do you justify the discrimination against a few individuals, when you could balance that discrimination by looking at the younger people in the group, the healthier people in the group? Is it really that necessary or are we speaking about a few isolated cases? The great discrimination against a single individual could be reduced by all of the parties bearing that monetary weight. Couldn't it be dealt with that way?

**HON. R. PENNER:** I'll simply make a final observation, that what you appear to be dealing with as group contracts are covered in another section. This section deals primarily with individual contracts.

I'll move on, just one further question. You were critical with respect to section 26. Please don't misunderstand me; I'm not criticizing your right to be critical. But you were concerned about "as soon as is reasonably possible after a complaint has been filed, the commission shall cause the complaint to be investigated."

Presume that instead of "as soon as reasonably possible," we have a fixed time. Take your choice - three months, six months. Would the effect of having a fixed time in here be the same as the provision in the Charter? That is, if we didn't meet that time - three months, six months - even though it would have been unreasonable in the circumstances for the commission to meet that time, the complaint is therefore invalid? Isn't that the price you would pay for some measure of flexibility with picking arbitrarily a time? Then if that time, for whatever reason, three of the staff of the Human Rights Commission take sick or whatever, they cannot meet the obligation imposed by section 26, would it not be better to have some measure of flexibility?

**MR. H. PETERS:** Mr. Penner, another way of dealing with it is to penalize the commission for failing to deal with the complaint. Instead of invalidating the complaint,

there'd be all the more motivation to delay if the complaint was made invalid.

Mr. Arnold would like to speak on it.

**MR. A. ARNOLD:** I have another suggestion for consideration, that the term "reasonably possible" would be okay if you took into account the concerns we have expressed about the different types of complaints. You might have to do it by regulation. That "reasonably possible" may mean something different when it comes to a housing complaint or to an employment complaint or to a service complaint, depending on the exigencies of the particular type of complaint.

**MR. E. CONNERY:** Mr. Peters, you said that you were in favour of granting spousal rights to homosexuals. Is that your particular position or is that the position of MARL?

**MR. H. PETERS:** I think it follows from our position. It doesn't matter whether it's my personal position or not. We support the provision that discrimination on sexual orientation should be a prohibited basis of discrimination. Therefore, it follows that relationships of a nature that now are recognized by the government as common-law relationships only between couples of the same sex should be given the same benefits - dental benefits, medical benefits. I'm afraid it doesn't matter whether it's my personal position. It is MARL's personal position.

**MR. E. CONNERY:** Is it MARL's position to be concerned about those who were born homosexual, or is it your desire that people can make a choice whether they want to be homosexual or not and therefore have the same rights?

**MR. A. ARNOLD:** That question was discussed this morning. I don't think any one of us here are experts on the homosexual lifestyle, but we were told this morning that it is not a question of people choosing it sometime later.

People who become homosexuals usually find out at some particular time that they have had that tendency. Sometimes it comes at a younger age, sometimes it comes at a later age. So it's a question of those who eventually find out that this is what they really are and that is all it amounts to. I don't think there's a distinction between who was actually born homosexual or makes a choice later. They may have been born that way and then they are not able to realize it until later in life.

**MR. E. CONNERY:** Could you support those people who wanted as a choice, not because they are born that way, but if people - we talk about the bisexuals and, of course, bisexuals can supposedly be either way. Do you support those who are bisexual?

**MR. H. PETERS:** I'm afraid we're being baited into a discussion which has nothing to do with the protection so that people are treated fairly, no matter what their sexual orientation is. We're being asked if we support certain types of lifestyles. We don't say that. What we

say is we're against discriminating against people with those lifestyles, and that's all we wish to say.

**MR. A. ARNOLD:** What we're trying to do is to support human rights protection for people on the basis of sexual orientation. How they got to their particular sexual orientation is not our business.

**MR. J. McCRAE:** Do you have any concerns about the make-up of the adjudication panels?

**MR. H. PETERS:** We're of the view that they should be arrived at by way of an all-party committee.

**MR. DEPUTY CHAIRMAN:** Any further questions? No? Thank you.

The next presenter is Marilyn Wolovick from the Manitoba Action Committee on the Status of Women. Ms. Wolovick.

**MS. M. WOLOVICK:** Mr. Chairperson, honourable members of the committee, and citizens of Manitoba.

The Manitoba Action Committee on the Status of Women believes that the government's new Human Rights Code is an historical landmark in the struggle to improve the status of women in Manitoba. Manitoba women continue to face real discrimination solely because we are women. The Action Committee applauds the government's commitment to provide human rights protection for women. We are pleased by the specific inclusion of pregnancy, gender characteristics, marital status, sexual orientation and sexual harassment as prohibited grounds for discrimination.

The Manitoba Action Committee strongly supports the basic intent of the proposed legislation. The establishment of equality is one of our primary objectives, and we believe that Bill 47 is in accordance with our political mandate. However, we also believe that the intent of the legislators has been imperfectly realized in a number of areas. It is to these areas that we call attention and we request that the appropriate amendments be implemented and passed.

Our first area of concern relates to the fact that no specific provisions have been made for appointing female commissioners or adjudicators responsible for administering The Human Rights Code. Our collective experience has made it clear that the sex of the judge or adjudicator has a direct correlative effect on the outcome of decisions. Since the Code does allow for affirmative action and clearly understands the need for such a provision, we can only hope that the failure to implement theory into practice was an oversight by the legislators. Indeed, it is unreasonable to expect others to assume the responsibility of achieving parity of the sexes when the government allows itself the right to be exempt from such an endeavour.

Therefore, the Manitoba Action Committee on the Status of Women recommends that the Human Rights Commission implement an immediate affirmative action program, appointing female representation for both the commission and the adjudicative boards, and that their representation be proportionate to their percentage in the population. Failure to do so would contravene section 9(3) regarding systemic discrimination which

prohibits "any act or omission that results in discrimination within the meaning of subsection (1), regardless of the form that the act or omission takes and regardless of whether the person responsible for the act or omission intended to discriminate."

Our second area of concern is of an economic nature and is pertinent to the viability of women being able to equally partake of the services offered by the Human Rights Code. According to the Code, and I quote: "Every witness required to attend a hearing is entitled to receive from the party requesting his or her presence witness fees and expenses at the rate of compensation payable to witnesses in the court."

On the surface, this seems fair enough but, when you consider that women comprise the highest percentage of the lower socioeconomic strata, then an obvious discrepancy becomes apparent. A single woman raising a family and living on social assistance is going to be very hard-pressed to find cash to bring forth charges of sexual harassment against a landlord or anyone else who might be making her life miserable.

Another debilitating factor arises over the possibility of a female complainant having to pay some or all of the cost of any party being affected should her case be decided as frivolous or vexatious. We assume that this is intended to deter abusive situations. However, given that at this point we have no guarantees that women will be part of the judging process, we believe that some women may well find this an intimidating if not prohibitive factor.

Our only recourse is to strongly reiterate our first recommendation and to also suggest a modification of the rules on witness fees. Therefore, the Manitoba Action Committee on the Status of Women recommends section 39(7) be given an additional clause stating that women of low socioeconomic status be exempt from any and all costs.

Our third area of concern is in regard to sexual orientation. Let it be known from the outset that we fully endorse the intent in the Human Rights Code to prohibit discrimination against any individual or group on the basis of sexual orientation, whether that individual or group belongs to the minority or the majority in our society. We firmly believe in the principle that all individuals are to be judged according to personal merit and qualifications, and that each of us is entitled to the same basic human rights.

While we applaud the government's recognition that heterosexuality, homosexuality and bisexuality are all three sexual orientations, we are concerned however with the actual definition of sexual orientation used in the bill. It is both misleading and redundant. We are referring to the clause, "consenting adults acting within the law." This clause is not pertinent to the definition of sexual orientation. In fact, it erroneously implies that sexual orientation relates to an activity as opposed to a preferred way of life. A person's sexual orientation refers to the gender a person feels most comfortable in sharing affection and intimacy with, and ought not be considered as merely an isolated act.

Further, the aforementioned clause might mislead some into thinking that the Human Rights Code actually supersedes criminal law, which it does not. Perhaps it would be simpler and far more appropriate to make clear the legalities of the Code at the very beginning and not as an addendum to a definition. Therefore,

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the Manitoba Action Committee on the Status of Women recommends that the clause, "consenting adults acting within the law," be omitted from the definition of sexual orientation.

(Mr. Chairman in the Chair.)

Our final area of concern is in regard to the interpretive powers granted to adjudicators in a number of areas. The clause, "unless bona fide and reasonable cause exists for the discrimination" leaves the door wide open for adjudicators to use highly subjective reasoning in determining the outcome of a case. For example, an adjudication board may hold that a view held by a major segment of society in regard to another segment is bona fide and reasonable cause for a person to discriminate against a member of that group. In other words, it could result in discriminatory practices being seen as a valid justification for continued discrimination. Therefore, the Manitoba Action Committee on the Status of Women recommends that the clause "unless bona fide and reasonable cause exists for the discrimination" be stricken from all designated areas and be replaced with "no cause is bona fide or reasonable unless it is based on objective fact."

In conclusion, the Manitoba Action Committee on the Status of Women strongly supports the legal protection in the Human Rights Code of a woman's human rights. We remind the government, however, that discrimination is perpetuated within a social context where women have less power than men to protect ourselves even under the provisions of the new Human Rights Code.

Therefore, we urge the government not to perpetuate systemic discrimination, but (1), to adopt affirmative action with respect to women on the commission and the adjudicative boards and, (2), to exempt individuals of low socioeconomic status from any and all costs of bringing a complaint to the Human Rights Commission. We also recommend that, (3), the government omit from the definition of sexual orientation the clause "consenting adults acting within the law," and (4), that the clause "unless bona fide and reasonable cause exists for the discrimination" be stricken from all areas and replaced with "no cause is bona fide or reasonable unless it is based on objective fact."

The implementation of these amendments would help further the objectives of the Human Rights Code in protecting the individual from discrimination rooted in ignorance, social habit and privilege in recognizing the individual worth and dignity of every member of the human family.

Finally, we congratulate Premier Pawley, this government and the Attorney-General, the Hon. Roland Penner, for bringing forward this progressive legislation. The Manitoba Action Committee on the Status of Women firmly believes that human rights legislation that clearly combats the discrimination all women face in our daily lives will have a profound and far-reaching effect on the status of women in Manitoba.

Thank you.

**MR. CHAIRMAN:** Thank you, Ms. Wolovick. Questions? The Attorney-General.

**HON. R. PENNER:** Ms. Wolovick, it might seem uncharitable for me to ask you any questions after the compliment which you paid, but just two questions.

You asked for the commission to implement an immediate affirmative action program with respect to the commission and adjudicative boards. Are you familiar with the composition of the commission now?

**MS. M. WOLOVICK:** To date, there has only been one woman on the commission.

**MR. CHAIRMAN:** May I know the name, please, for the purpose of the record?

**MS. M. WOLOVICK:** Bonnie MacQueen.

**MR. CHAIRMAN:** MacQueen.

**HON. R. PENNER:** Yes. In fact, the commission has 13 members, nine of whom are women.

**MS. M. WOLOVICK:** I stand corrected.

**HON. R. PENNER:** Yes. I thought I would like to get that straight for the record.

Secondly, a point is raised on page 2 about the difficulty that a single woman raising a family and living on social assistance - and I'm certainly very sensitive to the problems that such women have - is going to be very hard-pressed to find cash to bring forward charges of sexual harassment, and then raises the question of witness fees.

Are you familiar with section 34 of the act which points out that parties to an adjudication under this commission, under this Code, it is the commission which shall have carriage of the complaint? That means that, if a complaint is brought forward to the commission and is accepted, the commission provides the lawyer, subpoenas the witnesses and pays the witness fees.

**MS. B. MacQUEEN:** But it states clearly that the complainant is the one who has to pay the witness fees.

**HON. R. PENNER:** The parties in adjudication under this Code are (a) the commission, which shall have the carriage of the complaint.

**MS. B. MacQUEEN:** 39(7).

**MR. CHAIRMAN:** MacQueen?

**HON. R. PENNER:** Yes. But 39(7) must be read with 34, and it is the commission which requires witnesses to attend.

**MS. B. MacQUEEN:** So then under no circumstances women will be paying into the cost?

**HON. R. PENNER:** That's right.

**MS. B. MacQUEEN:** Including if the case is found vexatious and frivolous?

**HON. R. PENNER:** If a case is not accepted because it's deemed to be frivolous and vexatious, then it never gets to the point of . . .

**MS. B. MacQUEEN:** Except that it says, if it's found frivolous and vexatious, the complainant will end up paying the cost for . . .

**HON. R. PENNER:** That's entirely discretionary in those cases.

**MS. M. WOLOVICK:** I think our major . . .

**MR. CHAIRMAN:** Ms. Wolovick, we have to know who is speaking on the record.

**MS. M. WOLOVICK:** Oh, Marilyn Wolovick. I think our major concern is around the issue of sexual harassment cases and the assumption that a woman who is bringing forward a complaint of sexual harassment, it might be construed as being frivolous or vexatious. So if there was any danger of her being required to pay the costs of any of the legal matters, she would be discouraged from even bringing forward the complaint.

**HON. R. PENNER:** Thank you. I understand your concern, and I've pointed out other sections of the act to you.

**MS. M. WOLOVICK:** Okay.

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

The next presenter is Mr. Edward Lipsett, private citizen.

Mr. Lipsett.

**MR. E. LIPSETT:** Mr. Chairman, honourable members, I'm Edward Lipsett and I'm speaking in my individual capacity. Regrettably, I don't have a formal written presentation. I'll be making a few remarks. I've got some notes, some previously published things, and the rest I'll be coming in on a wing and a prayer, basically.

First of all, I'd like to congratulate this government for bringing in some very important concepts and for their moral courage in some areas. However, there are some problems with this legislation which I think could be dealt with through amendments without scrapping a whole bill, and I'll try to deal with them. I'll be as brief as possible, but that still isn't - you know, some I hear almost half-an-hour, but anyway I'll start right now. I'll start with a general point that isn't referring to any particular section.

On the question of exemptions, I would respectfully suggest that an overall, general, absolute exemption be made for all purely religious bodies. It's often been argued that religions are defended through the bona fide and reasonable clause. To a large degree, that's correct. The Supreme Court of Canada has already given the religious exemptions a fairly liberal interpretation when they upheld the firing of a teacher from a Roman Catholic school for marrying in a civil ceremony. She married a divorcee. But the Roman Catholic Church has a clear hierarchy, a fairly clearly defined set of rules.

There are many religious bodies that don't have a clear hierarchy, that decisions are made largely according to the conscience of each congregation and it's not that easy to determine what is required and what isn't. They shouldn't have to be put through having the reasonableness of their position judged by a secular body. Having to defend before the Human Rights Board of Adjudication could possibly violate their freedom of

religion. So I would respectfully suggest that in purely religious matters there be a complete exemption from the Code.

Now I'll get down to point-by-point consideration. Section 9(1)(a), if the intention of this paragraph is to provide protection beyond the named characteristics in subsection (2), it is to be supported. However, the wording could be clarified and the protection should be expanded. Why should it be limited to membership in or association with some class or group of persons? A person should be similarly protected from discrimination for association with or any actions of any other individual.

To take an example dealt with in a board of inquiry decision under the former B.C. Human Rights Code under the "unless reasonable cause exists" formula, surely it should be unlawful to deny a woman a teaching position because of a controversy surrounding her husband's dismissal from a senior government position. This scenario may or may not be covered by marital or family status, depending on how wide or narrow an interpretation that concept is given. However, the matter should be clarified by legislation. There seem to be decisions going both ways on family status.

It would be equally unfair to discriminate against a person because of trouble one of his friends is involved in or because he refuses to enter into a private friendship with his boss.

Furthermore, it is unfair to discriminate on the basis of a purely personal trait that is completely irrelevant to the job or benefit in question. Because that ties in so closely with the homosexual rights issue, I'll skip over to section 9(2)(h) if the committee doesn't mind - 9(2)(h) "sexual orientation."

I wish to emphasize that I appreciate the unfairness of discrimination on the basis of sexual orientation and again congratulate the government for their moral courage in attempting to deal with this issue. On the other hand, some of the concerns raised by those opposing this provision, both inside the House and outside, are not without merit and ought to be considered seriously. Although this is certainly not the intention of the government - I certainly acknowledge that - this provision can be perceived as an attack on traditional morality. One must remember that, if legislation departs too far from social attitudes, its rejection by much of society could severely impair its effectiveness.

I would respectfully suggest that section 9(2)(h) be replaced with an amendment prohibiting discrimination against an individual based on personal or private lifestyle, conduct, associations or attributes, unless such can be shown to be reasonably relevant. That's personal or private lifestyle, conduct, associations or attributes unless such can be shown to be reasonably relevant to the employment or other benefitting question.

Perhaps a definition could be added to make it clear that it includes that it is not limited to sexual orientation. Other examples could include irrelevant personal grooming and place of residence.

This section could be further expanded to cover refusal to submit to drug or polygraph tests that are not related to the job in question. That's an important privacy issue also that doesn't seem to be satisfactorily covered by legislation. Possibly certain aspects of harassment could be subsumed within a properly worded section here.

As can be seen, such a section would protect homosexuals but many other people as well. Hopefully, it would not be seen as a challenge to the traditional morality, but its true purpose would be more apparent. These purposes would be advancing equal opportunity, reducing the powers of persons in authority over others, and protecting the values of privacy and freedom from unwarranted intrusion into one's life. It's true we've already got a privacy act but that doesn't cover employment and related matters. Both can coexist. One wouldn't have to conflict with the other.

I would further add that privacy is an internationally protected right, the international covenant in civil and political rights which we have subscribed to. Section 17, I think, refers to privacy. So anything based on this possibly could be more palatable on that basis. Anyway, I'll go on to another point.

I'm coming back to section 9(1)(d), "reasonable accommodation." The duty to make reasonable accommodation is a sound concept. The Supreme Court of Canada has already interpreted human rights legislation to include this duty at least under certain circumstances. However, it is a good idea to expressly include it in the Code, and to make it clear that it could involve the obligation to make individualized exceptions to otherwise valid rules or requirements of general application.

However, I respectfully suggest that this duty must be expressly limited to circumstances where it would not cause undue hardship. This modification is almost universally found in legislation and decisions referring to reasonable accommodation. A formula requiring the reasonable accommodation, short of undue hardship, though not without its problems, has developed into a reasonably balanced, flexible and understandable concept. It could be argued and was probably intended that this safeguard is implied or can be read into the word "reasonable." However, by eliminating the reference to undue hardship, this legislative provision could be interpreted as imposing a significantly more onerous duty than has been previously encompassed within reasonable accommodation. This risk is exacerbated by several other provisions throughout the Code.

Applying this duty to any characteristic referred to in subsection 2 is in itself a major expansion. It must be remembered that the concept of reasonable accommodation was first developed to cover situations where an employee's religious practices conflicted with a general job requirement that where suitable arrangements could be made without major inconvenience to the employer or other persons. It is now often used concerning handicap or disability discrimination.

Extending this obligation to all characteristics in the code seems to elevate what was once a rather restricted answer to a fairly limited situation into a general norm. I do not oppose this extension; I only wish to emphasize the need for proper safeguards.

If carried to extremes, this theory could represent a substantial departure from the original rationale for anti-discrimination legislation, which was to prevent arbitrary or oppressive exclusions based on factors irrelevant to the job or benefit in question.

An unlimited application of this worthwhile principle of reasonable accommodation beyond its unfairness

to employers and providers of service could even create dangers to the goals that this legislation seeks to protect. It could lead to resentment against a protected group and even perpetuate dangerous myths or stereotypes.

As well, it might encourage attempts to disobey or evade the law even at the hiring stage and render enforcement that much more difficult. One important way of keeping this duty within proper bounds is by expressly providing that this duty stops short of undue hardships.

See also section 9(3) - I'll deal with that later - and section 12. Section 12 removes the bona fide and reasonable cause and bona fide and reasonable requirements or qualifications defence for failure to make reasonable accommodation. This is understandable in light of the Supreme Court's decision in Binder (phonetic) holding bona fide occupational requirement to complete defence without requiring any efforts to attempt to grant an individual exemption from an otherwise valid requirement.

As I mentioned earlier, it is quite appropriate under certain circumstances to require individual exemptions or modifications. However, this duty cannot be an unqualified one and care is needed to prevent it from becoming unfair, impracticable or overly burdensome. Any danger of such results by omitting reference to undue hardship is substantially multiplied by section 12 as worded.

Section 43(4) is the only place in the Code where the term "undue hardship" is mentioned. However, it doesn't qualify the general duty of reasonable accommodation. It provides that, where an adjudicator finds that contravention involves impeding access or failing to provide proper amenities for the physically disabled persons in a building or facility, a finding of undue hardship would preclude an order under 43(2)(a) or 43(2)(e), refraining from doing anything or affirmative action. However, such finding of undue hardship doesn't preclude a finding of contravention or an order for payment of damages.

It would seem that, if physical conditions of building is the only basis for the alleged contravention and altering this condition would cause undue hardship, the respondent should be completely exonerated in cases where such a respondent is not to blame for the building's condition. That is finally on this undue hardship bit.

Section 52(c), by requiring the respondent or defendant to prove that reasonable accommodation has been made or is not possible in the circumstances increases the probability that the duty of reasonable accommodation will be interpreted and applied without reference to undue hardship and that a more stringent and possibly unfair burden will be placed on persons subject to this Code. Although it is possible that undue hardship would be a factor in determining the reasonableness of accommodation, this is by no means certain.

If the accommodation were to be judged unreasonable without regard for the modifying factor or if there were to be no attempt on accommodation on a particular case, impossibility might be the only defence available to the defendant or respondent. This would be substantially more difficult to establish. I respectfully suggest that 52(c) and other relevant

provisions be amended to ensure that absence of undue hardship continues to modify the duty of reasonable accommodation.

I'll only deal very briefly with the concept of systemic discrimination. It's a sound concept but, as worded in the Code, is too vague. There are no standards, no guidelines. At least in the United States, by judicial decision, that's been limited to cases where a test had a disparate impact on a particular group and it wasn't justified by business necessity. In Great Britain, it was specifically referred to in the statute that there has to be substantial impact plus unjustified.

In short, as worded now, it could lead to too much emphasis on proportional representation, statistics and numbers games. That is not the purpose as I see human rights legislation. Certain remedial measures, yes, but caution is required in the entire concept and that applies also to affirmative action.

I'll get now to a completely different area that I believe it was Mr. Birt or some of the other members raised earlier in the day, the question of removing the appeal and just having a judicial review. Was it Mr. Birt and Mr. Mercier who expressed concern? -(Interjection)- Pardon me? Well, let me mention to you, Sir, you are to be congratulated. Your concern is very well-founded indeed. Had somebody not raised that, there would have been reason to worry.

The original proposed code of human rights, as prepared by the commission in 1984, would have abolished appeal, but they would have at least allowed a judicial review on law jurisdiction and natural justice. This Code would remove jurisdiction on law which, in effect, will be relegating in legal interpretations on the highest legal document in the province, next to the Constitution itself, to what in effect is an administrative tribunal, the lowest level in a judicial hierarchy. They may be excellent people, but one person will have the right to make a final precedential decision.

Similarly, there are many factual matters that should be subject to a full appeal. The human rights legislation is not a narrow, technical piece of legislation like a land appraisal legislation where a very narrow technical approach warrants a privative clause. This goes to the root of society, some of the most vital issues, those from a personal point of view and from a societal point of view.

If there is a case of whether a school should have to make substantial accommodations, even in its curriculum, to accommodate the mentally handicapped after, let's say, two months of testimony, the adjudicator might make an excellent decision. Presumably, he or she will be very well qualified and dedicated. But do you want something so fundamental to be left to one person whereas, if it were an ordinary \$10,000 lawsuit against that same school board, they'd have the right to go all the way up to the judicial hierarchy?

Many matters in The Human Rights Code, sections 18 and 19, could if improperly interpreted - for instance, freedom of expression, do you want one person to have a final decision without further review? Mind you, I congratulate the government for section 18. To a large degree, freedom of expression was respected. I don't want to deal with that at length now because I dealt with it fairly lengthily elsewhere and MARL raised that concern. I'm just saying there are many other issues where the decision of adjudication is every bit as vital

as any civil suit, and to have it stop at one level is completely unfair.

I just want to bring up one point in this area. There has been much concern, not only here but throughout the generations, that courts are too conservative to have a major role in social legislation. If courts could be too conservative, on the other hand, boards of adjudication could be too activist, too overzealous, and a balancing factor is needed. But I don't think the recent decisions of the Supreme Court of Canada under systemic discrimination and all that will bear out that the courts have been unduly conservative. There are some unsatisfactory decisions but, by and large, I would say the courts in Canada have been fairly balanced.

Because of the time factor, I will not go on any further and I will submit myself to questions, and any other persons if they want to speak to me after, that's fine also.

**HON. R. PENNER:** Just a couple of questions to Mr. Lipsett.

Mr. Lipsett, would you agree that The Human Rights Act of the Province of Manitoba is subject to The Constitution Act (1982) and the Charter?

**MR. E. LIPSETT:** Certainly.

**HON. R. PENNER:** Right. Would you not agree that section 2, which guarantees freedom of conscience and religion, would be in fact interpreted by the courts applying the fundamental law of the land to prevent an application of provincial human rights law to force upon any religious group something that was contrary to their creed in terms of those who work for them as teachers, preachers, whatever?

**MR. E. LIPSETT:** I would certainly hope so. But I'm suggesting, why wait to have a section thrown out or partially struck down. Put in the amendments now. Why bring a religious body acting bona fide to the harassment of having to explain their religious practice to a secular body? Ultimately, they would win.

What I'm trying to say is if they're clearly religious - and I'm not talking about the religious body that operates a public service like the Misericordia Hospital. I'm talking about a purely denominational body or a purely parochial school. I say, let the reasonableness of their decisions be decided by a higher authority, and let the secular arm take care of its matters more pertaining to it. Yes, but I certainly would agree, the Charter would probably protect them.

**HON. R. PENNER:** Just one other question relating to a point that you developed in some depth - and I thank you for it - where you were concerned that, in the 9(1)(d), failure to make reasonable accommodation for the special needs, etc., should contain the notion, however it might be worded, about undue hardship. Right?

**MR. E. LIPSETT:** Yes, sir.

**HON. R. PENNER:** I find it difficult to understand - perhaps you could help me - of how it is possible for something which creates an undue hardship to be considered by anybody to be reasonable?

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**MR. E. LIPSETT:** Yes, how is it - well, again, the only reason I'm mentioning that should be put in is that it is a specifically utilized term of art. In all the decisions and almost all the legislation, they go hand in hand. Had you been writing on a carte blanche, you know, a tabula rasa, maybe I wouldn't have considered it.

But by specifically omitting that provision, it's open to interpretation that a very strict duty will be imposed on the respondent. It doesn't matter if there's a hardship. They're expected to take a hardship in the great name of equalizing. You know, it doesn't matter if this particular person has to be away 30 percent of the time. He has to be accommodated. I'm not saying that interpretation will take place. I'm just saying it might and, out of an abundance of caution, keep the concept of undue hardship.

It's been working well. It's been tried and found reasonably satisfactory and, if there is some worry that in the United States it's being treated too narrowly, the Supreme Court of Canada has made it quite clear they will oppose fairly heavy standards on groups and companies to justify it under the undue hardship. But I still think that formula should be kept.

**HON. R. PENNER:** Thank you.

**MR. CHAIRMAN:** Any other questions? Hearing none, we thank you, Mr. Lipsett.

The next presenter is Mrs. Audrey McLennan, representing the United Church of Canada, The Conference of Manitoba and Northwestern Ontario.  
Mrs. McLennan.

**MRS. A. McLENNAN:** Thank you, Mr. Chairman.

My name is Audrey McLennan. I speak tonight as the President of the Conference of Manitoba and Northwestern Ontario of the United Church of Canada and, with me, I have Faye McNaught and the Rev. Peter Williams. We have chosen to present a very short brief and then to respond to any questions that you may have.

The Evangelism and Social Action Council of the Conference were requested by the 600 delegates representing all congregations in the Province of Manitoba and Northwestern Ontario, by a resolution of the 62nd Annual Meeting of the Conference held in Birtle on May 30, to present a brief in support of the amendment to the Manitoba Human Rights Act to include sexual orientation as a prohibitive ground for discrimination.

The general council, which is the national elected policy-making body consisting of 450 delegates of the United Church, at its 30th meeting in Morden, Manitoba in 1984, affirmed that members of the church, individually and corporately, are responsible for becoming more aware of discrimination against homosexual persons; taking action to ensure that they enjoy their full civil and human rights in society; working to end all form of discrimination against them; and personally supporting the victims of such discrimination.

The church's concern is also echoed in this statement of a national working group on social issues and justice. Citizens whose sexual orientation is gay or lesbian ought not to be excluded from the protections afforded to all other citizens, through either neglect or the failure

of governments to develop the legislation that would provide that protection. To leave one group of citizens beyond the pale is a dangerous precedent. In a democracy, it is equally dangerous to leave the decision about inclusion or exclusion of any particular group from human rights safeguards to the will of the public at any moment in history.

What is at stake is not whether homosexuality should be approved or promoted any more than protection of the freedom of speech as an approval of unpopular views, or freedom of religion, the promotion of extreme religious beliefs. Rather, the issue is fairness. The change merely guarantees to homosexual persons the same rights enjoyed by all other citizens and, therefore, the Conference urges approval of actions that will include sexual orientation as prohibitive grounds for discrimination.

**MR. CHAIRMAN:** Are there questions?  
The Member for Morris.

**MR. C. MANNESS:** One question, Mr. Chairman, if this Code is to be supreme at a level just below our provincial constitution and if it should be glorified and made understood by all, including our children in the public school system, in what manner should homosexuality be taught and addressed within the public school system?

**MR. CHAIRMAN:** Mr. Williams.

**REV. P. WILLIAMS:** It seems to me - and the church's position here is presently being debated across the country - that when we're talking about sexual orientations the focus has to be on the orientation. In other words, we have to be very clear in what we understand sexual orientation to mean. Several speakers who have gone before us this evening have made reference to the fact that we seem to have some desire to say something about our activity in sexuality. Are we talking about sexuality here or are we talking about lifestyles? So to answer your question, I don't see why it would ever be a problem in teaching our children that there are people of different persuasions and different sexual orientations, just as there are people of different theological positions and different ideologies and different philosophies.

Once we have taught that there are differences in human nature and that the dialectical process between us is important, then it seems that we might be able to understand what we mean when we say one person is homosexual and another one is heterosexual. But if the prejudice comes before we even sit down with the children, then no wonder there is confusion.

**MR. CHAIRMAN:** Order please.

The proceeding in this legislative committee is no less solemn and formal than a - this is not a sideshow. I ask all the members of the audience to be very discreet, that they do not interrupt the proceedings.

The Member for Morris.

**MR. C. MANNESS:** One further question, if I may, Mr. Chairman, should the curriculum in the public school system, should it expand and expound and introduce the subject of sexual orientation?

**REV. P. WILLIAMS:** Yes, I think so, on the same basis that it would for different philosophies of life and different nationalities and different persuasions.

**MR. E. CONNERY:** Should, in your view, homosexuality be viewed as an acceptable alternate lifestyle?

**REV. P. WILLIAMS:** Yes.

**MR. E. CONNERY:** In your view, is homosexuality something you're born with, or is it something you attain through your life or through your experiences?

**REV. P. WILLIAMS:** I don't stand here as an expert on homosexuality or heterosexuality but my understanding is, from what learning has been available to us to this point, that it is most likely to come from the early days of our life.

If someone asked me to explain my heterosexuality, I can't point to any particular time in my life in which I knew I was a heterosexual person, or that what particular persuasion had led me to that. It's been a part of my life, and my association with homosexual persons is that they have a very similar position at stake.

**MR. E. CONNERY:** If a person had the opportunity to be heterosexual or homosexual, do you think it's then adequate that we provide that they can make a choice, as someone said, a preferred sexual orientation? Are we now saying that people can decide whether they want to be homosexual or heterosexual? Does the United Church, which I am a member of and a little bit concerned with, do we make that decision that, yes, we can now make that decision whether we want to be heterosexual or homosexual?

**REV. P. WILLIAMS:** I'm having a particularly difficult time in understanding what relevancy that has to the issue before us here.

**MR. CHAIRMAN:** Are there any other questions? Hearing none, thank you.

The next presenter is Ms. Judy Tozeland, the Manitoba Association of Social Workers.

Ms. Tozeland.

**MS. J. TOZELAND:** Mr. Chairman, members of the committee, I belong to the provincial organization representing the interests of social workers in Manitoba.

We, the Manitoba Association of Social Workers, would like to commend the government for bringing forward the new Human Rights Act which includes sexual orientation.

It is our professional belief, as stated in our Code of Ethics, that: "Social workers believe in the intrinsic worth and dignity of every human being and we are committed to the values of acceptance, self-determination and respect of the individual." This, of course, includes not being discriminatory on any grounds of race, ethnicity, language, religion, marital status, gender, sexual orientation, age, abilities, socioeconomic status, political affiliation or national ancestry.

In reference to these values, we would first like to discuss acceptance. Acceptance and tolerance do not

mean promoting a sexual preference or advocating it as a best alternative. It means accepting the fact that people are different and need to be allowed to express their differences. This does not set aside common sense, decency and propriety in behaviour. Just as we do not tolerate open, indecent acts between heterosexual couples, the same rules of common sense apply to homosexual couples. The choice of a certain sexual partner does not preclude or allow inappropriate behaviour, be it homosexual or heterosexual.

It is a well-known fact throughout history that there is a homosexual population in every society. The question as to causation, i.e., environment versus genetics, remains. The reality is that homosexuality is a fact and we, as a society, have a responsibility to every citizen to protect their rights equally. If we, as a society, truly believe in equality for all, then we make personal choices about our own behaviour, but must accept that others be given equal freedom to choose theirs too. The choice belongs to the individual as long as it does not infringe upon the rights of others.

In terms of self-determination, people have a right to choose their own career, sexual preference, type of home, family size, political party and so forth. Should they express a homosexual preference, it is our belief that they should have the freedom to do so, and the freedom to live in our society with the same respect, protections and acceptance which all citizens receive.

Should the expression of this sexual preference manifest itself in an immoral, illegal or inappropriate manner, then society has the right to exercise sanction against this. Inappropriate behaviour, such as child molestation and child abuse have little respect for sexual orientation. Sexual abuse is committed by people who have overcome society's taboos against abusing the trust and power of an adult toward a child. It exists across the board, regardless of sexual orientation, and is unacceptable in all cases. Statistically it is a proven fact that sexual abuse is committed primarily by heterosexual males.

With regard to the rights of the individual, all citizens in a democratic society should have their basic rights respected. This, in our opinion, includes the freedom to live one's lifestyle, exercising one's sexual preference without fear of discrimination, abuse or other unfair practices.

It is our belief that being homosexual is not immoral in and of itself. How a person conducts her or himself, regardless of sexual orientation, is the important factor. If a homosexual person is in a position of trust, either through his or her work, or in a volunteer job, there is the same expectation to honour the trust of that position. For example, the responsibility of being an adult entrusted with the care of a child carries with it the expectation of appropriate behaviour toward the child. Whether the adult in charge is homosexual, heterosexual or bisexual, it is the relationship formed between the adult and child which should be the important consideration. Significant factors in a relationship are companionship, friendship, trust, caring, fun and commitment, and these are the areas on which we should be focusing our attention.

We recognize that there is a prevailing fear in society that children will inevitably become homosexual if they associate with homosexual men or women. This fear has not been substantiated.



However, we also believe that it is inappropriate and unacceptable to impose one's values or behaviour regarding sexual orientation on a child or on anyone.

The previous act protects against sexual discrimination but does not safeguard individual rights in regard to sexual preference. We believe the inclusion of sexual orientation in the Human Rights Act gives homosexuals the same protection and respect given to every citizen, not special rights or privileges.

The changes in the act as it now reads provide for a safeguard which other citizens presently take for granted. It is our belief as our profession that the dignity, individuality and rights of persons are safeguarded. We, therefore, applaud and support the government in these legislative changes. We are pleased to see this forward step in the human rights issue.

**MR. CHAIRMAN:** Questions? Hearing none, thank you, Ms. Tozeland.

The next presenter is Mr. David Swan, representing AFFIRM.

**MR. D. SWAN:** Good evening, ladies and gentlemen.

I spoke to you earlier this morning. This evening, I'm talking to you on behalf of AFFIRM. The Manitoba and Northwestern Ontario regional group of AFFIRM/AFFIRMER, is part of a national organization for and of lesbians and gays in the United Church of Canada.

We strongly support the new amendments of the Human Rights Act which will protect discrimination on the grounds of sexual orientation, and this is going to be a repeat of Mrs. McLennan's comments.

On May 30, 1987, the United Church Conference of Manitoba and Northwestern Ontario, meeting in Birtle, passed a resolution calling all members of the church to support the amendments to the Human Rights Act to include sexual orientation as a prohibited ground for discrimination. At the 30th General Council of the United Church of Canada, which is our national governing body, held in Morden in 1984, the council affirmed: "All members of the church, individually and corporately, are responsible for becoming more aware of discrimination against homosexual persons, taking action to ensure that they enjoy their full civil and human rights in society, working to end all forms of discrimination against them and personally supporting the victims of such discrimination."

Without such provision in the law, we, members of AFFIRM in Manitoba, know that discrimination will continue. This has been the experience of members in the past. Persons are forced to hide their identity to avoid losing jobs or housing and to avoid being abused. Psychological trauma for lesbians and gays in Manitoba is immeasurable. Physical assaults are not uncommon, although most situations go unreported because of fear. In Quebec and, more recently in Ontario and the Yukon, governments have acted to provide equal rights for lesbian and gay people. It was a step towards ending homophobia in our country, although we have a long way to go before the hate and violence often unleashed against lesbians and gay persons can be eliminated.

We believe, as Christians, that God created the world and, in the world, a beautiful, diverse humanity to share His bounty. We are called to respect and hallow this diversity and we, as active citizens, should seek the

well-being of others in society working for a just social order. A society which scapegoats or isolates some members, treating them cruelly, does not mirror the humanity that is basic to a democratic human community based on a concern for the spiritual oneness of the human family.

This is an opportunity for Manitoba to help reduce discrimination against lesbian and gay persons, and thus create a climate for more mutuality and a more caring society.

In the final page that we have provided you with, ladies and gentlemen, "Human Rights for Homosexual People," was from a December 1982 paper put out by a mission, and it was to give background material for those who were to enter into the discussion with the homosexual community of the United Church and of the homosexual community generally. So it's something that we provide you with that's a bit dated, but that was when the church started to look at homosexuality.

**MR. CHAIRMAN:** Questions?  
The Member for Morris.

**MR. C. MANNES:** Mr. Chairman, just a basic question, the association called AFFIRM, could the witness tell me specifically how many members are in this association in Manitoba and Northwestern Ontario?

**MR. D. SWAN:** In Manitoba and Northwestern Ontario, there are only about 12 of us.

**MR. C. MANNES:** How many across Canada? You say you're part of . . .

**MR. D. SWAN:** Yes, the national . . .

**MR. C. MANNES:** . . . the national organization.

**MR. D. SWAN:** I'm sorry, I really can't answer that, but I suppose that in a population of a million people, there are 10. That doesn't mean there are only 10 homosexuals in Manitoba in the United Church. The population of the country is 22 million. Then presumably, there are 2,200. I'm sorry, I don't have that figure for you.

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

The next presenter is Mrs. Betty Gross, private citizen. Mrs. Gross.

**MRS. B. GROSS:** Good evening, Mr. Chairman, committee members, ladies and gentlemen.

It has come to my attention that the government wants to pass a bill called The Human Rights Code to deal with inequalities being experienced by certain groups in society. It is, under present legislation, possible to address those issues without opening the door to a change in the values of society through the legal system.

In the process of trying to protect particular groups, the government will in fact be imposing a morality on all Manitobans that will remove the rights and freedoms of many of them. The Canadian Charter of Rights and Freedoms says in section 2:

"Everyone has the following fundamental freedoms:

- "a) freedom of conscience and religion;
- "b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;
- "c) freedom of peaceful assembly; and
- "d) freedom of association."

Private organizations, church or private schools, group homes or social facilities, based on a religious commitment, traditional family units who make up the supporting fabric of a society, etc., will be adversely affected. Many of the above rights will be violated for these groups because the government will be interfering with the belief systems held by these people and/or groups. The government will be telling them that they cannot entertain matters of religious belief in their teaching or their hiring practices. This indeed violates all that they stand for and compromises their ability to continue in their faith.

Section 1 of the Charter of Rights and Freedoms states that the rights and freedoms set out in it (the Charter) are subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

My argument is that justification for entrenching these rights for certain groups of people over the rights of many people has not been demonstrated and will have the effect of criminalizing the behaviour of people who are applying their own standards of prudence and judgment based on their own conscience, religion, thought, belief, opinion and expression, all of which the Constitution guarantees.

This bill has me very concerned as it will legislate for me and for others what we are to think, how we are to behave, what values we are to hold. To legislate these areas of our lives is to interfere with our fundamental freedoms. This bill seriously reminds me of the "Thought Police" of George Orwell's "1984." (See section 9(2) and section 18.) When the government interferes in the life of the citizen to this extent, it has violated its authority. Being able to discern and act on differences is a basic freedom.

If passed, this bill, for example, will interfere with the economy of the country by dictating to employers how to hire their staff, what to pay them and when and if the person needs special attention.

What happens when a pregnant woman is discriminated for by being allowed a parking spot close to the place of employment because of her condition, which is a normal process for the female to undergo, while a physically handicapped person whose handicap cannot be determined by appearance is expected to park further from the workplace where all the other employees are to park? Who makes the judgment call on whether discrimination took place? Who determines which person was treated differently? Is it not discrimination to do for one person or class of people what you will not do for others? When the government tries to legislate rights, it fails to realize that, by giving me my rights, it has stolen someone else's freedoms. The result is a reverse discrimination.

With all the human rights legislation, affirmative action programs and imperative staffing in government bureaucracies, a white, not necessarily English, but English-speaking male, even if he has French as a second language, will be discriminated against in terms

of employment and promotion while the government makes sure it has filled positions with the "proper" balance of females and of those who identify themselves as francophones or members of ethnic groups, or given to diverse sexual orientations and those who are physically and mentally handicapped. Then if he has no French or is unable to use his core French sufficiently well, he will be behind the male who has a better ability in French. This discrimination is already filtering through the government bureaucracies, the Crown corporations and companies that get government contracts.

Another example of the unnecessary interference by government and its effects is the bill's effect on a Christian faith which is based on the Bible. Any church groups that want to teach that homosexuality is wrong according to their beliefs - and I give four biblical references here because we're talking about churches basing their beliefs on the Bible, (Lev. 18:22, Lev. 20:13, Rom. 8:31, Rev. 21:8) will have to teach that homosexuality is a legitimate, normative and alternate lifestyle. To teach this is to violate its own beliefs but, by law, it could be indicted if it failed to teach what the government demanded.

Contrary to what Sharon Carstairs, if one believes the quotation accredited to her in the Winnipeg Free Press, and others have come to believe thanks to our educational system and our media, homosexuality is definitely a choice. This is why it should not be allowed to be credited with being a perfectly normal lifestyle in the school system. This promotion of homosexuality as a "normal" lifestyle is detrimental to the well-being of our youth, our society, our health and our economy. The sexual orientation that one maintains is a choice on the part of the person. The person controls that choice.

Another example of interference by the government into religious teaching would be seen if the church taught that, based on the Bible, men and women are different but equal and are required by biblical teachings to perform certain roles in family and society. The church or its leaders would be guilty of breaking this law.

I have been reassured by Sharon Carstairs that, under section 14(1), churches and church schools will be exempted. For how long? What does bona fide really mean? Who interprets bona fide? And what about public schools? Who protects the children in public schools from exposure to the belief that homosexuality is a proper lifestyle choice? Right now, the school system brings into the classroom, in almost every way possible - family life curricula, social studies curricula or resources, literature, news clippings, book reviews and movies - the acceptance of homosexuality. Right now, a homosexual could be teaching in a school, but it would probably be hard to distinguish him from any other male teacher. After this bill is passed, such a teacher could be met in the hallway by his "mate," and they could embrace and give each other a kiss and nothing could be said about it as heterosexuals are allowed to behave in this fashion. A homosexual could also dress in the fashion that is comfortable to his orientation in the "couple" - similarly for lesbians. Witnessing these behaviours could have a profound effect in terms of giving impressionable minds the idea that such behaviour between people of the same sex is normal.

Section 14(11) is, according to Sharon Carstairs, supposed to reassure me too. In our present situation,

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I have tried on a number of occasions over a three-year period of time to get the educational system to stop promoting three religions in the school, while devaluing the Judeo-Christian ethic. The three religions are: occultism, New Age and humanism. When trying to get a balanced perspective and academic freedom into the classroom, I've been informed that my values, the traditional Judeo-Christian values of Canada, are not consistent with the values of the community. My fear in this case is that the person who will be disciplined - and it is presently occurring - for promoting his or her beliefs in the classroom if this bill is passed will be the person promoting Judeo-Christian values, for example, homosexuality is a wrong choice because it brings economic ruin and illness to a country, or women are made to nurture children and be companions to their husbands whether they choose to work outside the home or not, or a free market economy with little government interference is best.

Those promoting the government's agenda, whether the parents like it or not, will not be disciplined because they are not being disciplined now for promoting beliefs or values based upon the following characteristics referred to in subsection 9(2): ancestry, nationality, ethnic background, religion, creed or religious belief, age, sex, gender-determined characteristics, sexual orientation, marital or family status, source of income, political belief, political association or political activity, physical or mental disability or related characteristics or circumstances.

If you will check this list against the list in 9(2), you will find that all the characteristics of that list are presently having values and beliefs based upon them taught in the school, and these are in many cases not the values and beliefs of the homes. I think, based on the curricula I've read, the media to which I've exposed myself and the legislation that I've read, that 14(11) will work to discriminate even further against the Judeo-Christian ethic and those who adhere to it than is presently happening.

I believe that a law such as Bill 47 would be more intrusive than is justifiable in a country that states that freedom of conscience and religion are guaranteed.

I appeal to the lawmakers to refuse to entrench sexual orientation, regardless of its definition, and to work within the existing legal framework to combat victimization of homosexuals as well as any others who are unfairly treated in our society.

I implore you to encourage Premier Pawley to allow the members of his party a vote according to the desires of their constituents instead of holding to the party line. Only when the elected representatives have contacted their electorates and determined the responses of their electorates to such legislation and then voted according to their electorates' responses can we have true democracy in which the power of the government is vested in the people governed. Otherwise, our elections are meaningless.

I also want to make it quite clear that I feel the present method of handling public input on an issue that has broad ramifications for our society is definitely inadequate. There has been little, if any, advertising of public hearings. The rural areas quite likely are unaware of the pending legislation, as would be indicated from the lack of response from these areas to these hearings. Also, if they did hear, as I did, one day in advance that

the hearings were taking place, it is quite likely they could not get mail into the committee before the hearings ended.

This lack of communication from the government to those being governed is one reason I asserted that our elected representatives should be aware of what their constituents want in place as legislation before they vote and that the vote should be a free vote.

Thank you.

**MR. CHAIRMAN:** That is a hearty applause that is bordering on disruption.

Questions? Hearing none, thank you, Mrs. Gross.

The next presenter on the list is Dr. Smith. I understand he exchanged places with the next one, Mr. Backe. So I'm calling on Mr. Backe, representing the Winnipeg Gay Community Health Centre Inc.

Mr. Backe.

**MR. H. BACKE:** Thank you, Mr. Chairperson.

Committee members and fellow citizens, I am happy to be presenting the submission of the Winnipeg Gay Community Health Centre Inc. as the president of its board, and I'm presenting on the need to include sexual orientation as a prohibited ground for discrimination.

Before I get into the heart of my brief, I would like to reiterate the position that has been stated on numerous occasions previously that either the act be amended to read that the definition of homosexuality be dropped or to change the definition of homosexuality to mean heterosexual, homosexual or bisexual. Secondly, if people require reassurance that the definition is lacking, that it include that nothing in this Code renders legal anything prohibited by the Criminal Code of Canada. I'd like to move into the heart of my brief.

We are very encouraged by the Provincial Government in its forwarding the legislation that includes sexual orientation to be added as a prohibited basis of discrimination in the Manitoba Human Rights Code.

The Winnipeg Gay Community Health Centre Inc. is just that, an incorporated, non-political, non-profit organization which has recently received a joint federal and provincial grant to operate an AIDS project directed at those at highest risk. Much of the work is done by volunteers who devote their time, money and energy towards improving the standards of health care for the Manitoba gay and lesbian community and the public at large.

We believe the inclusion of sexual orientation in the Manitoba Human Rights Act will provide needed and justified legal protection against a range of discriminatory practices for a minority group which has long been the victim of unwarranted prejudice, and that it will initiate a new stage in the integration of homosexuals into society.

The results of not including sexual orientation as a prohibited basis of discrimination in the Human Rights Code have far-reaching effects in the provision of health care for Manitoba's gay men and lesbians. Discrimination does exist in health care and the following are some ways in which lesbians and gay men experience it, and I have six "for instances."

1. At the present time the spouse of a homosexual person does not have the right to consent to treatment,

surgery and so on in an instance where the person is unable to give that consent directly.

2. If a homosexual person is in a relationship that is homosexual, that in heterosexual instances would be considered common-law, he or she still cannot expect to be able to include his or her spouse and perhaps children of that spouse in health care benefits such as dental plans.

3. The legislation as it presently exists, to date anyway, does not protect a person against malpractice in one basic area, a lesbian or gay man who may seek psychiatric counselling at some point for an unrelated issue or for a related issue, related to coming to terms with their sexuality. If the counsellor holds the belief that homosexuality is an illness, she or he will treat this as being the problem and thus give improper and inadequate treatment, very possibly exacerbating the person, the patients' distress and impeding their recovery. However, there is no legal recourse for the homosexual client for improper care which results from medical prejudice.

4. The fear of discrimination creates many other barriers concerning health care issues. Frequently, homosexuals will not let health care workers know their sexual orientation for fear that it will affect the quality of care that they will receive. This can result, for example, in inadequate testing for sexually transmitted disease. Another consequence of the fear of discrimination is that the homosexual spouses of sick people, because they have no legal status, may not receive the information they desire or the help that they need from health care workers.

5. In the case of an openly homosexual couple, unless the health care workers are accepting of the relationship, spouses are not included in health care decisions that are being made in the same way as heterosexual spouses.

6. Finally, many lesbians and gay men fear that, if they maintain a long-term relationship with someone of their own sex, their sexual orientation may be suspected or even discovered. A lack of protection from discrimination encourages an atmosphere where having sex with multiple partners or maintaining a heterosexual relationship while still engaging in homosexual sex is preferred by many gay and bisexual persons. These less visible lifestyles do not promote a suspicion of sexual orientation. Inclusion of sexual orientation in the Human Rights Act would reduce the fear associated with maintaining ongoing more visible, lesbian-gay relationships and would help promote public acceptance of long-term exclusive relationships between persons of the same sex. An expected outcome of including sexual orientation in The Human Rights Code would be a decrease in the spread of the AIDS virus among the gay and bisexual men and - if they have them, and that's quite infrequently - their female sex partners.

Although a change in the legislation would not cause an immediate change in attitudes, it would alter the behaviour of health care workers because the rights of their homosexual clients would be recognized and protected. With such protection, this sexual minority would feel more inclined to inform health care workers about issues which are essential to treatment. The Winnipeg Gay Community Health Centre therefore urges the government to continue to include sexual orientation

as a prohibited basis of discrimination in order that lesbians and gay men may receive the same level of health care as other people in this province.

I would like to conclude with that gay people do live with inadequacies in health care. And gay people live with, often, health which is inadequate, and that is due to systemic discrimination and prejudice.

**MR. CHAIRMAN:** Questions?

The Member for Fort Garry.

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

The six examples that you deal with in your presentation . . .

**A MEMBER:** Louder, Mr. Chairman.

**MR. C. BIRT:** The six examples you use in your presentation basically deal with the lack of the partner to give consent for authority. That seems to be the general thread that's running through. How will this amendment to the act give that partner the authority that you seem to be suggesting should be given in these six examples? Where in the legislation will this give that consent?

**MR. H. BACKE:** Firstly, I would like to draw your attention to the fact that there is not a spouse or spouse equivalent necessary to deal with any of these. Like, for each of these six situations, you don't need a spouse, for instance, to be inadequately treated by a psychiatrist or psychologist who happens to believe that homosexuality is an illness.

I'd just like to say that it's quite clear that spousal relationships of people of the same sex must be recognized as being people who are significant others of someone, whether they happen to be of the same sex or of the opposite sex, should certainly be considered the most significant other.

Perhaps I didn't answer your question directly because I'm not a legal expert.

**MR. C. BIRT:** Neither am I. I have some legal training but, as some of my professors can attest and perhaps the odd judge, I'm not a legal expert either.

The question though, it seems to me that you're trying to build a special relationship or some sort of consent for treatment or support for medical facilities. At least that's what I'm reading into what you're suggesting here. I ask, if that's the point you're trying to make, I don't think it's available in this proposed legislation. If it is, then I'm missing something that maybe you could point out to me. Or is this what you hope ultimately will flow from this legislation, because I don't read it as giving basically a partner the right to give consent?

**MR. H. BACKE:** I believe the latter of the two. If it isn't explicit, it certainly, I would hope, that it would flow from this or additional legislation.

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

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

The next presenter is Dr. J.R.M. Smith, private citizen.

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Dr. Smith.

There is another agreement here that to switch Mona Brown with Bev Suek. So I'm going to call Ms. Bev

**MR. H. BACKE:** Mona Brown's here.

**MR. CHAIRMAN:** Mona Brown is here?

**MR. H. BACKE:** Sure, I told you she was here.

**MR. CHAIRMAN:** Mona Brown from Carman is here, National Association of Women and the Law.

**MS. M. BROWN:** Good evening.

The first thing I want to do is correct the organization that I'm representing. It's not the National Association of Women and the Law, but the Manitoba Association of Women and the Law.

**MR. CHAIRMAN:** Manitoba.

**MS. M. BROWN:** The Manitoba Association of Women and the Law is one of a number of member groups of the National Association, but I'm here today representing the Manitoba Association of Women and the Law.

My name is Mona Brown, and I'm a practising lawyer in Carman, Manitoba.

The Manitoba Association of Women and the Law is very pleased to have the opportunity to present its reactions to the province's proposed Human Rights Code. MAWL is a non-profit association comprised principally of lawyers and law students and related professionals. Our main objective as a group is the promotion of equal treatment of the sexes under the law. As such, legislation dealing with the prohibition of discrimination is of particular interest to us. The Manitoba Association of Women and the Law and affiliated organizations have commented in the past on areas in the existing Human Rights Act that concerned us. We are pleased that the proposed Code has, on the whole, addressed those concerns. It is a substantial improvement on existing legislation, and we want to commend the government for making changes that will strengthen equality rights for all Manitobans.

In particular, the paramountcy rule, section 58, plus the preamble, make a clear statement that the Code's protections are of fundamental importance and will merit paramount status over all other laws of the province. We believe that this is particularly important. Without this safeguard, we know from experience that human rights commissions will be powerless to act on some discriminatory complaints, no matter how blatant they are.

Secondly, we are pleased to see that discrimination has been defined. Section 9's comprehensive definition of sex discrimination expressly includes discrimination on the basis of pregnancy, possible pregnancy, circumstances relating to pregnancy and other gender-determined characteristics or circumstances. This wording should clearly avoid the judiciary's narrow interpretation of sex discrimination that we have seen in past judicial decisions. To allow discrimination on the basis of pregnancy, when only women get pregnant

is, in Women and the Law's view, discrimination on the basis of sex. This clarification is of fundamental importance to Manitoba women.

We also applaud the government for broadening the scope of the Code by defining discrimination as differential treatment on the basis of a wide range of characteristics, applying reasonable accommodation requirements to all characteristics. Women as a group are particularly aware that, because of their particular childbearing functions or because of their particular child-caring functions, they may need that type of accommodation, and expressly including systemic discrimination in the definition of discrimination; finally, adding that intent to discriminate need not be proved.

Thirdly, we wish to address the point of vicarious responsibility. Section 10 strengthens the position of victims of on-the-job discrimination. It holds the employer accountable for discriminatory actions of its employees, agents and officers. This means that employers will have to take discriminatory actions as seriously as they do tortious actions. The result will almost certainly be a heightened awareness and prevention of many such discriminatory acts.

Fourthly, affirmative action, Manitoba Association of Women and the Law is pleased that, in keeping with the Charter guarantees, section 11 of the proposed Code permits affirmative action programs. Clearly, section 15(2) of the Charter sanctions affirmative action and says that affirmative action specifically is not reverse discrimination. Their legitimacy is reinforced by the expanded powers of the adjudicator in clause 43(2)(c) to order the implementation of such programs where there has been a pattern or practice of contravention. This is the kind of teeth that we need in legislation. Without this tool, we cannot hope to erase the long legacy of de facto discrimination that is ingrained in our society.

Mr. Deputy Chairman in the Chair.)

Fifthly, sexual harassment, the inclusion of prohibitions against sexual and other harassment in section 19 is particularly welcome in light of the recent Court of Appeal decision suggesting that sexual harassment is not encompassed within the definition of sex discrimination. We applaud too its clear and separate treatment in the proposed Code which eliminates the bona fide and reasonable defence.

(Mr. Chairman in the Chair.)

Sixthly, contract compliance, the provisions of section 56 making adherence to the Code an implied term of all government contracts adds a strong economic incentive for compliance. A Human Rights Code cannot afford to be just so many idealistic words on paper. The words must be supported by a strong commitment and strong consequences for contravention. The possible loss of a government contract is a powerful motivator, as well as a message to the whole community that discrimination can no longer be condoned or ignored.

While it is evident from the above list that our organization feels that the proposed Code is a tremendous improvement, we do have a few reservations.

Firstly, the test of bona fide and reasonable defence, sections 13 through 18 allow discrimination where bona

fide and reasonable cause exist for the discrimination. It must be, in our view, absolutely clear in the legislation that this is to be an objective standard. The protections of the Code become almost meaningless if a court can interpret this phrase as relating to whether an action is bona fide and reasonable in the mind of the person who is discriminating. It is imperative too that every effort be made to narrow the scope of this defence. Differential treatment, based on various group characteristics rather than personal merit, is inherently unreasonable. In particular, it is difficult to imagine any sex discrimination in employment that could be considered reasonable.

We would therefore recommend that section 52 be amended to add the following words to the end of section 52. The last line reads, "lies on the person alleging the matter." We would add, "and must be demonstrably justifiable having regard to objective fact." Therefore, the court would then ask: Is this reasonable for the person to have believed this? Not did this particular person believe this, but is it reasonable that this person believed this or thought this way.

Secondly, sexual orientation, the Manitoba Association of Women and the Law believes that the inclusion of sexual orientation in the Human Rights Code is long overdue. We fully support its inclusion in the Code. Sexual orientation is a personal characteristic which has no bearing on employment, housing or access to services. However, as the proposed Code now stands, sexual orientation is singled out as a characteristic requiring special definition and a legality qualifier. All other characteristics are listed and, where necessary, defined within the substantive provisions of section 9.

Consistency and the rules of legislative drafting would dictate that sexual orientation definition should be listed there as well. The legality qualifier - and, by that, I mean the phrase that says, that defines it to say consenting adults acting within the law - is both offensive and unnecessary. Sexual orientation is a characteristic, not an action, so it could not possibly refer to consenting adults acting within or outside the law. Furthermore, this apparent reference to non-criminal actions is unnecessary in light of the precedence of federal legislation. Yet the effect is to brand Manitobans with non-traditional sexual orientations as somehow borderline criminals.

We would recommend that you remove sexual orientation from the definition section, and amend clause 9(2)(h) as follows: (h) would read "sexual orientation, including heterosexuality, homosexuality or bisexuality."

Thirdly, we are concerned that the legislation is reactive and not proactive. The responsibilities of the commission and executive director, as set out in sections 4, 7 and 26, fail to provide for an independent investigatory power. Only subsection 22(3) gives the executive director the discretion to file a complaint and that is good. But we are concerned that there is not the possibility in a commission-generated complaint for the investigatory powers that are necessary. This reactive scheme, dependent upon the complaint of individual victims, places an unfair burden on the very people who the Code is designed to protect.

In my own personal experience, acting in Southern Manitoba, I have had numerous occasions where

persons have come to me and explained that they were being discriminated against, either in violation of the Code or in violation of The Employment Standards Act's provisions on equal pay for work of similar value or for equal pay for equal work. I explained to them that they have the right to file a complaint, etc. They are always afraid to do that. They're afraid they're going to be penalized; they're afraid they're going to lose their job, whatever. We cannot have a system that is only reactive. We have to have the power to initiate complaints and to investigate those complaints.

In addition, systemic discrimination, which results in group oppression, should not logically be addressed through the vagaries of individual complaint. For example, height and weight requirements, which preclude 95 percent of women from employment in particular occupations are, on the face, discriminatory. The commission should have a mandate to investigate such situations, since the individual is not being treated differently and will not file a complaint, yet the group continues to be discriminated against.

We would recommend that the legislation strengthen the power of the commission to give them a mandate to investigate independently instances of suspected discrimination and, in particular, systemic discrimination.

Fourthly, termination of proceedings, Women and the Law has concerns about the possible use of subsection 29(4) to dismiss valid complaints. If a complaint meets the threshold requirement of subsection 29(1), i.e., it is not frivolous or vexatious, the acts or omissions complained about may contravene the Code, the evidence of the complaint is sufficient to substantiate an alleged contravention, then the commission should be bound to see the complaint through mediation, adjudication and/or prosecution. Subsection 29(4) appears to allow such a legitimate complaint to be treated at the discretion of the commission, or at least when the commission feels that proceedings with the complaint would not further the Code's objectives or assist the commission in discharging its responsibilities.

When would proceeding with a legitimate complaint not further the Code's objectives? Will this provision be invoked in times of high complaint volume in lieu of personnel increases? If all Manitobans are to have the same basic rights, legitimate complaints must be handled in an equitable manner and not be subject to termination at the discretion of the only body empowered to bring prosecution.

We would recommend that section 29(3) be reworded so as to strike out the portion of the third line commencing with the word "and" and going down till the eighth line after the word "Code." So we would delete from that section the words, "and the commission is satisfied that additional proceedings in respect of the complaint would further the objectives of this Code or assist the commission in discharging its responsibilities under this Code." We would then recommend that we strike out subsection 29(4).

Finally, I wish to commend the government for bringing in the section with respect to exemplary damages. However, we are concerned that a limit of \$2,000 for exemplary damages for individuals, or \$10,000 for exemplary damages for others, is not enough to act as an economic deterrent to large organizations or powerful individuals in attempting to disregard the law.

The Manitoba Association of Women and the Law is pleased to have the opportunity to address these issues. I wish to reiterate again our basic agreement with the substance of the act and our disagreement only with the drafting of certain sections. We again would like to commend the government for introducing human rights legislation that goes a long way towards guaranteeing freedom from discrimination for all Manitobans.

Thank you.

**MR. CHAIRMAN:** Questions?

The Member for Kildonan.

**MR. M. DOLIN:** I'm wondering if you have copies of your brief.

**MS. M. BROWN:** Unfortunately, I don't have a typed copy, but I am prepared to have it typed and to forward it to the Clerk of the Committees.

**MR. M. DOLIN:** Well, we can get it from Hansard.

Thank you.

**HON. R. PENNER:** I'd just like to ask you a question, Ms. Brown, about one issue that you've raised. It's been raised before, having to do with the words that appear through many sections, "unless bona fide and reasonable cause exists." Since courts, in interpreting legislation, try to give meaning to all the words which are there, choosing to believe, contrary to evidence, that legislators know what they're doing, would it not seem to you that bona fide must mean subjective belief, and that therefore reasonable must mean objective, as it is usually meant in tort law or other branches of the law?

**MS. M. BROWN:** I would prefer to have the idea that the text is at least both subjective and objective, and must meet both criteria, specifically spelled out rather than to rely upon a court interpretation.

Many times in the past, women's groups have thought we were going to rely on courts' interpretations and found it was to our detriment. I think the legislation, if the Legislature intends that it should be an objective text, then let's amend it now to put in the objective text clearly and there'll be no issue to go before the court on that matter.

**HON. R. PENNER:** You speak out of an abundance of caution.

**MS. M. BROWN:** Not necessarily, out of past experience of concerns as to judicial interpretation of matters.

**HON. R. PENNER:** Thank you.

**MR. CHAIRMAN:** Other questions?

Hearing none, thank you, Ms. Brown.

**MS. M. BROWN:** Thank you.

**MR. CHAIRMAN:** The next presenter will be Mr. Darryl Kippen, private citizen.

**MR. D. KIPPEN:** Mr. Chairperson, members of the committee, I speak to Bill 47 tonight as a private citizen. I want to commend Premier Pawley, the Attorney-General, Roland Penner, and members of the government for this very progressive piece of legislation.

My life has been affected by the absence of sexual orientation in the Human Rights Code in several ways. I have been fired from a job; I have been fired from Big Brothers; I have been refused dental care solely because of my sexual orientation. I had no legal recourse, no way of addressing the injustice I had suffered.

This legislation is crucial to lesbian and gay people who have or will suffer discrimination. The bill ensures equality in law, social justice and fairness for all of Manitobans. One of the concerns mentioned in the debate is that there will be an increase in the number of homosexuals with passage of this bill. With the inclusion of a clause covering handicapped persons, surely it is ridiculous to expect an increase in the number of handicapped persons in our society.

One of the major concerns I've heard tonight is that we have a choice in our sexual orientation. I was raised by heterosexual parents. My choice was to live openly gay, to accept my sexual orientation, and to live a happy, productive life. I did not catch it, I was not recruited, and homosexuality is not transmittable.

Although my role models were heterosexuals, I married at 21 believing that the homosexual feelings that I had would go away. I tried to live a heterosexual life, but I was not happy. I was gay and I could not be fulfilled trying to be a heterosexual. My life has not changed that drastically except that my relations are with persons of the same sex. I work, I go to school and I pay taxes. I hold in disdain those legislators who have compared my life to people who engage in bestiality, necrophilia and pedophilia.

This legislation does not condone any lifestyle, nor does it extend special privileges. It recognizes our rights as citizens, the same rights all other citizens now enjoy. This legislation is just and due and, when it passes, it will mean that the government has resolved in the Canadian tradition of fairness and tolerance, and fear and hate will not win the day.

Thank you.

**MR. CHAIRMAN:** Questions? Thank you, Mr. Kippen.

The next presenter is Miss Rhonda Chorney, representing the Lesbian Phone Line. Rhonda Chorney. She is not here. The next presenter is Mr. Ross Davidson, Gay Fathers of Winnipeg. Mr. Davidson is not here. Ms. Bev Suek, Manitoba Advisory Council on the Status of Women.

Ms. Suek.

**MS. B. SUEK:** Beverly Suek.

With the permission of the committee, I would like to table our brief and just go over some of the highlights in the interests of brevity if that's all right with the committee.

**MR. CHAIRMAN:** Thank you.

**MS. B. SUEK:** First of all, I would like to start by saying the Manitoba Advisory Council on the Status of Women

commends the government for introducing comprehensive human rights legislation. We see it as bringing more Manitobans under the protection of human rights legislation. We are particularly concerned about and interested in and commend the government for bringing in new prohibited grounds under 9(2), which include prohibited grounds for discrimination on the basis of pregnancy, on gender-related characteristics and on sexual orientation.

In our brief, the premise that we based our brief on is that it is essential that all Manitobans be protected by human rights legislation. We cannot pick and choose which groups we will cover by human rights legislation and which groups we will not cover by human rights legislation. We can't say that some races will be covered and other races will not be covered. We can't say that some people with some national origins can be covered and others will not. Nor can we say that some people with a particular sexual orientation will be covered and others will not. It is essential that we are all protected. If one group is left out, then none of us are truly protected under human rights legislation.

We also commend the government for including a recognition of systemic discrimination and for provisions on sexual harassment. We are particularly pleased with the definition of sexual harassment which recognizes that there is a power differential in a lot of the sexual harassment cases and, when sexual harassment happens, it often means that one person can withhold benefits or rights from an individual and that's an essential component of a sexual harassment case. So we are very pleased with the definition of sexual harassment in the act.

I won't go into detail in terms of the systemic discrimination and sexual harassment because Mona Brown from Women and the Law, I think, covered that section very well. We do have some concerns though about some parts of the act.

We have concerns about the definition of "sexual orientation," as has been mentioned before. We assume that all the grounds of discrimination do not protect people from unlawful acts. If a woman shoplifts, she is charged with shoplifting; if a heterosexual man sexually assaults children, he is charged with doing that act. We object to the provision that says, in sexual orientation, that it's consenting adults acting within the law. We find that an offensive clause when applied only to that section. It's assumed that people are acting within the law. So we would like to see the removal of that clause and the definition of sexual orientation.

We also have concern about the interpretation of section 14(11) and its implications for freedom of speech and people being able to speak out in terms of their values. I don't know exactly how it will be interpreted. We find it a very unclear kind of clause, and we're concerned that 14(11) may be misinterpreted to mean that people cannot promote their values and beliefs. For example, women may not be able to promote their concern about gender equality or aboriginal people may not feel that they can promote their national heritage. We're just not sure how that can be interpreted, and we're hoping that the committee will look at clarifying the terminology under 14(11) so that it isn't misinterpreted or employers don't misinterpret the wording.

We also have concerns about the implementation of the Human Rights Act. We hope that the time delays

that are now being experienced by people with complaints under the Human Rights Act will be cleared up with this act and that there will be some stringent time requirements. There's a phrase that says, "Justice delayed is justice denied," and in human rights cases, that's very, very true. We'd like to see more weight given to education in terms of the implementation of the Human Rights Act. It's not just the complaint handling that's important. It's the education process to make sure that we're a society that is tolerant of people with differences.

The other implementation or concern that we have is that both commissioners and adjudicators represent the community. It's important that the people covered by the act have a say in the interpretation of the act, which means to us that 50 percent of the adjudicators should be women - and that hasn't happened in the past - and that minorities also be representative as adjudicators in the Human Rights Act. We understand that there is a practice now of appointing more provincial judges as adjudicators under the Human Rights Act and, since there are no women who are provincial judges, that means there are no women who are adjudicators under the Human Rights Act.

These are our specific comments about the Human Rights Act, but we would like to commend the government for taking the initiative to moving towards much more progressive human rights legislation.

**MR. CHAIRMAN:** Thank you. Any questions? Hearing none, thank you, Ms. Suek.

The next presenter is Judy Balabas, representing the Manitoba Teachers' Society.

**MS. J. BALABAS:** Mr. Chairperson, members of the committee, I am Judy Balabas, president designate of the Manitoba Teachers' Society. I am here representing our president who is currently out of the province and unable to be here this evening. My presentation will be brief. It deals only with those areas for which we have policy approved by delegates to our annual general meeting. This means that the Society expresses its support for Bill 47.

The Manitoba Teachers' Society appreciates the opportunity to appear before the legislative committee reviewing Bill 47, The Human Rights Code.

The Society has long been a strong supporter of adequately protecting the basic human rights to which all citizens of Manitoba and of Canada are entitled. The society believes it is necessary to protect people from discrimination in order to build a more tolerant, just and caring society. It is vital that all people in our society be treated in a fair and equitable manner in order to provide each and every citizen with an equal opportunity to participate as fully as they can in our society.

As a society, it is fundamental that we treat all people in a just and dignified manner. It is also fundamental that we, in education, stress to the students in our care that people must not be discriminated against.

Our Society, representing 13,000 teachers in the public school system, has stated its position on discrimination through policy adopted at its annual general meeting. The Society policy is that all people should be protected from discrimination regardless of,



and I quote, "race, nationality, religion, colour, sex, age, marital status, pregnancy, physical or mental handicap, ethnic or national origin, or political beliefs or family status or sexual orientation."

The Society commends the Government of Manitoba for its actions in introducing Bill 47 to extend the prohibited grounds of discrimination to include pregnancy and sexual orientation. As well, the Society is supportive of the changes which protect persons from sexual harassment.

We would also urge the government to ensure that the Human Rights Commission is provided adequate resources to carry out its task in a more comprehensive manner with less time delay. We are concerned that, without a comprehensive and effective enforcement mechanism, the best law can be rendered ineffective.

Respectfully submitted on behalf of our president, Valerie Wake. I have with me two resource persons - Audrey Asper, assistant general secretary of the Manitoba Teachers' Society, and John Collins, welfare services staff officer with the Teachers' Society - and we will attempt to answer any questions.

**MR. CHAIRMAN:** Any questions?  
The Member for Portage.

**MR. E. CONNERY:** You're against discrimination on the sexual orientation, but, at the same time, is the Teachers' Society advocating teaching it in the school as being an accepted alternate lifestyle?

**MS. J. BALABAS:** In response, we are dealing with the legislative proposals here that deal with discrimination limited to employment, accommodation and service. There is no reference to education in this particular legislation.

**MR. E. CONNERY:** In other briefs, there's been some mention of education and, of course, the concern is are we going to promote it as an alternate lifestyle. I've got some concerns about the people who are - you know, their sexual orientation shouldn't be discriminated against but, at the same time, the rights of others should be respected. Are you in favour of promoting it as an acceptable alternate lifestyle?

**MS. J. BALABAS:** In response, first of all, you're referring to another brief and I have no knowledge of another brief at this point, only the one that we are dealing with now. We are prepared this evening to respond to the legislation for which our annual general meeting and our delegates from the province, representing the 13,000 teachers, have adopted policy.

**MR. M. DOLIN:** I'm wondering, how many members attended the annual general meeting that passed this resolution.

**MS. J. BALABAS:** I would say approximately 275.

**MR. M. DOLIN:** Thank you.

**MR. CHAIRMAN:** The Member for Ellice.

**MR. H. SMITH:** On page 2, you say, "We would also urge the government to ensure that the Human Rights

Commission is provided adequate resources to carry out its task in a more comprehensive manner." What do you mean by that? Could you give some instances or some examples?

**MS. J. BALABAS:** The one bit of information that I have, and the two resource persons with me, they may be able to add, and that is that when particularly a complaint is laid in the area of sexual harassment, the turnaround time in getting attention paid to that complaint, the investigation, the process, etc., is quite a long time and therefore leaving the parties involved having to deal with this for months on end.

**MR. H. SMITH:** I can understand the time delay, but I wondered what the word "comprehensive" meant. Is there anything that you could point to as being more comprehensive?

**MS. J. BALABAS:** Comprehensive to me means that there would be enough people employed, working in this area, that a proper investigation could be done in a short amount of time.

**MR. J. McCRAE:** The question came up a moment ago that your Society represents 13,000 teachers and, at the meeting at which this resolution was passed, there were some 275.

Would those people be there as delegates representing a point of view discussed prior to their coming to that convention, or were they there to vote their conscience, not knowing what might come up on the agenda?

**MS. J. BALABAS:** In the Teachers' Society, every local association receives all the policies to be voted on unless they are business arising that occur at the annual general meeting. They have time for the local association executives to discuss the motions which are being presented. In addition, most of them take them to their council members and at that point they may be directed, straw votes may be taken, and the views of the association expressed so that, when the delegates do get to the annual general meeting, they know what the membership is expecting of them from their local association.

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

**MS. J. BALABAS:** You're welcome. Thank you very much.

**MR. CHAIRMAN:** The next presenter is Dr. Brian Evans, University of Winnipeg Faculty Association. Is Dr. Brian Evans around? -(Interjection)- He is giving up his spot. Okay. Everyone who fails when their turn comes, as a matter of practice in the committee, goes to the bottom of the list.

Are you presenting the brief for Dr. Evans? Are you his spokesman? The committee is not agreeable, I understand.

The next presenters are Glen Murray and Ron Harris, representing Village Clinic. Is this Mr. Murray?

**MR. G. MURRAY:** Yes, I'm Glen Murray, and he's a colleague of mine.

**MR. CHAIRMAN:** Mr. Murray.

**MR. G. MURRAY:** Thank you.

Mr. Chairman and members of the committee, we'd like to commend the government, as health care professionals and as a community agency, on the expanded and enhanced human rights charter and many of the responsible positions that it outlines.

I would like to just start out by explaining who we are. The Village Clinic has been mentioned and talked about earlier. It's a joint federal-provincial initiative and community initiative funded by both levels of government and supported actively by professionals in the health care professions. We offer broad ranges of services, mostly dealing with AIDS and AIDS-related issues, counselling services, clinical services, medical services, a province-wide education and prevention program, as well as an information resource centre. We're part of the community health network of Manitoba.

I would like to start off this evening by introducing a colleague of mine, the executive director of the project, Mr. Ron Harris, who will outline a little bit about some of the difficulties that we experienced in setting up our clinic and why particularly for us and for many other community agencies dealing with health care issues and human rights issues this legislation is so critical.

**MR. CHAIRMAN:** Mr. Harris.

**MR. R. HARRIS:** Mr. Chairman, at this time, I would like to cite several examples of actual discrimination experienced both by our clients and by the Village Clinic itself in attempting to provide the service it is mandated to do.

One of the mandates for the existence of the Village Clinic is to provide comprehensive health care with a special emphasis on the health of gay and lesbian people. The philosophy of our centre is to affirm and support individual dignity and worth. It is abundantly clear that gay and lesbian persons are not afforded the comforts and supports of the traditional health care system.

Health care workers are ill-informed and have little understanding or tolerance for the needs of those people who do not fit the traditional health care model. Our clients are not afforded the spiritual, social, psychological supports that comprise the major part of comprehensive health care delivery.

A tremendous portion of the service provided by the Village Clinic relates to counselling of individuals. Our clients must deal with tremendous fear about either revealing or confronting their sexuality. These concerns stem from, to name just a few, denial of entrance into professional training programs, fear of loss of employment, fear of rejection by peers, family and society, fear of the denial of committed caring relationships.

Our service also provides telephone services and an information line relating to AIDS and HIV infection. We recently received a call from a landlord wanting to clarify his understanding that gay and lesbians had AIDS. He informed us of his intention to evict all the gay and lesbian clients in his building.

Further, he indicated that one of his employees was gay and was being continually harassed and assaulted

by his co-workers. The employer was fearful that serious harm would come to this employee. His solution to the problem was to fire the employee. When questioned about the work performance of the employee, we were told that he was an excellent employee and that there really was no reason to fire him other than the fact that he feared for the person's life. I believe that this type of discrimination is taking place on a more regular basis than we care to believe.

I would finally like to note that, as an agency, the Village Clinic has been faced with discrimination relating to our identity as a gay and lesbian supportive health care service and also as an agency providing health, education, prevention and treatment services for people concerned about and with HIV infection.

As our agency became a funded agency, we were faced with sudden growth in staff and a need to relocate from the present location that we occupied in Osborne Village. The lease that we held at that time denied us from any external signage that referred to a gay or lesbian health care centre.

After an exhaustive search and a continued denial of our offers to lease in a number of areas throughout the city, we secured our present location. Unfortunately, again in order to secure this lease, we were faced with the denial of any external signage relating to gay or lesbian affiliation, any affiliation with the Gay Community Health Centre and, further, we were restricted from any external advertising of our centre as a gay, lesbian or AIDS service or any connection with our street address.

Clearly, this type of discrimination is unacceptable for an agency funded by the Provincial and Federal Government for a service that is so crucial and vital to the clients that we serve and to the people of Manitoba.

**MR. CHAIRMAN:** Questions?

**MR. R. HARRIS:** I'm not finished yet. Sorry, I would just like to close.

**MR. CHAIRMAN:** You can't do that.

**MR. R. HARRIS:** Pardon me? I was here this morning and people spoke more than once. I have the most important part of my presentation right now.

**MR. CHAIRMAN:** Proceed.

**MR. R. HARRIS:** Thank you.

I just earlier this evening got off the phone with my father. My father and I don't agree on politics all the time. He's a member of the political party of the gentleman to my right and the woman to my right. He also strongly supports sexual orientation in the human rights charter. I asked my father when I came out, I said, Dad, I know half the people sitting at the table are going to support this. How do I talk to the other people about why this is so important to me, and that? So he said, why don't you talk about - and I'm very comfortable with you talking about - what you and I went through while you were growing up.

I was president of the student association at my university. I was captain of the hockey team. I was viewed by all my friends as being straight. My father

thought I was straight until I was about 19 years old. It was very easy. My relationship with my father was wonderful. I did all the things that he wanted to do. I went to university. I was known in my neighborhood, which was a very upper-middle class neighborhood in Montreal, as "a nice young guy" and all of that.

It was extremely hard for me to sort of come to a realization very early on that I was in fact substantially different and always had been. I didn't feel - and I was quite aware - I didn't have very much choice in the matter. It was very easy when I was viewed as a straight man because I had all the privileges of being white, of being male, of being from a privileged family, and I was faced with the option of giving that up at one point.

Why would I want to be visibly seen as a gay man when, as what I experienced later on in loving relationships, trying to find shelter was difficult and trying to hold a job in a profession I'm very good at was going to be extremely difficult? I risked the rejection of my friends and, for a while, the direction of my family.

I started to realize one thing, and one thing that my father and I do agree on, and I think that we can all, no matter what our political philosophies, is that an important part of our society, whether as some of the people here representing rural parts of Manitoba, is tolerance, that we disagree and we live in the same society, we fight in the same wars. Gay men have died in wars throughout this century. I don't agree with a lot of what you believe in. You probably don't agree with what I believe in. I do have a responsibility as a citizen to stand by you, to accept differences in beliefs, in our family situations, in what we uphold, because that's the very basis and fabric of our society.

You may not understand me. You may not understand why I'm gay. I may not understand why you can't accept that, but I do expect you to tolerate it. For your right to express yourself as part of our society is something that is fundamental and deserving of respect and, if I don't respect the fundamental dignity of your person, then I'm not much of a citizen and I'm not much of a Manitoban.

My life - I'm 29 years old and I travel around the province as part of my job speaking to a lot of people. I recently spoke to a school in Winnipeg, and I think all of us as concerned people in health care and education would be pretty upset to find out that four young people in their late teens had committed suicide.

In one school in the city, a support group was set up, initiated by the students with the support of a guidance counsellor who was a little nervous about this and said, sure, there is really a problem here, these young people are getting beaten up. They were getting beaten up because they were a group of young gay men and they had realized that and they wanted support. So eight of them got together and formed this group. That was a year ago. Because of indifference, because of a lack of support, because of the violence that was perpetrated against them, many of them being beaten up, four of them have since committed suicide.

Now, I think you have to ask yourself, what drives a young person to death at 17. What is holding us back in legislation from seeing the many people in our society who often are faced with life and death choices because their families reject them, our society rejects them, they're given no support, they're given every incentive to be straight and, like they have for 1,000 years, they are gay.

Certainly at least tolerance is deserving of these people. It was very sad to meet some of them, to see the kind of pain on their faces and the hurt. When I was listening to some people this morning, I don't know how anyone cannot be moved; as parents, how we can't be moved. When I think of my five-year-old nephew, if he was gay or a lesbian, or if he was a member of a visible minority, an Indian or Pakistan people, who I have seen beaten up on streets in Toronto when I lived there, that kind of thing is unacceptable and intolerable.

Recruitment and choice, these are the two things that every time I hear today, it pains me. Do you think - I'm proud, I have a certain dignity about my being, about the love and respect I've shared with other men and other people - that if I had any choice in the matter when I was 16 and not as mature and wise as I am now - and God knows my father might challenge that sometime - that I would have made that choice? It wasn't a choice, it was a painfully difficult realization.

My parents have been married 36 years. They are wonderful people. They provide me with a great role model. My sister grew up in the same family. She's married with three kids. I'm a great uncle, she tells me, and I love my nephews. I value family values and I participate fully in the family. I financially support my family and contribute to it and am tired of being held back from making that same offer because I'm not as accepted by society in this province because of legal implications as I am by my family.

I had one experience in closing I want to share with you, and I hope you never experience this if it's with your wife or your husband. I was walking down a street with a man I had been living with for four years. He was president of the student association at the University of Toronto for a period of time, and we had met at a student conference and became very close. Any relationship today, marriage, is very difficult to support, and I believe in those bonded relationships and in loving relationships. Marriages break up today and that's unfortunate. It was particularly hard for us to maintain our relationship. I brushed by someone on the street, just passing like that. What turned around was someone picked up a stone and threw it at my back. Kent, my friend, turned around and said, "What are you doing?" The answer came back, "You faggots get the f--- off the street now. This isn't your place." I flagged down a police car, being a good law-abiding citizen, saying, these nice police officers are going to lend me a hand. The cop - and I use that term because I'll differentiate it from the more broad-minded members of the police force - rolled down his window and said, "You faggots are going to get what you deserve."

Well, what do you do? There were about eight of them and they were obviously part of a large street gang. We ran down an alley to a club we knew to try to get some protection. What ensued five minutes later was we were pounced on by these eight people. The last thing I saw before I was being punched in the head was Kent's head going into a brick wall, and I started crying. This is someone I had loved and someone who is dear and close to me. Finally a bouncer from one of the clubs off the side street dragged us in there. He was very badly bleeding. Rocks were being thrown at this particular establishment, and we could not get a police officer or any first responder to come. I couldn't

even get him to a hospital. If that was your wife lying on the street or your husband bleeding, certainly it would concern you that you had some recourse, some action; that the hate and intolerance in society was not so strong that it prevented you from getting the basic care for someone you loved. Finally, a very kind person picked us up in a van at the back door of this club and drove us to a hospital. He was quite badly hurt but he was all right in the end.

That kind of thing is something that no one should go through and clearly, clearly, whatever you think of anybody, no one should be subjected to that kind of violence. It goes on routinely in Winnipeg, and we see it at the clinic all the time. The violence we see against people is intolerable.

I want to thank you for taking the time to listen to me. I want to plead with you as parents and as caring people that you have the courage to support this legislation. I want to quote two people - one, in closing. One was, I sat on the Board of Governors at Concordia University with Brian Mulroney - some of you may know him - for three years and sat beside him, and you know his position on this and I hope that he acts very soon to include that. He had a lot of contact. I was president of the student association there, very openly gay, and he had no problem with this. He had no problem with this. He saw me as a legitimate and a real human-valued member of society.

I lived in Ontario - and I want to quote Larry Grossman because I think that, no matter what your values are, you cannot disagree with this statement. Larry Grossman said, during the debate in Ontario on the same bill, when we lose that tolerance, when we lose that ability to stand back from our own prejudices and beliefs and, yes, background, and say it is important to legislate against discrimination, even though I find it difficult myself, that is precisely when we need to legislate.

Thank you for your time. I wish you all well.

**MR. CHAIRMAN:** Wait. Mr. Murray, there are some questions from the Member for Brandon West.

**MR. J. McCRAE:** Sir, I listened with interest and concern to the last part of your submission where you dealt with a specific and personal circumstance regarding violence and the treatment you were afforded by a couple of police officers. I find that very disturbing. Did you take that matter any further?

**MR. G. MURRAY:** Yes. This took place in . . .

**MR. CHAIRMAN:** Mr. Murray.

**MR. G. MURRAY:** I'm sorry.

**MR. CHAIRMAN:** I have to call your name so they will know for the recording.

**MR. G. MURRAY:** Okay. I can appreciate that.

This took place in Toronto. Yes, we did. We called the police and they said, no, they will not go into those kinds of situations and that could we prove this, how would we prove this? I said, well, I had my friend as a witness. They said, was there anyone who was

involved who wasn't directly involved in it? I said, no, the police didn't come around. We waited an hour-and-a-half for them to respond. Their answer back was, well, we were really busy. At that point, the person was so sick that we had to get them to the hospital because they were bleeding.

**MR. J. McCRAE:** That, to me, isn't satisfactory either. I wonder if you didn't take the matter any further to the authority above the Police Department in the City of Toronto.

**MR. G. MURRAY:** We had called the . . .

**MR. CHAIRMAN:** Mr. Murray.

**MR. G. MURRAY:** I'm sorry, Mr. Chairman.

We had made inquiries. At that time, I was a lot younger than I was now, to be quite frank about it. After an experience like that, you don't feel very valued by society, and that was not the first time that I had experienced a lot of hate.

I think today I probably would have because I'm out now. I'm in a much more secure and confident position; I have a lot more support from my friends. At that time, it was very, very difficult for me; I was in my early '20s at that time, for me to put my neck out on the line like that without a lot of support. Quite frankly, at that time in Ontario, unlike today, I didn't have any support in law and I was employed with a very large major corporation at that time and if I had been seen - because the club I was dragged into, so I wouldn't be continually beaten, was a gay establishment - had that become known to my employer at that time, it could have very much jeopardized my employment. So I was in a catch-22 situation. Even if my employer did something that was very dramatic, there was no sexual orientation protection in the Ontario human rights charter now as there is today. I would have been left without recourse, and that even underlines more further why that kind of legislation is so critical.

**MR. J. McCRAE:** It's just that there are authorities above police departments. There were then, and there are now. Those rights are available to all Manitobans.

**MR. G. MURRAY:** I'm not so sure they are . . .

**MR. CHAIRMAN:** Mr. Murray.

**MR. G. MURRAY:** I'm sorry.

**MR. CHAIRMAN:** You'll get used to it soon.

**MR. G. MURRAY:** Yes.

**MR. J. McCRAE:** I'm listening.

**MR. G. MURRAY:** Some of you have more experience in this than I have.

I'm not sure. I know that there's the same problem here because many people who we deal with who are beaten up, and some very violently, some have been hospitalized for periods of time, cannot come out, they're not out as gay men. So if they were beaten up

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in a situation which may imply that they were gay or that was ever publicized - and we know that the media is extremely effective at publicizing things - they could compromise themselves.

I think that, if we have protection and confidence to participate more fully in society and we're not feeling that we're at risk all the time, we'll be able to stop some of this violence ourselves. It will give us the tools to do it.

**MR. C. MANNES:** Mr. Chairman, Mr. Murray directed some very specific comments to the people sitting on his right at this table.

I don't know if he identified us as Progressive Conservatives or not. I think to some degree he did. He used the words, "tolerance" and that we "may or may not respect you," meaning yourself.

Figuratively speaking, if we do not support this bill because of the inclusion of the section dealing with sexual orientation, do you feel that we were again, "figuratively speaking," were we the people who were throwing rocks at you and driving your friend's head through the wall?

**MR. G. MURRAY:** That's a pretty dramatic statement. No, I don't feel that you've ever personally thrown a rock at me. I really, really believe -(Interjection)- No, let me finish, I'll answer your question fully. I really think that you're doing what you believe out of conscience, and I don't have any disrespect for you because of that.

What I'm trying to say is that we clearly disagree and that's fine, and the Legislature of Manitoba will decide this in the end. I am just trying to plead my case to you. I certainly do not feel that you're throwing rocks. I'm trying to be understanding of your situation, and I've read with interest the comments that you've all made in the paper and tried to understand them as best as I can.

I have to accept that there are some differences here, that we don't have to disagree; and on this, some of us may not agree.

**MR. C. MANNES:** Mr. Chairman, Mr. Murray talks about a dramatic question. Mr. Murray, you made a dramatic presentation. You also used the word "tolerance." Do you feel there can be tolerance in any person, a legislator, a representative of the people, who would vote against this law?

**MR. G. MURRAY:** I think that, in the same way that we find violence in the situation that I was describing earlier intolerable, on the grounds against violence against a person, I would think it would be intolerant if I could demonstrate to you - and the onus obviously right here is on my ability to do that - that violence against my person can be stopped by this legislation.

If you became convinced of that, if I was successful and realized that by passing this legislation that I would be a more protected and healthy citizen and didn't, then, yes, you'd be intolerant. But I can't answer that question for you; only you can.

**MR. C. MANNES:** This is interesting, Mr. Chairman, because Mr. Murray doesn't say that my tolerance,

however defined, will change at all, depending on what side of the issue I vote. Will society, individuals in society . . .

**MR. CHAIRMAN:** May I remind the Member for Morris that we are not allowed to debate with presenters, that we are supposed to ask questions.

**MR. C. MANNES:** On a point of order, Mr. Chairman.

**MR. CHAIRMAN:** I'm just reminding people.

**MR. C. MANNES:** Mr. Chairman, I'll finish my question.

Do you feel that the passage of this law will create greater tolerance?

**MR. G. MURRAY:** I think that, yes, it would. I think that Mr. Filmon, the leader of your party, has said that he doesn't feel it's necessary for greater tolerance. I don't think the debate is over greater tolerance, as you set it out. I feel, and many presenters here today feel that, yes, it is; it's essential for greater tolerance.

**MR. C. MANNES:** You made the comment, you referred to suicide. Will this legislation prevent suicides and, if so, how?

**MR. G. MURRAY:** This . . .

**MR. CHAIRMAN:** Mr. Murray, wait for recognition.

**MR. G. MURRAY:** I will, I'm sorry, Mr. Chairman.

This legislation, I think, will not in itself change anything immediately, no more than when sex was included did all of a sudden women achieve equality overnight. But it does lay the foundation to end some of this violence and hate, and it is something that's important to our democratic heritage to the creation of a more tolerant and civilized society. It's a necessary first step. It's an opportunity for all of us to work together, you and I, to create a more tolerant society. It removes from me a barrier to working with all of you. It allows me to be freer to participate more completely in society.

**MR. CHAIRMAN:** The Member for Sturgeon Creek.

**MR. F. JOHNSTON:** Mr. Murray, I'm concerned too that you feel that the people sitting on this side have no respect for your rights. Why would you believe that we don't have respect for rights that you have at the present time and the protection of the law that every citizen has?

**MR. G. MURRAY:** I never said that. I think, if we read the record back, I didn't say that you didn't have respect for my rights. I said there's a disagreement over whether my rights are protected right now, whether in fact I have recourse in law. Your leader has said this is not a necessary thing. What I'm saying to you is that in fact it is necessary, and I'm here to try and prove that it is necessary.

**MR. F. JOHNSTON:** Mr. Murray, do you believe that a sexual behaviour of any kind should be regarded as a minority group, or for special legislation?

**MR. G. MURRAY:** I don't think this is special legislation. I think this is the same as any other minority group. I have not had sex for a long time, to be quite frank about it. I haven't changed my orientation at that time. My orientation is not dependent on my sexual orientation. Many people who are homosexual, heterosexual and bisexual are not sexually active. That is not a determining factor in whether or not someone can be discriminated against. You don't have to be sexually active to do that; it's not a basis of activity. Being gay or being homosexual is a state of being that I didn't have a choice in.

**MR. F. JOHNSTON:** Well, the Chairman would not let me debate that with you, but I would debate it with you.

You mentioned your parents, you mentioned your sister with children. Do you regard your relationship with the friend who you mentioned equal and the same as the relationship between your mother and your father and your sister and her husband? Do you regard that as the same type of relationship?

**MR. G. MURRAY:** I regard my state of being as a gay man as not something I chose in. I assume - maybe I shouldn't - that you are a heterosexual person and that you do not have a lot of choice in that. My relationship with my family, my relationship with the person who I was in love with and lived with is one that I view as deserving respect and consideration and to be free from discrimination and violence. It is a different relationship in some ways than that with my parents. My parents value my friend as much as they value me and my sister and her husband. We all have an equal place at the family table and are all deserving of respect and consideration at the family table.

**MR. F. JOHNSTON:** I don't think that I said that I didn't respect your relationship. We could discuss that. I don't think that anybody has said that they haven't respected your rights. I asked the question, do you regard your relationship - if you want it that way - with another man the same as your mother's and father's relationship?

**MR. G. MURRAY:** I regard that relationship as equal in love, as equal in protection from violence, and equal of respect of any loving considerate relationship. I think that, as a society, we have enough hate out there and we should be supporting loving, respectful, considerate relationships. Within my family unit, because of the decision of my family to respect that relationship, it would. Maybe in your family that relationship wouldn't. Yes, I do, for me, and I would like that in law respected, although other people may disagree.

**MR. F. JOHNSTON:** I'm not going to pursue it, Mr. Chairman. My question has not been answered. I'm quite aware of the respect that he regards his relationship; I'm quite aware of he wants the respect from other people, etc., but my question as whether it's the same relationship has not been answered.

**MR. G. MURRAY:** Mr. Chairman, I do not understand what the honourable member means by "same." I mean, obviously, I have said many times that this

relationship is deserving of the same respect and consideration in law and freedom from violence and hate. I think I've said that clearly. Obviously if the member can elaborate more than same, then I would - maybe I'm not giving him the answer he wants, I'm not sure.

**MR. F. JOHNSTON:** I'm not forcing the issue, am I? You couldn't even . . .

**MR. CHAIRMAN:** Any other questions? Hearing none, thank you, Mr. Murray; thank you, Mr. Harris.

The next presenter is Mr. Walter Bucko; Buchko, private citizen.

Mr. Buchko.

**MR. W. BUCHKO:** Mr. Chairman, members of the board, you got the name close anyways. I'm here, not with any organization or anything like that. I'm just here as a private citizen. I believe a person, like I believe in the value of a human being, okay?

That other person who was up here who was talking about when he got beaten up and stuff like that, as a Christian, I am against anything like that. I've got friends who have been homosexual, and right now they're living normal heterosexual lifestyles. They're happily married and stuff like that. I've seen a total change in their lives. I've seen them to the extent that they have no desire that way. I myself have relationships, but not sexual relationships with other men and that. I'm not inclined that way.

When he talks about you don't have a choice in that way, I have been tempted in both ways and I found out that my actions are based upon choice. I could choose that or not. I used to be involved in different things and I found, as myself, I had no strength to overcome certain things except by the grace of God. I have completely overcome them to having no desires left in that area, so I can't say that a person is brought up in that way and therefore he has no way of changing that at all. I have been tempted in that area and, by the grace of God, I have no desire in that area.

One thing I am against, if the bill is passed as it is, I am against that. When I get married and have children, that I could take them to school and stuff like that, and a minority would teach my children things which are against my Christian beliefs, which is, in other words, that the homosexual relationship is a normal relationship. If it was a normal relationship - like the thing is, I've got a friend of mine - I don't know how he's doing right now, but he has been a homosexual, okay? I love that person; I value that person as a human being; I am against any form of beating a person up and stuff like that. I believe that we have rights to cover that and I believe those rights should be passed. I don't believe we're going to kill homosexuality or anything like that by allowing bloodshed and stuff like that and cruelty. I don't believe that.

But I do believe that if a bill like that is passed, I believe that is going to sort of infringe on my rights, because then it would be taught as something being normal. And if it is the normal thing, if it really is a normal thing, look at it from a sexual point. We'll look at it from a biological point of view, okay? You have a male and a female, it's the same thing with plugs. If you're going to plug that fan in, you don't plug it

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into another plug. You know, like it's got to go into a female receptacle.- (Interjection)- Okay, now the thing is, when you're looking at it that way . . .

**SOME HONOURABLE MEMBERS:** Oh, oh!

**MR. CHAIRMAN:** Order please.

**MR. W. BUCHKO:** Okay, there's a point why we're made that way. It's for reproduction, for pleasure, for a oneness, and for a commitment to one another. I strongly believe in commitment. In a homosexual relationship, you can't become one in that, not in the real respect like that. You can't truly be one.

Another thing, if you adopt children, why adopt children, because you cannot have your own? People adopt children because they're in a heterosexual relationship because they can't have children, but not because it's a biological impossibility as a whole. It's because they individually can't have children. In a homosexual relationship, it is biologically impossible. Like I said, and I speak without any cutting things like that, because like I said, I've got friends who used to be that, and I love people and stuff like that. I'm not talking about the people, you know, I'm talking about the issue and the thing itself.

When you look at nature yourself, I've never seen an animal, other than a human being, who would have a preference for its own sex like that. It's not there. You look around, it's not there. I don't believe that a person is just brought up that way, is grown that way. It just doesn't make sense. Looking around me, looking at nature, looking at everything they got, it just doesn't make sense. So I would be completely against the passing of the bill. I would not be against the protection of people and stuff like that. You know, if they were beaten up or whatever like that, like I'm not for that at all. I believe a person should be protected and I believe it was wrong if that incident about the police officer, that was wrong for that police officer to do that. That's against true Christian principles. True Christian principles have to go according to the word of God.

What happens when you go contrary to things like that is when you pick and choose what you want to believe. That's when you get all these hassles happening and all this garbage happening and stuff like that and Aryan nations and all this, and anti-semitism and everything like that, because it is truly contrary to the word of God. That's it.

**MR. CHAIRMAN:** Questions?  
The Member for Kildonan.

**MR. M. DOLIN:** I'm just wondering, Mr. Buchko, have you read the act?

**MR. W. BUCHKO:** Yes, I have, but there's a lot of big words in it, eh, so - I'm sorry, go ahead.

**MR. M. DOLIN:** Yes, I'm just wondering, let me read section 14(11) because you were expressing some concerns about education. I'm wondering, would this section satisfy? "Nothing in this section prohibits the lawful disciplining of an employee or person in an occupation who violates the duties, powers or privileges

of the employment or occupation by improperly using the employment or occupation as a forum for promoting beliefs or values based upon any characteristic referred to in subsection 9(2)," which is the definition. It would seem to me that you are expressing concern about education promotion and not being able to do anything about it. Does the wording of that section satisfy your concern?

**MR. W. BUCHKO:** The thing that does concern me is that little wording where it says "sexual orientation," right? The thing that concerns me is sometimes - how could I say it? - it's like a snowball going downhill. You drop a snowball and, if something doesn't stop and it keeps going, it just piles upon itself until finally it's uncontrollable. It's like an avalanche, okay. The thing that I'm looking at is the starting of something that could end up into a lot of the debauchery.

Like we threw this thing about abortion in, right? And now, I'll tell you, there are people who have worked in abortion clinics and would testify to it, that you can get abortions, like that. A friend of mine went in for an abortion. Basically, he didn't even ask her questions and stuff like that. She just went right through. When we threw in the abortion thing, it was for a mother, say, whose life would depend on it, and different things like this. So that was a nice little thing we threw in, and so what's happened as a result, it snowballed itself.

I worked on a Christian farm for kids with problems and problem kids, and apparently they had legislated something where you couldn't discipline a child by a strap, stuff like that. And you should see how some of them would really get around it and we would become the victims of our society because we don't realize the snowballing. It's like we have had this side - it's like a road, say, we're driving on a road. We've been in this ditch so long that we figure, well, let's try this ditch, and you can't do it that way. You have to find that road.

**MR. CHAIRMAN:** Other questions? Thank you, Mr. Buchko.

The next presenter will be Ms. Judy Hill and Ms. Shirley Tervo, representing Klinik Community Health Centre.

Ms. Hill.

**MS. J. HILL:** I'm here as a delegated representative of Klinik Community Health Centre, as is Shirley Tervo, to support the inclusion of sexual orientation in the new Human Rights Code.

I'd like to state that, both as a representative of Klinik and personally, I want to acknowledge the wisdom and the justice in this active government which recognizes that we do live in a moral age when all persons must have recourse to a democratic process and in which the value of all individuals is not just protected by any government but recognized as the basis of government, for it's all women and men, i.e., the governed, who are what government is all about. That includes all persons, and only when every individual is guaranteed the same rights can a government be called just.

Henry David Thoreau, an American author and philosopher, imprisoned for failing to pay taxes to a government which supported a slave state, wrote:

"Under a government which imprisons any unjustly, the true place for a just man is also a prison, the only house in a slave state in which a free man can abide with honour." Quite literally, in some cases, discrimination based on sexual orientation may result in physical incarceration. In a vast majority of cases, such discrimination results in other significant deprivations of freedom, and we've heard about some of those this evening: access to employment, housing, community status, fair and equitable process under law, freedom from harassment, defamation and physical injury. As long as any group in this society suffers such unjust "imprisonment," none of us are truly free.

In May of this year, CBC radio broadcasted nationally a commentary on the phenomenon of "gay bashing," and we heard about that tonight also, and focused on Winnipeg as a Canadian city where the incidence of such violence is quite high and the reported response by authorities to protect those being violated quite inadequate. The emotional tone of both the violence depicted in that interview and the comments of some selected Winnipeg residents smacked of knee-jerk reactionary sophistry where we have to think that someone is to blame for all the rents in our social fabric.

I ask that we learn something from history rather than embark on another witch hunt or enslave blacks or exterminate Jews or discriminate against homosexuals. Let's focus on the real culprit, a social and political heritage which gives power and status to a few while pretending to promote the welfare of all. Let's applaud and support this government for having the courage to resist the hatred and hysteria that have coloured history and do the really hard work of enshrining basic rights for all.

Klinic has a high profile for offering health care service to underserved populations. Among those are the homosexual community and victims of incest and sexual assault. In all my experience at Klinic, which is eight years, the myth that the first population - homosexuals - is responsible for the victimization of children has been proven false again and again.

Our case records support the statistics of researchers and clinicians across North America. Sexual assault and familial sexual abuse are crimes perpetrated largely by heterosexual men, even when that abuse is across genders. The fear that legislation which secures equal rights for homosexuals jeopardizes the safety of children demonstrates more our society's willingness to pathologize a minority and believe them responsible for our horrors than it reflects reality.

Legislation which prevents discrimination based on sexual orientation will not suddenly loosen gay men and lesbian women into the workforce, schools or neighbourhoods - we're already there. You already work with us, live beside us, like and respect us. We already teach your children and provide all the lay and professional services available in this and other communities. What this legislation will do is give us what you assume we already have - basic human rights.

**MR. CHAIRMAN:** Ms. Shirley Tervo.

**MS. S. TERVO:** Good evening, Mr. Chairman, honourable members, I would like to commend the

government for bringing forward the new Human Rights Act and for including sexual orientation in this act.

I feel it is critical that sexual orientation be included in the Human Rights Act because I believe it is a step forward to ending the extreme and often condoned violence against a minority in our society. Bible bashing, physical bashing and pathologizing are some of the covert and overt ways violence continues to be perpetrated against gay men and lesbian women. In my opinion, some of the roots which validate this violation of the basic rights of homosexual women and men lie in the rigid sex roles assigned to men and women in our society.

Traditionally, society has applauded the stereotype of the relationship headed by the older, wiser successful dominant male, protective of the younger, less wise, passive female. Any variance of this "Prince and Cinderella-like" model is considered abominable.

As a society, I think we are struggling to change these limiting and damaging images of women and men. As a counsellor at Klinic Community Health Centre, we often see, in crisis, those people who do not conform, not because they are sick or crazy, but often because they are victims of the covert or overt violence directed against them because of sexual orientation.

This government has always protected the rights of minorities, and I feel that the inclusion of sexual orientation in the new Human Rights Act is a continuing sign of an extremely responsible government. I hope this act will begin to separate sexual offenders from those who choose partners of the same gender.

In my work at Klinic during the past 11 years, I have seen hundreds of male and female victims of sexual abuse. Statistics show that the perpetrators of these crimes are still primarily heterosexual. In my opinion, it is time to extinguish the myth that sexual assault and abuse is a crime committed solely by homosexuals.

As citizens of our province, women and men - and this includes lesbian women and gay men - need to be reassured that their basic human rights are protected. Should this government fail to include sexual orientation in the new Human Rights Act, they will have failed to protect the basic human right of a person to be treated with dignity and fairness by employers, landlords, service providers, law and policy makers and the general public.

Thank you.

**MR. CHAIRMAN:** Thank you, Ms. Tervo. Questions? No questions.

The next presenter is Ms. Susan Smiel, University of Winnipeg Women's Centre.

Ms. Smiel.

**MS. S. SMIEL:** We, the University of Winnipeg Women's Centre, would like to commend the government for bringing forward the new Human Rights Act and for including sexual orientation as one of the prohibited grounds of discrimination in the act.

As feminists, we recognize that our society continues to oppress and discriminate against lesbians and gay men because of their sexual orientation. This oppression takes place on many levels, both visibly in overt acts of legal, economic, social, religious and physical intimidation, and invisibly in pervasive silence about or



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misrepresentation of homosexuality as a life choice. This oppression harms and distorts all of us whether we identify ourselves as homosexual, bisexual or heterosexual.

Truth, even in a society that calls itself free, cannot be told or understood when fear and ignorance prevail. This legislation is an important step in reversing fear, desanctifying ignorance about homosexuality and so bringing our society into closer accord with its professed ideals of justice and equality for all. We know that discrimination against homosexual persons is not going to end overnight with the passage of the Human Rights Act into law.

We urge our fellow Manitobans to remember that a mention in the Human Rights Act is not a sign of government favouritism. Inclusion of sexual orientation in the Human Rights Act does not provide lesbians and gay men with special rights. It is a recognition of ugly and unnecessary hardship in the lives of homosexual Manitobans, and a means of providing lesbians and gay men with legal recourse when they are discriminated against.

Therefore, we again commend the government's decision to present the Human Rights Act in this form, and wish this bill speedy passage into law, for its wording is such as to assure the most comprehensive protection possible of the civil rights of all Manitobans.

Thank you.

**MR. CHAIRMAN:** Questions? Hearing none, thank you, Ms. Smiel.

Ms. Cindy Burke, University of Winnipeg Student Association.

Ms. Burke.

**MS. C. EMERAWA:** No, not Ms. Burke. I just want to correct that. My name is Chi Emerawa. I am vice-president, external, of the University of Winnipeg Students' Association.

**MR. CHAIRMAN:** Are you presenting on behalf of Cindy Burke?

**MS. C. EMERAWA:** Yes.

**MR. CHAIRMAN:** Thank you.

**MS. C. EMERAWA:** We, representing the University of Winnipeg Students' Association, would like to congratulate the Government of Manitoba for recognizing that non-discrimination on the grounds of sexual orientation has a place in the Human Rights Act. Quality of education should not be disrupted by discrimination in any form.

The UWSA supports complete civil rights for all Manitobans. It is philosophically reprehensible to discriminate on the grounds of sexual orientation, and all Manitobans deserve a means of legal recourse when they are denied the services and opportunities that others receive under the Human Rights Act.

On the issue of human rights, the Province of Manitoba should never be last in line. We are pleased that the government has chosen to join Ontario and Quebec and protect the rights of all in law. We are optimistic that this addition to the Human Rights Act

will pass. If it does not pass, Manitobans will have failed to protect all citizens from discrimination. This would reflect a lack of democratic representation for all Manitobans. The diversified nature of the University of Winnipeg has led to an atmosphere that upholds human rights. We hope that this spirit of co-operation, understanding and respect spreads through the province and the country with the passage of this legislation.

Thank you.

**MR. CHAIRMAN:** Questions? Thank you, Ms. Emerawa.

The next presenter is Mr. Mark Hughes, private citizen.

**MR. M. HUGHES:** I want to thank you for this opportunity to speak before the committee.

I think that all people should be concerned with the protection of our fundamental rights and freedoms, and an updated Human Rights Code may very well be necessary to deal with the complex issues facing our society today. However, I feel Bill 47 has some very profound and dangerous weaknesses, particularly the inclusion of "sexual orientation" in section 9(2)(h).

Sexual orientation has been described as heterosexual, homosexual or bisexual, and I believe is quite ill-conceived since it obviously is not included for the benefit of heterosexual people. They have no need to be included in this bill on the basis of their sexual preference, nor have they asked to be. They are already protected on the basis of who they are, their race, their colour, their nationality, what they are - whether they are male or female - and what they believe, religion or creed, as are homosexual people, and so they should be.

The inclusion of sexual orientation is no more than a euphemism for gay rights or homosexual rights. Homosexuals are protected by the same rights as are heterosexuals and, if that's the case, then the inclusion of sexual orientation is unneeded for the protection of heterosexuals, as I've mentioned earlier. Then it is included as special protection for homosexuals and bisexuals, something that the people who have presented the briefs prior to me have said they don't want.

I strongly urge that sexual orientation be removed from this bill on democratic, moral, religious, health and educational grounds. I will deal with each one of these areas of concern individually.

Democracy: The fundamental responsibility of a democratic society is to reflect the views and the needs of the people they represent. This bill does not accurately reflect the views of the Manitobans. The majority of Manitobans oppose legislation of gay rights. In spite of the fact that many of the earlier briefs have been in favour of this clause, the majority of Manitobans are not in favour of it.

A recent survey done in my area of St. Vital by the MLA had 77.2 percent respond "no" to this question: "Should special provincial legislation be passed to provide protection for homosexuals?" Seventy-seven percent said "no." Only 13 percent said "yes." Yet the government persists in advancing this type of legislation.

The Attorney-General, Mr. Roland Penner, has argued that the updated Code does not extend special

privileges to any group, but rather it tends to ensure that all individuals enjoy the same rights. This however is just semantics. It is the concept of homosexual rights Manitobans object to, and putting them under the guise of sexual orientation does not change anything. The public still objects to them.

To argue that the homosexual has a right to live his life as he wishes and to be protected by legislation may be honourable, but the fact remains that gay rights cause the rights of others to be seriously infringed upon. Mr. Penner has written me on June 24, and I quote: "Employers will not be required to hire individuals whose values do not coincide with the values which they would be expected to promote as part of their employment." However, nowhere in Bill 47 does such a statement or one similar to it exist. By his own admission, Mr. Penner has said: "Our courts, including the Court of Appeal, insist on a very literal interpretation of the act. They refuse to rely on general grounds." If this is true, then his statements "employers will not be required to hire individuals whose values do not coincide with the values which they would be expected to promote" means absolutely nothing.

If the act truly implies this, why does it not clearly state it in section 14 on the discrimination of employment? I am convinced that this government is attempting to perpetrate a very dangerous and detrimental piece of legislation on the people of Manitoba.

**Morality:** As subtle as it may be, homosexual people would have conferred upon them a right to practise behaviour that is morally unacceptable to the majority of Manitobans. Although I would concede we probably cannot legislate morality, this bill in actual fact is attempting to legislate immorality. In essence, it is saying that homosexuality is socially acceptable behaviour. Although many might tolerate the fact that fellow human beings engage in unnatural and unhealthy sexual aberrations, few heterosexuals want to condone such behaviour, something this bill most definitely does.

Just because there may be a lot of people who entertain a homosexual lifestyle, it does not make it morally acceptable. Statistics tell us that a great number of people in our society are wife beaters and child molesters, but that does not make it right.

Bill 47 states that bona fide and reasonable cause exists for discrimination. I believe that homosexual behaviour should fall into this category. People of such sexual persuasion will have to bear the reproach of a society for their behaviour, just as the wife beater and the child molester must bear the consequences for their actions.

Homosexual rights would seriously erode the moral fibre of our society, destroying the role of the family unit and presenting an unacceptable role model for our children. With the introduction of gay rights, can legalized homosexual marriages be far behind? The homosexual community in Ontario has already expressed in a recent newspaper article that their new legislation, similar to Bill 47, is grounds for that very thing. The advent of this, homosexual marriages, would inevitably facilitate child adoption by these homosexual couples - a deplorable condition indeed.

**Religion:** Manitoba is generally accepted to have a Judeo-Christian heritage, with most citizens having some sort of religious attachment to one of the various

denominations. This heritage is in serious jeopardy if Bill 47 were to be passed in its present form.

Most of these religions are based upon scriptural tenets found in the Bible. Both the Old Testament and the New Testament strictly forbid homosexual behaviour. I'll quote from Leviticus 18:22 that states: "You shall not lie with a male as with a woman: it is abomination." New Testament Scripture, 1 Corinthians 6, says essentially the same thing. Any attempt to prove that the Bible teaches that homosexuality is acceptable to God, using the story of David or Jonathan or any other one of these stories that they might want to use, is erroneous and it's to make a mockery of the Scripture. There should be no argument that the basic tenets of religion prohibits homosexual behaviour.

**Health:** In the light of the terrifying AIDS crisis in our nation, I do not know how we can even consider including sexual orientation in human rights. Although AIDS has spread to the heterosexual community, it is still primarily a homosexually transmitted disease. A recent survey showed that 73 percent of all AIDS cases were transmitted homosexually or bisexually, while only 1 percent were contacted heterosexually. This bill will do nothing less than increase the health risk to society by facilitating the exposure of uninfected persons to homosexual carriers, and this, through health care, on the job, in schools, etc. With no other legislation, as we found, to deal with contagious carriers, Bill 47 could very well engender fatal results to innocent victims. Since "gay rights" were introduced in San Francisco in 1978, sex-related diseases have increased 2,400 percent - 2400 percent!

I feel, with the health threat of this homosexually propagated disease being on the verge of an epidemic, this legislation is nothing less than irresponsible.

**Education:** Finally, I would like to deal with how sexual orientation in human rights would affect education. All of our children spend years in the school system. Much of their character, ideology and morals are influenced by the people in this system from day care to university. I think if we pose this question to Manitoban parents - do you want homosexual day care workers as the role models for your children? - you would hear a resounding no. Or if you were to ask - do you want your son's school gym teach to be a homosexual, knowing the kind of personal exposure that exists in a locker room setting? - parents would adamantly oppose. We would never allow a man to enter the girls' locker room? Why should we allow a homosexual male to enter into the boys' locker room.

In conclusion, I would like to say that the inclusion of sexual orientation in the Human Rights Code is ill-conceived and an insidious gesture to the people of Manitoba. We will not tolerate such an action, and I strongly urge this committee to recommend that it be deleted from this bill.

Thank you.

**MR. CHAIRMAN:** Order. In a civilized society, there is order.

Questions from members of the committee? Nobody wants to ask questions, Mr. Hughes. Thank you very much.

The next presenter is Shellyse Szakacs, University of Manitoba Womyns' Centre.

**MS. S. SZAKACS:** My name is Shellyse Szakacs, and with me is Olga Vaks.

**MR. CHAIRMAN:** Order please. I didn't get the name.

**MS. S. SZAKACS:** My name is Shellyse Szakacs, and with me is Olga Vaks. Together we represent the University of Manitoba Womyns' Centre.

**MR. CHAIRMAN:** Thank you.

**MS. S. SZAKACS:** The University of Manitoba Womyns' Centre believes strongly in the basic equality of all individuals despite differences of race, ethnicity, age, lifestyle and beliefs. We believe it is essential for governments to spell out in law the right of the individual to full equality so that all persons are protected by the law from discrimination in all its particular forms. As an organization of women, we will speak to only those provisions which directly address the discrimination we experience because we are women.

We are very encouraged to see that Bill 47, the proposed Human Rights Code, includes as prohibitive grounds for discrimination, sexual orientation, gender-determined characteristics, pregnancy and sexual harassment. By doing this, the government significantly broadens the definition of equality for women in Manitoba.

As students and scholars, each one of these applicable characteristics is a relevant concern in our academic and our personal lives. We congratulate the government for its recognition of the different kinds of discrimination women experience and this attempt to protect further our rights as women and as citizens.

The inclusion of sexual orientation as prohibitive grounds for discrimination could potentially mean that the literature and research by and pertaining to sex-variant women be less hesitantly approached and referred to by professors and students alike. This would give the term "academic freedom" more breadth and depth at the university. We believe that it is essential to the advancement of higher learning that all disciplines have the freedom to recognize, draw on and contribute to the work and development of all its constituents. We are also aware of the caution taken by students and instructors when dealing with material by lesbian women or about lesbian existence.

We understand sexual orientation to mean an aspect of a person's identity and the life choices a person may or may not make which may colour their state of being. We feel that the inclusion, within the definition of sexual orientation in Bill 47, of the phrase "and refers to only consenting adults acting within the law" reduces lesbian, bisexual and homosexual experience to an activity or set of acts. Were the Code to be passed as it stands, it would offer no protection to, for example, an unmarried academic woman who, perceived as a lesbian, is discriminated against in the pursuit of her studies and career simply because she does not conform to a conventional image of womanhood. Sex-variant women and women who live outside of marriage have long been discriminated against, and we feel it is the responsibility of this society to protect our freedom of orientation in our lives, and not just our freedom to actions within the law.

We believe that, by limiting the interpretation of sexual orientation to consenting adults, Bill 47 will significantly undermine the rights of persons under the age of 18. Such individuals are just as likely to be discriminated against because of their actual or perceived sexual orientation, as are those individuals who have already reached the age of majority. By including this phrase, the government affords no protection to the children of gay or lesbian parents.

We strongly urge the committee to either not provide a definition of sexual orientation, which is generally understood to mean lesbianism, bisexual or homosexual, or else to delete the phrase, "and refers only to consenting adults acting within the law." This phrase, we believe, is problematic because it could undermine the protection the Code promises to extend to all members of the human family.

**MR. CHAIRMAN:** Any questions? Hearing none, thank you, Ms. Szakacs.

**MS. S. SZAKACS:** Thank you.

**MR. CHAIRMAN:** The next presenters are Julie Enyingi and Lois Beckwith, Planned Parenthood of Manitoba.

The next presenter is Manuela Dias, University of Manitoba Women's Studies Association. Ms. Dias.

**MS. M. DIAS:** The Women's Studies Student Association is a feminist student body committed to the development of women's studies. Additionally, it is committed to the struggle against sexism, racism and homophobia. As such, it applauds the Manitoba Government's past dedication to provide basic human rights for all Manitobans and its current struggle to enhance such protection. We feel it is vital that all persons must be treated equally under the law, even though not all citizens may approve of or accept others' personal activities. In a just society, there must be tolerance of all behaviours not in violation of the Human Rights Act.

For students and scholars, this tolerance translates into academic freedom. For gay and lesbian students, the inclusion of sexual orientation as a prohibited grounds of discrimination is essential. It will ensure that no discriminatory action or harassment may occur in regard to grades, letters of recommendation, etc. For feminist researchers, this tolerance means a greater freedom to pursue previously neglected areas of research.

Just as women have often been excluded from traditional research, so have the experiences and history of gays and lesbians. Women's Studies has often been frowned upon for investigation into such feminist, lesbian or gay areas of study. The proposed Code ensures that such scholarly investigation may occur more freely. Clearly, this is an exciting prospect for Women's Studies.

At the same time, WSSA feels it necessary to voice concern regarding the Code's definition of "sexual orientation" as extending only to those aged 18 or older. Sexual orientation does not spontaneously manifest itself with the age of majority. It refers to an identity, a lifestyle, and as such is developed over time.

While we accept this from heterosexual youths, it is often disregarded in the case of homosexual or bisexual

youths. One's identity is not limited to sexual activity, and youths under the age of 18 do identify themselves as gay and lesbian. In light of this, it is unwise and unjust to exclude those under 18 from protection under the Code. In fact, one may read that it is perfectly acceptable to discriminate against a youth on the basis of sexual orientation until they turn 18. WSSA is sure that this is not the intent of the Code, and ask that you extend rightful legal protection to those under 18 who define themselves as gay or lesbian.

WSSA applauds the unequivocal statement that sexual harassment is a prohibited grounds of discrimination. Sexual harassment does indeed exist at universities and colleges and, until it is eliminated, there will be no true freedom of education for women. Female students interact with an overwhelming number of male tenured professors. This imbalance of power may be partially corrected by ensuring that women have the right to demand an education free of harassment. Without this necessary step, women will not be treated with the dignity that is their due.

Although society is said to value its future generation, women - the bearers of this future generation - are often discriminated against based on their child-bearing capacities. We believe that the recognition of this as unfair is long overdue. Women must receive the legal recognition, not only that their reproductive capacities are unacceptable grounds of discrimination, but also that this function is valued and respected by society.

The Women's Studies Student Association supports the proposed Human Rights Code and its increased protection for Manitobans, and also encourages the careful examination of its wording to ensure that such protection indeed extends to all citizens.

Thank you.

**MR. CHAIRMAN:** Any questions? Thank you, Ms. Dias. The next presenter is Mr. Jake Bergen, private citizen.

**MR. J. BERGEN:** Mr. Chairman, and committee, I have some good news for you today, and that is that my brief will be very brief.

I want to commend the government for including the rights of individuals in Bill 47. I agree with the rights for the gay community. I do not agree with their behaviour, however, and that's what I want to do, is give you just a little analogy to draw the difference between that.

We live in a free country. However, in a free country, we're still responsible for our behaviour and we're accountable for our behaviour. If I would give you an example of stealing or forgery, you'd quickly understand what I'm talking about.

Let me say it this way. Once we put a handle on someone that includes behaviour with their person, then all of a sudden we feel that we're under pressure to give that group of people some extra rights, and I disagree with that. If I were to say that I was here lobbying for the rights of pyromaniacs, you would all laugh at me and I would be scorned. Webster's Dictionary says that a pyromaniac is a person with an irresistible impulse to start fires, and that's a behaviour associated with a person.

Is that normal if there's an irresistible impulse to start fires? Is that normal for that person? And yet, if I were

to lobby for that, you'd think I was ridiculous and you'd know the consequence that it would have for society and you just wouldn't do anything about it. However, I believe that the homosexual community, the gay community, already has the rights. Their activities have already been taken off the Criminal Code, and they already have the right. It's the same thing as allowing a pyromaniac to set fire to his own home or the home of a consenting adult.

What you're doing with the sexual orientation, not discriminating against sexual orientation in Bill 47, is you're tying the hands of many people who see the fire coming from other properties that have been set on fire by these individuals, and you're tying their hands when they're supposed to be fighting the fire for their particular property. You're tying their hands and they can't defend themselves. So I distinguish between the person. I value the right of the gay community, but I think their behaviour is something that they are responsible for and I cannot go along with their behaviour.

I want to leave one thought with the committee as well. In the science fiction movie, "Back to the Future," they accidentally discover a way to go into the future and look back at some decisions that they're about to make to see how good these decisions are and to see the effects of these decisions. If any government had that ability to go to the future to see the consequences of that legislation, we would have perfect legislation all the time. All the pitfalls would be taken out of the legislation. You wouldn't have to change all the acts, the bills that you put into power. And yet, I think that we can and you can, as a committee, almost go to the future and look back and see what the consequence will be of this legislation. The way you do that is that you learn from history. Go back in history and find out where homosexual behaviour was tolerated and even endorsed and see what happened to those societies.

This isn't new to the Seventies and the Eighties; it's happened before the time of Christ. I think if you go back in Jewish history, you'll find several instances where homosexual behaviour was tolerated, and look what happened to those societies and look at the judgment that came on those societies. I would encourage you to consider that very strongly in your deliberations regarding this bill.

Thank you very much.

**MR. CHAIRMAN:** Thank you, Mr. Bergen. Any questions? Hearing none, thank you.

The next presenter is Mr. Ron MacLean, private citizen.

**MR. R. MacLEAN:** Thank you, Mr. Chairman.

I'd also like to make this presentation on behalf of Equipping the Saints organization, which represents a number of churches in the city

**HON. R. PENNER:** What is the name of the organization?

**MR. R. MacLEAN:** Equipping the Saints, ETS - I'll give it to you afterwards if you like - and also on behalf of a group of concerned pastors.

I agree with much of Bill 47 and appreciate its intent and many of its inherent strengths. I would like to

register, however, my very strong disagreement with the phrase "sexual orientation." I strongly disagree with the phrase for a number of reasons.

Firstly, the phrase creates a special status for certain groups of individuals who are otherwise protected as members of society under the existing law of the Charter of Rights. This special status is both unnecessary and undesirable because it demands that our society condones, accepts and gives special protection to lifestyles, namely homosexual and bisexual, which are unacceptable to many and increasingly detrimental with regard to health in our society.

Secondly, this phrase "sexual orientation" confuses lifestyle and individuals and the value of the individual. Mr. Murray gave a very powerful testimony of the violence that's been inflicted on him, but I believe he confused the issue of lifestyle and individual value.

The bill should intend to value the individual and, with that, I heartily agree. I believe all human beings are of equal value as individuals and I am in favour of protecting that value. When a lifestyle, which I believe is a perversion of natural functions and affections and which is an erosion of the basic natural family unit which our society has been built upon and any strong culture must be built upon, then that lifestyle must not and should not be legitimized or given special rights.

In Ontario right now, the homosexual groups are now wanting equal opportunity to teach the homosexual lifestyle in the schools, in the Family Life education courses, as a viable alternative, and that I cannot accept.

Thirdly, the phrase "sexual orientation" basically creates and legitimizes a third sex or a third sexual alternative and gives special rights to a minority group while infringing upon the rights of those who cannot condone that lifestyle. I believe this will create more problems than it will solve, and will inevitably result in increased antagonism and further polarization among individuals and groups within this province, the very thing this government does not want to promote.

The implications of this infringement could result in the following: social agencies such as those that provide services and companionship to children of single parents and others in need of care could lose their right to set their own standard of conduct for volunteers and employees; school, day care centres or group homes could be forced to employ those whose code of conduct and sexual orientation is incompatible with the established purposes and guidelines of the institution.

The legislation could affect the traditional rights of religious groups to hire only those staff members whose lifestyle is faithful to the beliefs and practices of the religious community. It undermines the unique status of marriage and the family as the fundamental unit of our society.

It could lead to the eventual legalization of homosexual and lesbian marriages and child adoption, something I believe the majority of Manitobans would not tolerate.

Homeowners could lose all freedom in deciding whether or not to rent homosexuals or lesbians their establishments. Employers could lose the right to refuse employment to homosexuals who conduct themselves in a matter incompatible with the standards set by their employers for dealing with customers and other employees.

Lastly, it could further facilitate the exposure of the dreaded AIDS virus to the uninfected population since homosexual males are still the primary carriers of the virus.

Lastly, if there are no absolute moral standards, if there are no absolutes, period, then indeed we should pass this bill. We should add to sexual orientation not only heterosexual, homosexual and bisexual, but we should add polygamy, pedophilia, which is sexual orientation towards children, and bestiality, which is sexual orientation towards animals. These preferences can be acquired early in life. They obviously gratify, in some way, those who choose them, and the people involved could easily say that they, in no way, affect society adversely.

I believe there are moral standards in our universe. I believe there are absolutes, that there is a right and wrong and, yes, that some lifestyles and behaviour in our present society are perversions, and I believe the majority of Manitobans believe the same thing. There seems to be some kind of mystery as to exactly what homosexuality is and why some people choose that lifestyle. We're hoping to have a paper given to you that will explain homosexuality lifestyle and leave no doubt in our minds exactly what is meant by that sexual orientation.

Someone has mentioned violence, and I agree that violence is abhorrent and hate will never conquer our social problems. Several have testified tonight about being victims of violence and, with that, I am not in favour and I apologize for that kind of attitude.

But none tonight have talked about the violence of AIDS and that 90 percent of AIDS is transmitted sexually and, as Mark has mentioned, that 70 percent to 80 percent is still among the homosexual community. In the San Francisco homosexual bars right now, the talk and encouragement among homosexuals is to go out and infect as many straight women as possible so that the heterosexual population will be infected to the point that government will take action and do something about AIDS. That attitude, in my mind, is selfish and violent.

Lastly, I guess the question is: Is Manitoban society ready to accept, approve and protect homosexual and bisexual lifestyles? I do not believe we are.

**MR. CHAIRMAN:** Questions? Hearing none, thank you, Mr. MacLean.

The next presenter is Mr. Eric Anderson, private citizen.

**MR. E. ANDERSON:** Good evening, Mr. Chairman, members of the committee, my concern on this legislation before the Legislature is over the section on sexual orientation. This is in reference to the homosexual people, that they have rights which will guarantee that they cannot be discriminated against.

This raises several questions. Will their rights prevail over those whose morals are of a different standard in regard to hiring one in charge of children in schools or day care centres? And we know that bad company corrupts good morals. That proverb has been proven time and again. Who will protect our children? No. 2, will our church community be forced to hire a homosexual just because he or she is not to be

discriminated against when looking for a pastor, priest, Sunday school teacher or church secretary? No. 3, do the rights of the minority take preference over those of the majority?

Do you realize that, since 1978, when gay rights were introduced in San Francisco, sexual diseases have risen by 2,400 percent? What is to protect society from exposure to the AIDS virus, since homosexual males are the major carrier? Will their beliefs and practices have the right to override mine just because their rights are protected?

My stand as a concerned citizen is based on a Christian and biblical principle. I honestly believe you, as a governing body, are making one of the gravest mistakes society has witnessed this century if you go ahead and pass this law. According to God's word, homosexuals are an abomination to God and no person who persists in this practice will enter paradise. Remember, God has twice - at least that we know of - overthrown societies because of their homosexual practices, Sodom and Gomorrah in Genesis 19 and then Gibeah in Judges, chapter 20.

If a homosexual wants to persist in his practice, let him, for he will reap what he sows, but don't let him force his ways on me or my family. If this law is passed, I would have to take a stand against it because God requires that we stand on His word and laws if our governments oppose His. I'm really praying that you will listen to our concerns and that you will hear God's voice in this matter.

Thank you.

**MR. CHAIRMAN:** Questions? Thank you, Mr. Anderson. The next presenter is Mr. Lewis Martin, private citizen. Lewis Martin.

The next presenter is Mr. John Dean, private citizen. Mr. Dean.

**MR. J. DEAN:** Mr. Chairman, members of the committee, it isn't easy for me to express my concerns about one aspect of Bill 47. When I hear of physical abuse of people because they are homosexual or for whatever reason, I am disturbed. For some years, my son who is now 16, taller than me and can look after himself, was regularly beaten up at school. He was the smallest boy in his grade. That is painful.

However, I believe we must look not just at the question of protection, but at what is right. It is my understanding that we have legislation to protect us all as citizens in Manitoba.

I would like to outline a few reasons why I disagree with the sexual orientation clause in Bill 47.

Firstly, by implication, it legitimizes the homosexual lifestyle, giving it equivalent recognition to normal heterosexual relations in marriage between a man and a woman. Secondly, it challenges the moral foundation of our society which has traditionally upheld Judeo-Christian ethical and moral standards as a truly stable basis for society.

I note that much of the emphasis in presentations which have supported the sexual orientation clause have emphasized the rights of the homosexual, as though the question of right or wrong can be set aside. We believe in fact that the Holy Scriptures make clear moral statements about matters crucial to the health and

stability of society. As Ted Koppel of ABC News stated recently in a U.S. college graduation address: "God did not issue ten suggestions, but Ten Commandments, and these were given with many other valuable commandments for the well-being of society. Further, they were confirmed, fulfilled and enriched through the words and life of Christ, in spite of sometimes diabolical suggestions to the contrary."

Thirdly, it appears to create a double standard. I refer now again to the sexual orientation clause. It appears to create a double standard by refusing an employer the right to choose who he or she will employ in light of their own moral ethical convictions, while supposedly giving that same employer's church the right to refuse homosexuals in positions of influence if that church's constitution calls for such a refusal. The employer is thus forced not to apply his moral ethical convictions to the workplace.

Fourthly, it raises the uncomfortable prospect that further demands will be made by homosexuals for the active promotion of their lifestyle as a genuine and acceptable alternative in the educational system and elsewhere in society. This would be a natural and shocking development from recognition in this legislation.

Fifth, because I believe homosexuality and its lifestyle are wrong, I believe any kind of recognition or protection of that lifestyle is also wrong, and contend this bill gives that recognition. Most of us believe lying and stealing are also wrong, and we are grateful for some protection under the law from them. We would not countenance some implicit recognition and protection for the liar or the thief. It is because we believe homosexuality to be wrong and, like stealing, its practice damaging to society, that we oppose its implicit support in this legislation.

Finally, I would like to urge, if I may, that because the question of sexual orientation is included in the bill as presently drafted, all members of the House should be permitted to vote according to their conscience.

Thank you.

**MR. CHAIRMAN:** Questions? Hearing none, thank you Mr. Dean.

The next presenter is Mr. Davie MacLean, private citizen.

**MR. D. MacLEAN:** Thank you, Mr. Chairman. Gentlemen and ladies of the committee, good morning.

I do not have a presentation to give you on paper, although much of what I have to say comes from a paper that was presented by the Hon. Glenn Dobbs, a representative in the House of Representatives from Washington State, in a paper that he submitted to the Governor in Washington State when they were going through the same type of process. I have contacted Vancouver and, hopefully, I will be able to obtain a copy of that tomorrow and we will forward it to you then.

First of all, I'd like to thank you members of the committee for allowing me the opportunity to voice my opinion before you this evening or this morning, as the case may be. I've come to strongly oppose the intent of this bill to specifically secure the rights of homosexuals and bisexuals in the sexual orientation clause of this bill.

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My stance as a concerned citizen and as a businessman in Winnipeg city is that there is no need for a government to specifically establish the rights of those who have chosen a lifestyle of sexual deviation. We need to understand that homosexuality and bisexuality are not an acceptable lifestyle to be allowed the full status afforded to heterosexuality. We must see that homosexuality and bisexuality is, in effect, sexual deviation and is a moral or, if you will, immoral choice.

Homosexuality is not genetically determined, i.e., no one is born a homosexual, as some would have us believe. Homosexuality is a moral choice, a moral digression with very serious implications. I believe that you, the legislators, understand the responsibility that you carry as our governing authorities. I also believe that you understand you are responsible for the direct effects and indirect ramifications of each piece of legislation you authorize.

I'm wondering if you have considered the widespread and devastating consequences that promoting homosexuality would have on our society in Manitoba. This bill would, in effect, not just condone but promote homosexuality as a viable lifestyle. Sociologically speaking, this bill would constitute or encourage an assault on the family unit in Manitoba which, need I remind you, the family unit in Canada was Madam Sauvé's main concern in her 1987 Speech from the Throne.

The family unit is the mainstay of our society in Manitoba, the strength of our culture. This bill could lead to homosexual marriages, homosexuals adopting children and homosexuality being purported as a viable lifestyle within our public schools. With the already growing problem in our youth culture, need we wreak more havoc by calling an immoral, deviant lifestyle perfectly acceptable?

I notice that some members have voiced a concern whether or not this would be taught in our public schools or purported to be a viable alternative. I think tonight we've seen an example of homosexual evangelists, people who have a cause and who have a message that they want to communicate to our society. We've also seen representation directly from our educational institutions in Manitoba. I believe that you can draw correlation yourself to see if they indeed would purport this belief that homosexuality is a viable alternative within our school systems they have a message to communicate.

I'm also wondering if you have considered a correlation between homosexuality and pedophilia and how sexual perversion leads to more perversion. As many, many of the people who voiced their opinions tonight have stated, they want to eliminate the clause that says "between consenting adults within the law." They find that abusive.

If we are simply going to have sexual orientation within the bill, that would open up - actually it would hog tie our legal system to be able to enforce any kind of sexual offence. Say someone, for example, like the Noyes case from British Columbia last year where a teacher was sexually oriented toward young children, that was his choice; that was his preference. He enjoyed molesting young children. This bill here that would secure rights for those of a certain sexual orientation, he could, in effect, plead not guilty in that I'm guaranteed my rights to molest young children or to be sexually

oriented towards young children in this legislation. So it has very serious, serious implications legally. We could very seriously hog tie our legal system from prosecuting any kind of sexual offence in Manitoba.

I'm also wondering if you have considered a correlation between lewd homosexual practices and drug abuse which have resulted in death in some cases due to violent homosexual practices which are graphically outlined in this paper which I hope to obtain for you, which homosexual practices, I'm sure or I hope that you are aware of, are far more involved than merely men kissing men. There are some very lewd practices that go on which are graphically outlined in this paper.

From an economic perspective, have we considered the devastating effect this legislation could have on our provincial health plan? Listening to the radio the other day, CBC, I learned that the health plan is already predicting severe financial instability in the future - I think the day 1990 was quoted - and surely full treatment for AIDS victims, which are increasing at a phenomenal rate, would cause a complete bankruptcy of our provincial health care plan in a matter of time.

Finally, should we, in this age of one of the worst social diseases that has even been seen in civilization, namely AIDS, promote the lifestyle of that sector of society that has been seen to be the originators of this onslaught. AIDS has now become a social epidemic that has transcended the borders of the homosexual community, because we have not taken steps to resist homosexuality as a viable lifestyle. We need to take a stand against homosexuality and not promote it. It seems ironic that we would seek to entrench the rights of those responsible for the most feared epidemic on the face of the earth.

I'm wondering if you, the legislators, are willing to be responsible for assisting in the spread of AIDS throughout our society. I doubt not. We need to take care to enact moral legislation. This is your task, as legislators. We must not legislate immorality. Homosexuality is not an inherent right or a genetic trait; it is an immoral choice, it is sexual deviation.

Please do not be fooled into thinking that what happens in the privacy of the bedrooms of society has no public effect. AIDS is a very real contradiction to this lie and we are reaping the consequences right now. Be aware that we are establishing so many rights in our civil law that there will soon be no more wrongs. You cannot assert the rights of one sector of society without stripping away the rights of another sector.

A classic example would be if I own a hotel and I am of the moral belief that homosexuality should not be purported as a viable lifestyle. A homosexual group approaches me and says, we would like to rent your facilities to have a gay convention, of whatever nature. I have the right, as an owner of my own establishment to say, no, you cannot have your business in my hotel because I do not condone that type of lifestyle. You will have to find somewhere else to have your convention.

Now, under this legislation, I would be forced to let them use my hotel, even though I am the sole owner. That, to me, is an infringement on my rights. You cannot assert the rights to one sector of society without stripping away the rights of another sector.

If you choose to disallow the establishment of sexual orientation as a legislative right in Manitoba, you will

not be alone. There are many, many Manitobans who will support your decision not to secure the rights of sexual orientation in Manitoba. I would ask you to please remember, the needs of the many outweigh the needs of the few. Thank you very much.

**MR. CHAIRMAN:** Questions? Hearing none, thank you, Mr. MacLean.

The next presenter is Mr. Rick Wilgosh, private citizen.

The next presenter is Ms. Wendy Woodcock, representing Manitoba Representatives for Real women of Canada. Wendy Woodcock.

The next presenter is Mrs. Ethel Beck, the Lydia Fellowship Inc. of Canada.

**MRS. E. BECK:** Mr. Chairman, committee members, ladies and gentlemen, as Canadian leader of Lydia Fellowship, which is a women's prayer fellowship, I represent between 125 to 150 women in Manitoba alone. I am speaking for those women, and I would say that I'm also speaking for their husbands. Their husbands endorse what they believe.

Our concern with regard to Bill 47 is that a lifestyle which is clearly condemned in God's word appears to be condoned and accepted by our Manitoba Government. By including sexual orientation in section 9(2) of the bill, special protection is being given to unacceptable and in many ways detrimental lifestyles. As the law stands, apart from Bill 47, we believe these people are protected, just as the rest of us are. Therefore, the only reason we can see for the special status would be to further promote their lifestyle, and this we oppose and we oppose strongly.

In protecting the rights of homosexuals with regard to employment, are not the rights of employers infringed on? What about homeowners? Are they to be denied the right to rent part of their homes to those who hold the same beliefs as they do, especially if they hold to Judeo-Christian principles and teachings. In protecting the so-called rights of one group, rights of others will be violated. We do not feel that entrenching the rights of one group over those other groups can be justified by our government.

And so I would say to you, ladies and gentlemen, reconsider the inclusion of sexual orientation in Bill 47 - reconsider. Our God will not be mocked and His word is clear as to His feelings, how He sees the homosexual lifestyle. He doesn't condemn them, any more than he condemns you and I. If they repent, there is forgiveness, as there is for you and I, but what we do not endorse is this lifestyle which is opposed to God's word.

Thank you.

**MR. CHAIRMAN:** Any questions? Thank you Mrs. Beck.

The next presenter is Mr. Michel Aquin, private citizen.

**MR. M. AQUIN:** Mr. Chairman and members of the committee, I, a concerned individual with a voice to be heard, am strongly opposed to this Bill 47, especially the section where it speaks of sexual orientation. I, too, like many who have spoken, have come up here and have said already what I would like to repeat, I am not going to repeat it. Very much so, I stand in line with most of all those who spoke here in regard to Judeo-Christian belief. I do strongly oppose this bill for the same reasons that they brought up, many of them.

One thing I would like to say, outside of everything that's been said, it stems from immorality and morality. It seems to me that there is a definition for morality and a definition for immorality. I would like to know how come one is leaking into the other. If morality was stated and defined some time ago and established in a dictionary as to what morality is, why is it now that immorality seems to be kind of taking in some of that which morality occupies now? It seems to me that that has become a bit wishy-washy.

Also another question - my understanding is that the law is based on Scripture. If we think back, when was it that law was first handed down? It seems to me, if you can prove it to me that it was handed down before that stated in the Bible, I wish you could tell us that because I think a lot of people would like to know - I know I would. I think it's a shame that we spend this much time debating an issue which I think has already been said and done, and that is all stated in Scripture.

Thank you very much.

**MR. CHAIRMAN:** Any questions? Thank you, Mr. Aquin.

The next presenter is Mr. Dennis Hennessey, private citizen, Mr. Hennessey.

The next presenter is Mr. Kelly Stephens, private citizen.

**MR. K. STEPHENS:** Thank you. Good evening ladies and gentlemen, honourable Chairman.

In opening, I'd just like to comment on something that was said by Mr. Graham at the start of the evening. I thought it was interesting as a representative of the homosexual community. He referred both to the gays and to those who are straight, and I thought it's interesting to note that he should consider those who aren't gays as straight, and that those who are as something other - just a point.

I am here to speak on behalf of my wife and myself. As citizens, we're concerned about what is happening in our country and especially in our province today. I'm in complete disagreement with the sexual orientation clause in Bill 47, but I am in agreement with the personal protection laws that are being brought in through Bill 47 for individual rights.

I believe we were intended to be raised in a home where the leadership consisted of a man and a woman, and that this is very obvious as we look at the nature of the world in which we live. It is this union and only this union which can bring about life. None of us were ever born of homosexual parents. On this fact alone, I believe that we can see that homosexuality is abnormal and unnatural.

Myself, I can't sit and allow my future children or anyone else's to be raised in a society which endorses homosexuality or bisexuality as a normal, natural or acceptable way of life. I'd just like to read something from our Charter of Rights - I just happen to have a copy of it in French and English. The first thing that it says, and we're all aware of it - I just brought this because I thought it was a nice piece of paper - "Whereas Canada is founded upon principles that recognize the supremacy of God and the rule of law." I was impressed with that and there are other things in here I like too, but that's my main point for tonight.

Our country was built upon values which are supported by the God who we refer to as "Supreme"



in our Charter of Rights. Among these values, the family with a father and mother is seen as the basic unit of a healthy society. The God who we acknowledge also condemns homosexuality as a repulsive and depraved way of life. It needs to be made clear, however, that it is the behaviour of the homosexual which God has condemned and rejected and not the homosexual himself or herself, who is readily accepted by God.

The things which God has forbidden, He has forbidden for our best interests and for our highest good. The same if you get your new Camaro or whatever and you get your owner's manual with it and it says, change the oil every 2,000 miles and don't put it into reverse while you're doing 30 miles an hour, you can say, out the window with that and drive it down and around the Perimeter and throw it into reverse. You can do that, but you're going to reap the consequences. The things which God has forbidden, He has forbidden for our good. I'm here to encourage my government representatives to hold to the values, ethics, and morals which have been in place from the beginning of our country and have been endorsed by God.

The word discrimination has come up a lot in these proceedings. This word has come to have a negative connotation in our day. Under most circumstances, I would agree that it is negative, for example, when it refers to discrimination based on racism, gender, or handicaps, others as well. But when it comes to the code of ethics and values which govern our country, I believe that we must use discretion and discernment in determining what is acceptable and what is not for running our country. This calls for the rejection of that which is not acceptable, which some would call discrimination. I'm saying that discrimination is not entirely negative, but also positive and essential for a nation to exist in a healthy state.

I also believe that our universe is governed by laws and absolutes which exist whether we believe in them or not. These laws have with them serious consequences when violated and ignored.

I submit to you also that, to introduce this bill, you would be cutting into one of the basic freedoms that is included as a right in our Charter of Rights, that is the freedom of religion. For you to say to me or to anyone else that we must accept homosexual behavior as a normal and healthy and an acceptable way of life is to infringe upon my own personal faith. It's to take the other person's behaviour and say I must accept it. This appears to me and in fact is a direct contradiction of our basic freedoms. You cannot take the freedom of this little group and impose it on the whole. Their freedoms override our freedoms. It's a contradiction as far as what rights there are.

How can you justify legislating over an individual's faith, the personal choices of other individuals, and maintain that our country still provides freedom of religion, when that religion is walked over by homosexual rights that others, a minority, are imposing upon us.

I'd like to say also that God has put you in a place of power in our country, and that you wouldn't be there if he hadn't put you there and allowed you to come to it. It says in Proverbs, a wise king winnows out the wicked and drives a threshing wheel over them. And what that means is, it's your job. It says in Romans that the government doesn't bear the sword for nothing,

that you've got it in your hand to divide between what's right and wrong and to execute punishment where it's needed. I want to encourage you to do that and not bow to the pressures of minorities, who are placing on you pressure to submit to unnatural things.

I'd also like to tell you, who haven't read Leviticus, that homosexuality is one of the sin conditions that precedes the judgment of God. It says, "For the land as defiled, therefore I will visit the punishment of its iniquity upon it and the land vomits out its inhabitants." Homosexuality is unacceptable to God and it should be unacceptable to us, if we want to have a strong and healthy country.

**MR. CHAIRMAN:** Any questions? Thank you, Mr. Stephens.

The next presenter is Mr. Gordon Kooper, private citizen.

**HON. J. COWAN:** Mr. Chairperson, before the next presenter, we'll probably have an opportunity to continue this committee tomorrow on the public presentations. We'd like to stay here for a bit longer, perhaps till two or shortly thereafter.

What we'd like from the presenters, if there are people who can't come back tomorrow or there are people who feel, after having sat here all evening, they should have an opportunity to speak now, we'd be more than happy to hear them. I think we'd be prepared to stay until those people have had an opportunity to make their presentations, and then the committee will be meeting tomorrow starting at one in the afternoon and carrying on until it's complete. But if you have stayed here all this time and you want to make your presentation tonight, then please do. We're prepared to sit here and hear you out and appreciate your input.

**MR. CHAIRMAN:** Are there any more presenters? Can we have a show of hands of people who would like to present?

Mr. Gordon Kooper, private citizen - Mr. Kooper.

The next presenter is Mr. Peter Hagenlocher, private citizen.

**MR. P. HAGENLOCHER:** Thank you for pronouncing my name right.

**MR. CHAIRMAN:** Sometimes you make it, sometimes you don't.

**MR. P. HAGENLOCHER:** We've heard a lot of violence tonight and it's usually against homosexuals. Well, I'd like to tell you about violence against a heterosexual from homosexuals on a number of occasions, and I'm the one who had that happen to me.

When I was 16, I ran away from home, made some friends and I met a man who was a couple of years older than me. He seemed like a nice man, took me over to his place for some coffee, put his arm around me and said, "Pete, you know I really like you." He put forth his idea of what normal sexuality was. Luckily, I ran for the door and got out that time.

When I was 17, I met a man, again who was much older than me. He was a friend of a friend and seemed nice enough. I found out that he was a homosexual

and I also found out from his background he had spent quite a time in jail because of a manslaughter charge. So I made my exit. I left my apartment and didn't come back. I moved to another place because I was afraid of such people. One night, I came home and noticed my door was ajar and I was the only one living there, so I walked in to take a look. There's my well-acquainted friend. Knowing his strength - he was an expert in karate as well and I was even lighter and thinner than I am now - I was very afraid. He took advantage of me and forced me to perform acts that he would like.

Now I am a father. I have three children, two daughters and a son, and you're about to give special rights to people who are perverted. That's all there is to it. It's obvious, isn't it? We don't have to read books, we don't have to theorize on those things. It's obvious there's something wrong with these people. I don't hate them, I don't. But there is something wrong, and I'm not going to let you give them the power to influence my children.

My children are the most precious thing I have. I would give my life for my children, and you're about to give these people power to teach my children something opposite to what I want. I'm not impressed, and I know you're going to do it. I know the NDP party is going to stick to its party line, no matter what it really cares about. That's just the way you guys are. We're all wasting our time here. These guys are men of faith. I have no faith for you guys, but it's worth a shot.

Thank you.

**MR. CHAIRMAN:** Questions? Thank you, Mr. Hagenlocher.

Mr. Ken McGhie.

For information of those who have not registered but think that they can speak now, they can't unless they register. If there is anybody who is waiting to have the opportunity to make a presentation but have not registered, it is essential that they register so that at the next opportunity they will have the same chance.

Mr. Tom Cohoe.

Mr. Rick Schmidt, private citizen.

**MR. R. SCHMIDT:** I intend to be quite brief because I feel that much has been said tonight that expresses my views with regard to our opposition to the inclusion of sexual orientation. I'll just reiterate some of my major concerns.

Firstly, one would be the fact that it seems our government is intending to go ahead with the legislation as it stands, regardless of what the majority of Manitobans really feel in their hearts is right. I don't think that is the proper process for our government to follow. They were elected by the people and should, as a result, conform more to the wishes of the majority of Manitobans.

(Mr. Deputy Chairman in the Chair.)

I also tend to agree very much with what Mr. Green spoke about this morning with regard to the inclusion of sexual orientation in the bill, and that it will not change people's attitudes towards that particular segment of society. If that's what the purpose is or one of the purposes, I don't think that it will achieve that purpose.

I am not a person who has any ill feelings towards people of a homosexual nature. I do not condone the lifestyle, but I am very tolerant of them as people. Therefore, I don't want to be construed as being a gay-basher, which I'm not. I'm just very much concerned that the legislation will cause further legislation to come forward, as has been mentioned, regarding legalization of homosexual marriages, adoption of children by homosexual couples and just the plain undermining of our society, the family unit in our society. I would very much urge the committee to reconsider the inclusion of sexual orientation and to make amendments to not allow it.

Thank you.

**MR. DEPUTY CHAIRMAN:** Do you have any questions of Mr. Schmidt? Thank you, Mr. Schmidt.

The next presenter - Ray Schmidt, private citizen.

Ms. Kathy Hanan, private citizen.

**MS. K. HANAN:** Thank you. Good morning.

I'm opposed to the clause of sexual orientation in Bill 47. The Government of Canada is established on Judeo-Christian principles. God sees homosexuality as an abomination. I emphasize homosexuality, not the individual practising homosexuality. We must not allow our country's moral standards to lower. We would only be opening the doors to more and more deterioration, bringing a curse on our land and our province as well.

Homosexuality is not a genetic condition. It is a sexual perversion. It is the choice of the individual. How can we help the individual if we allow homosexuality to appear to be acceptable? We would be setting a trap that leads to the destruction of precious human lives, lives that can be made pure. Homosexuals as men and women are already protected by the Charter of Rights.

Thank you.

**MR. DEPUTY CHAIRMAN:** Are there any questions for Ms. Hanan? Thank you, Ms. Hanan.

Wendy Peter. George Feenstra, private citizen. David Bloom, private citizen.

Ken DeLisle - Dignity/Winnipeg.

**MR. K. DELISLE:** Mr. Chairman, ladies and gentlemen, I feel like I'm Daniel walking into the den after some of the statements. Before I read my short brief, I do want to comment on two things.

The last couple of speakers have stressed family values in society. I don't know where they think homosexuals came from. I belong to a family. I have a mother, a father, a brother, sisters, nephews and nieces, aunts and uncles. I have a family. My homosexuality has not destroyed that family.

There's been a lot of talk about choice. To imply that homosexuality is a choice implies that your heterosexuality is a choice. I did not wake up one morning over ham and eggs and decide to spend the rest of my life as a homosexual. I do not believe that any of you woke up over breakfast one morning and decided to spend the rest of your life as a heterosexual, assuming that you are heterosexual.

I did choose to try to be a heterosexual. For a year-and-a-half, I underwent behaviour modification at the University of Manitoba. I was pronounced cured. I had

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to carry a little counter with me and, every time I had a homosexual fantasy or thought, recorded it. When it got down to zero, I could put that away because I was no longer considered a homosexual. All my desires and images were heterosexual. The result was that, if I didn't keep going back for electrical treatment, the fantasies kept coming back. My choice then was as a homosexual. How are you going to live this life, responsibly or irresponsibly?

I chose to live it responsibly. I have not molested any children. If we're going to talk about the difference of homosexual and choice - whatever that's supposed to mean - I think it would be easier or wiser to use the differences that Pope Paul did in his declaration on certain sexual ethics, I think it was 1976. He did decide there were two types of homosexuals, those who were so because of circumstances - they were either forced into it or they were isolated out in camps or in prison, but they would return to their heterosexuality when given the chance. The second group were those who were homosexual through what he called some innate instinct. We do not know what causes homosexuality any more than we know what causes heterosexuality. You suddenly found yourself attracted to persons of the opposite sex. Explain to me how you went through that process and made that choice.

I'm also confused by this whole idea of behaviour and the fear that suddenly there are going to be more homosexuals out there as soon as you pass this law. It seems to assume that, once you pass it, the homosexual lifestyle, for reasons unknown to me, will suddenly become so wonderful, so attractive, so magnificent, that hundreds, indeed thousands, will come beating on our doors to join the club that we once closed off to them. I don't see that happening. I don't see how we can talk about it happening.

Dignity/Winnipeg/Dignite welcomes this opportunity, on behalf of its members and supporters, to underline the need to protect homosexual men and lesbian women from discrimination under the Manitoba Human Rights Code.

The membership of Dignity/Winnipeg/Dignite are homosexual and lesbian Catholics and associates, who are working to promote the dignity of homosexuals and lesbians and their full acceptance within society and the Church. We are people who meet together as a worshipping community to share our reflections and needs, to support one another, to worship together in a loving community, and to seek to serve the cause of justice and love in the world.

Our fundamental ministry is focused on the individual person who comes to us for help. Our purpose is "to reinforce their self-acceptance and their sense of dignity." The lack of legal protection is a psychological barrier to see themselves as somehow criminal or at least less worthy than any other individual who has human rights protection. It is in aid of them that we feel we have an important obligation to speak up on this matter.

As a group of Manitoban gay citizens, we know what it is like to have our basic dignity as human beings, and the rights that flow therefrom, denied us. We know that in a society where long-standing, deep and widespread prejudice exists against us, we live a peculiar vulnerability.

We experience the daily oppression of being disapproved of, of being accused of sickness and sin, of being accused of undermining society's values and institutions. We must bear with cruel "humour" that flaunts the right to laugh at our expense. We hear children in the streets and schoolyards, hardly old enough to talk, already using society's prejudiced words for us to communicate their precocious socialization into despising us before they even understand who we are.

In seeking protection under the Code, we are not seeking special treatment or special rights for homosexual persons. The point of this request is to secure equal opportunity, equal treatment and equal protection under the law. What is being sought is the security to enjoy those fundamental rights that everyone else enjoys as a matter of course.

(Mr. Chairman in the Chair.)

Nor are we expecting the proposed amendment to be a panacea. Individual attitudes cannot be legislated and no one expects that they can. But inclusion under the Code can see to it that the holder of a given attitude is prohibited from inflicting unwarranted suffering on another human being and that, in terms of employment at least, an individual can be free to be judged on his or her merit and job competence alone, rather than on matters which are extraneous.

We are also aware that you will hear from other Christian groups, including our own official Church, who argue against guaranteeing us our basic human rights, and who claim it is their faith which directs them in their campaign. We feel it is a special obligation to counter the frighteningly distorted witness that such groups have given.

We know, as gays and lesbians and as those concerned with homosexual persons' rights, that many Christians who argue against our rights as citizens know not what they do. They act out of the unexamined prejudice built on ignorance and fear which still infects much of our society. They do not know us or about us. They see us as enemies even though there are no grounds. They apply their social, ethical and theological judgments not against us but against stereotypes and misconceptions. This is why their applications of the Christian tradition are distorted into contradiction with basic Christian values, why they argue against the dignity and rights of sisters and brothers rather than for them.

It is also central to the Christian faith that Christian believers must be concerned in a special way for those who live on the margins of society, for such was the distinct mission of Christ himself. The New Testament categories of the poor and the outcast must certainly be interpreted in today's terms to include a group of people who, through no fault of their own, are often despised and unfairly treated, and the homosexual and lesbian minority is such a group.

We speak as real persons who know ourselves, our lives, our beauty and value as human persons, our gifts, and even our faith.

We must also emphasize that the question of sinfulness or not of sexual behaviour between homosexuals and lesbians is absolutely irrelevant to the present matter. Although there are increasing

numbers of theologians questioning the church's traditional stance on homosexual acts, it is emphatically not relevant to the question of legislation against discrimination, for legal protection of homosexuals and lesbians would in no way imply moral approval of every aspect of the behaviour of those protected. The morality of any group already protected by the Code is not questioned and was not discussed at the time protection was offered.

Even in Canada, a number of Christian groups, which include Catholic clergy and religious, have come out specifically in support of including sexual orientation as a ground on which discrimination is prohibited. In March of 1983, Dignity/Toronto/Dignite received this assurance in a letter from Cardinal Emmett Carter, Archbishop of Toronto:

"You remind me of the submission which I made to the Police Commission in particular and to the Community of Toronto in general concerning various matters of importance to minorities. In that report, I attempted to uphold the civil rights of those who have homosexual orientation. My position and purpose in so doing were to the effect that, while I do not consider homosexuality as an acceptable alternate lifestyle, I am totally prepared to defend the civil rights of those who are so oriented not to be treated unjustly or to be harassed in contravention to our laws which protect all individuals and groups.

"I can assure you that, if it becomes clear that there was or is illegal discrimination against any group, whatever their nature, I shall be among the first to speak out in condemnation thereof."

It is because of heterosexual lack of understanding that the very proposed definition of sexual orientation is in error. It is discriminatory by age. It means that children and teenagers who may identify themselves as heterosexual can be discriminated against.

It means that a homosexual employer, who may even receive a provincial grant to hire and train students, is free to refuse to hire a young student because they are heterosexual. The young student would have no place to lodge a complaint and would be legally denied a job because of orientation. If an adult is fired because they are heterosexual, under the proposed definition, they must first prove that they are worthy of human rights by allowing some person or persons to examine whether or not they have conducted their sexuality within the law. The procedure would certainly open itself for much abuse and certainly cause undue embarrassment to persons whose character you question. If any members present were denied service at a restaurant because of orientation, would you be willing to have your sexual behaviour studied to see if you are worthy of making a claim?

Why this hang-up on activity? The Criminal Code of Canada already states what activities are illegal. No other group listed in the Code must first prove that they are saints before we offer them basic protection.

It has often been stated with great truth that human rights in a society are as strong as they show themselves to be with regard to its most vulnerable group. It is constantly brought home to us as gay men and women that prejudiced treatment and attitudes against us are still socially respectable. While in most circles in our province, people should feel some real embarrassment at demonstrating or even articulating prejudice against

a racial or religious minority, the same is not true with regard to gay men and lesbians.

As gay men and women and as Catholic Christians, we urge you, our representatives, to give us our basic human rights as Manitoban citizens.

Thank you.

**MR. CHAIRMAN:** Questions? Hearing none, thank you, Mr. DeLisle.

The next presenter is Anne MacLean, private citizen. Mrs. MacLean.

**MRS. A. MacLEAN:** Mr. Chairman and members of the committee, I want to voice my opposition to Bill 47, section 9(2), which proposes to include homosexuality and bisexuality as acceptable forms of sexual orientation.

Homosexuality and bisexuality are immoral. These practices are abuses of natural human functioning. Acknowledging these as acceptable forms of sexual orientation will severely damage the moral fibre of our province. We need morals. We need guidelines by which to conduct ourselves. Without standards, all manner of corruption is possible. In an "anything goes" society, everything will go. Life will be reduced to a simple but aimless purpose that can be summed up in the phrase, "If it feels good, do it." Unfortunately, we'll have to suffer the consequences later.

An issue has been skirted tonight - and I notice it's been addressed by several of the members on the committee - and that is whether homosexuality should be taught and promoted as an acceptable lifestyle. So far, everyone who has been asked tonight has acknowledged homosexuality is different, but no one, not even those in support of section 9(2), is willing to say that it is good, acceptable or normal. What seems to be communicated is that these practices are different, though not good, acceptable and normal, but it has to be tolerated anyways. I, for one, am not willing to promote homosexuality or bisexual practices, nor am I willing to tolerate it.

I respectively remind each member of the Legislature that the goal in reaching the final decision about Bill 47, section 9(2) is not to win votes. Instead the decision is to be based on that which will uphold the moral fibre of our province and maintain an acceptable quality of life for the general public.

I urge each member of the committee to vote to remove the terms "homosexual" and "bisexual" from the sexual orientation clause of Bill 47, section 9(2).

Thank you.

**MR. CHAIRMAN:** Questions? Hearing none, thank you, Ms. MacLean.

The next presenter is Rozalia Bugan, private citizen.

The next presenter is Jonathan Much, private citizen - Mr. Much.

**MR. J. MUCH:** I've gained a new definition of the words "public servant" after seeing you wait this long. Thank you for waiting to hear us. I have to be at work at 7:30 a.m. in a Winnipeg factory, so I appreciate you staying up to hear.

As a parent and a member of Manitoba, I would like to join the sentiments expressed by those who stand

firmly opposed to the entrenchment of rights for those of bisexual and homosexual orientation.

In addition to what they've said or in backing up what they've said, I feel that it is imprudent to go against the wisdom of the ages that we have heard quoted tonight and to espouse these things. I feel that it will be a general lack of restraint in society as a whole, and that it will be a cause of confusion in our society.

I join with those who feel that this is something which is against nature. I feel it is an unnatural thing and I feel also that it's an insult to the Creator who made us. I believe in a Creator and I believe that He made us with a certain design. If you were to make something that you were particularly proud of, you would like to see it function in the way that you've designed it to function. I believe, in this implicit endorsement of homosexual behavior, the government is in fact enacting legislation that is insulting to our Creator. That's my feeling as a private citizen of Manitoba.

I also feel, on a sociological plane, that each society needs strong sexual standards in order for that society to maintain a stable community. In the study of anthropology, you notice that there are many different standards in different communities, but there always are very strong and rigid sexual standards and, when they are abruptly changed or reversed, the results are disruptive to society.

Judging by the difference of opinion that we've heard voiced here and the strong dissent and controversy that this proposed legislation has brought about, I feel that it should be plain to those who are responsible for bringing forth this legislation that people are not ready for this change in general. I do not believe that the majority of Manitobans are ready to stand behind that type of legislation.

Now I know that you must do what you feel is right, which is proper, to enact the proper protection of individuals, but I feel the provisions that have been made in the proposed law are inadequate to do what they attempt to do. In the sections about the bona fide reason, as has been brought up before, I believe that this in fact is too open to interpretation. It will not provide the kind of adequate resource for those who have beliefs, other than those who are being specifically protected.

I might also add, in reference to the comments that have been previously made, that it would be advisable for heterosexuals to have this protection afforded to them as well, because it could be very helpful for them in certain situations.

My own opinion, as a heterosexual, is I do not desire that specific protection in the law. I do not feel that's the kind of protection I want, but rather I would back up the statements that have been made that this in fact is just a euphemism for gay rights.

Thank you for your attention this morning.

**MR. CHAIRMAN:** Questions? Hearing none, thank you, Mr. Much.

The next presenters are Brigitte and David Neufeld, private citizens - Mr. Neufeld.

**MR. D. NEUFELD:** Good morning. I represent my wife, Brigitte, myself and my daughter, Erica. Mr. Chairman, ladies and gentlemen, I strongly disagree with Bill 47 because of the sexual orientation clause in it.

I have a beautiful wife and a young child, and I know God has made me a man. God created two sexes, male and female, and according to the written Word of God, which we in courts say is the truth, He created man to be joined with woman. If this bill is passed, the family unit will be threatened, as earlier stated by those opposed to the bill. Please reconsider and not allow this bill to be passed.

Jesus Christ loves us and homosexuals. He loved us so much that he came into this world and died for us. He also was raised up on the third day and is now seated at the right hand of God. If we repent as a nation, we can all be forgiven and, one day, we will rule and reign with Him. I pray that we will all repent as a nation and obey what God's written word, the truth, says.

Thank you.

**MR. CHAIRMAN:** Any questions? Thank you, Mr. Neufeld.

The next presenters are Rose and Paul Dubois, private citizens.

The next presenter is Mr. Norman Woods, private citizen.

The next presenter is Mr. Wayne Charski, private citizen.

**MR. W. CHARSKI:** Thank you. Good morning, Mr. Chairman, and ladies and gentlemen. I know the hour is late and I pray that your ears are open and not as tired as mine.

I come before you tonight in opposition, of course, to the sexual orientation clause. I know that has become very repetitious tonight and many subjects or many things that have been brought up, I won't need to go over.

I would like to just point out though, as has been brought up in one instance, that the Charter of Rights of Canada and our country was founded on biblical truths. I truly believe that we, as people of this country, so often when we put our ballots in our schools and vote for people in government, sometimes we feel that our voice is never heard and our ideas are never expressed. It is indeed a privilege for me to come before you at this early hour to express my opinion and to actually have a say in government or at least to your ears.

I'm opposed to the sexual orientation clause, basically because I believe, the way the clause stands, that it will give homosexuals a status in our society that is unnatural, unnatural to the laws and unnatural to the founding of our Charter of Rights. I believe, if we perverse this law and if you perverse this law that we, as citizens who uphold or try to uphold our moral values, will not have that opportunity any more.

Many points have been brought up tonight about education and teaching our children or will it be brought up in our schools. I know in the future that these things will come to pass, and I know that you, as legislators, have the recommendations from either side, from the gays, from the Christians, even the non-Christians. I know it is your decision justly and rightly to make the decision that you feel is right. I just come before you now to say that I disagree and thank you for the time and I hope that you hear this plea.

Thank you.

**MR. CHAIRMAN:** Any questions for Mr. Charski? Thank you, Mr. Charski.

The next presenter is Kell Frandsen.

The next presenter is Rob Friesen.

The next presenter is John Neufeld, private citizen  
- Mr. Neufeld.

**MR. J. NEUFELD:** Mr. Chairman, ladies and gentlemen. I was not born in this country and I'm very glad for Canada, and I say "God Bless Canada." I love this country; it's a beautiful country; it's a free country. God Bless Canada.

Tonight I'm here to say that I strongly oppose the phrase "sexual orientation" in Bill 47. The Bible clearly forbids homosexuality. Leviticus, Chapter 18:22 says, "Do not lie with a man as one lies with a woman," that is the detestable.

Thank you.

**MR. CHAIRMAN:** Questions? Thank you, Mr. Neufeld. Doris Friesen. Betty Friesen. Harv Thiessen. Richard Koopanyi. Reinhard Neufeld, private citizen.  
Mr. Neufeld.

**MR. R. NEUFELD:** Mr. Chairman, Mr. Roland Penner, committee members, I wish there were more NDP members here so they can hear the message that has been spoken tonight.

Bill 47 has presented Manitobans with a potential time bomb with the inclusion of section 9(2), with the phrase of sexual orientation. I feel this bill would infringe on my rights as an employer, Christian and a private citizen.

As a Christian, I believe that homosexuality is a direct contradiction of the word of God and, therefore, I could not and would not accept a homosexual staff member whose lifestyle is openly portrayed against my morals. With this new piece of legislation, I feel I would have no right to dismiss this member. I don't feel this is right.

As a Canadian citizen, I also must voice my disapproval of this bill on behalf of all the innocent children who would be exposed to homosexuals and their lifestyles if special agencies, such as those who provide services and companionship to children and others in need of care, lose their right to set standards of conduct for volunteers and employees.

I believe the Canadian Bill of Rights adequately protects the gay community and we do not need this bill to destroy my rights or the rights of innocent children who are the future of this province and country.

In conclusion, I would caution the NDP Government in passing this bill. If you do pass it, the next election will show you that the public does not support this bill.

Thank you.

**MR. CHAIRMAN:** Thank you, Mr. Neufeld, unless there are questions from the committee. Thank you.

Henry Dueck. Rhoda Neufeld, private citizen.

Ms. Neufeld.

**MS. R. NEUFELD:** In reference to Bill 47, I would like to say that what it proposes regarding discrimination and equality for individuals has some good points

except for section 9(2) of the bill, the phrase "sexual orientation" which refers to heterosexuals, homosexuals or bisexuals.

I strongly oppose giving special protection to lifestyles such as homosexuality which undermines the God-given family unit. Homosexuality is not condoned in the Bible as an alternative lifestyle. In fact, the Bible clearly states: "You shall not lie with a male as with a woman. It is an abomination," Leviticus 18:22.

I am deeply saddened and greatly appalled that any government would want to condone and also protect the lifestyles of homosexuals or bisexuals. Would you want a homosexual to be your son or daughter's teacher? I wouldn't.

It's the lifestyle of the individual that God is opposed to, not the person, for God is willing to forgive their sin, just as he is willing to forgive my sin or anybody's sin if we're truly sincere.

Please consider these issues very carefully. Our children's lives are at stake.

**MR. CHAIRMAN:** Thank you. Unless there are questions from the committee, thank you, Rhoda Neufeld.

The next presenter is Karl Neufeld. This must be the Neufeld family in here.

**MR. K. NEUFELD:** Mr. Chairman, members of the committee, ladies and gentlemen, I also applaud the intention of Bill 47 to strengthen the equality of opportunity in our province. However, with many of those who have spoken before me, I also disagree with the clause in section 9(2) concerning sexual orientation.

I just want to register my opposition and my concern to the influence this would have in the area of education in the family unit, the detrimental effect. I believe it would set the stage for homosexuality to be presented as a viable alternative to our children, and I have three sons in school, elementary school age. I'm very concerned about the influence that they could receive in a school that recognizes homosexuality as a viable alternative to heterosexuality. I believe teachers' lifestyles directly and indirectly influence the lives of our children and would not approve and would have to remove my children from such an educational system.

I believe that our Charter of Rights already protects all our rights to the extent that they need to be protected, and I believe that including the sexual orientation clause in this bill sets the stage for special status for homosexuality which is condemned by the Bible in Leviticus 18:22 and other references. It has previously been stated, if God is supreme in our Charter of Rights and His will is revealed in the Scriptures, then I believe that it should continue to be the basis for the principles upheld by the government of this province and of this country.

Thank you.

**MR. CHAIRMAN:** Questions? Hearing none, thank you, Karl Neufeld.

The next presenter is Randy Wengel. Mr. Wengel.

Ms. Louise Bromley, private citizen.

Mrs. Eva Stephens.

**MRS. E. STEPHENS:** I'd be happy to present now, but I'd also be happy to present tomorrow at 1:00 if

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you'd like to quit. Are you going to be continuing tomorrow?

**MR. CHAIRMAN:** If you don't present now, you go to the bottom of the list.

**HON. R. PENNER:** That could be tomorrow night.

**MR. CHAIRMAN:** That could be tomorrow night. It's your choice.

**MRS. E. STEPHENS:** So you're going to continue tomorrow at 1:00 p.m.

**MR. CHAIRMAN:** But you go to the bottom of the list.

**MRS. E. STEPHENS:** Well, I'll be happy to do that.

**MR. CHAIRMAN:** You won't keep your spot.

**MRS. E. STEPHENS:** Okay, I'll go ahead then, whatever.

**MR. CHAIRMAN:** It's whatever you decide.

**MRS. E. STEPHENS:** I'll go ahead.

I'm opposed also to Bill 47 and I believe in laws based on absolutes, not relativity. The Judeo-Christian faith is based on biblical absolutes, and I would ask those homosexuals who feel God accepts them and their sexual orientation if they believe that the Bible is in error because its stands against homosexuality is clear, as it's already been quoted out of Leviticus.

I hope that you would consider carefully the serious implications of this bill and I would grieve if my future children were taught in a school that bisexuality was a viable way of life. This has already been processed in Ontario. Please don't let this happen here.

Thank you.

**MR. CHAIRMAN:** Questions? Thank you, Mrs. Stevens. The next presenter is Mr. Allan Buckley. The next presenter is Joseph Caulfield.

**MR. J. CAULFIELD:** I requested tomorrow, thank you.

**MR. CHAIRMAN:** Thank you. That's the last name we have. Are there any others here who want to present tonight and have waited all these hours and want to make a presentation?

This is Dr. Smith.

**DR. J. SMITH:** I'll try and make this as brief as I can, but I can't be here tomorrow, I'm afraid.

I'm here to commend the government for including sexual orientation in Bill 47. I'm a family practitioner. For five years, I practised in rural Manitoba, in Shoal Lake and in Birtle. Over the last eight years, I've built up a large practice in Winnipeg.

I estimate that approximately half of my patients are homosexual men and women. Of these, the large majority are gay men. So, unlike the Christian speakers, I know about the people I'm talking about.

During this time, I've been privileged to develop an understanding of the lives of many of my patients, both

straight and gay. Based on this experience, I have four points to make to the committee.

Firstly, there appears to be no doubt that homosexual citizens of Manitoba are adversely discriminated against solely on the basis of their orientation. I will report to you a couple of cases on that.

Secondly, from what patients who have been the recipients of adverse discrimination have told me, it is the absence of legislation prohibiting discrimination that deters individuals from reporting incidents of discrimination. I have no doubt that, were legislation enacted, it would be used.

Thirdly, the negative consequences of discrimination extend far beyond specific instances, since fear of discrimination is often as damaging as discrimination itself. Passing through life in a permanent fear of losing one's job or housing if one's sexual orientation is discovered is an alienating and damaging experience that deforms the lives of many of the not insignificant number of men and women whose destiny it is to be romantically and physically attracted to members of the same gender. It certainly inhibits the development of stable, monogamous relationships.

Fourthly, this fear leads to attitudes that are counterproductive to individual and community health.

I'll now relate two good examples of discrimination experienced in this province by my patients.

The first case involves a gay man in his early thirties. He was employed by a major Canadian organization. He told me that he was well liked and respected at work. He was a rather mainstream down-to-earth sort of person and was exceptionally good at his job. In fact, he had received a promotion and was due to be transferred to Ottawa. He was told that he would be the youngest person ever to have done this job in the company's history. I saw him shortly after this when he became ill with Hepatitis B.

Incidentally, Hepatitis B is a relatively rare viral infection that is transmitted in certain specific ways. One mode of transmission is sexual, and homosexual men are known to be at high risk for this illness. About 50 percent of carriers of this disease have no symptoms.

My patient had entered a new relationship several months previously with a partner who was unaware that he was a carrier, and this is how my patient had become infected. He was off work for a couple of weeks and, on his return to work, he was assessed by the company's doctor.

My patient was quite straightforward when questioned about his illness and reported the diagnosis. Because the physician was aware that this disease was transmitted in a limited number of ways, most of which are fairly unusual, he inquired how he had been infected. Again, my patient was entirely straightforward and honest and he explained the situation to him. This man was subsequently fired from his job and told that this was because he was a homosexual person.

In another instance, a middle-aged man who lived in a Manitoban town of perhaps 2,000 people developed a relationship that has now lasted about five years with a man in his mid-thirties. The younger man was a carpenter by profession and moved from Winnipeg to stay with his lover and build new kitchen cabinets for him. He told me that he was accepted in the community and that he and his lover were well liked at the local pub, even though some people suspected the nature of their relationship and alluded to it in a joking way.

His lover managed an insurance office and, in due course, employed my patient in this office. He apparently got on well with the other members of the staff and business was not adversely affected over several months. However, rumours of the relationship of these two men reached the head office of the company that employed them and someone was sent out to investigate.

My patient's lover, when confronted, was candid about the situation. He was told that he would have to fire my patient. They were told that, if they had been a heterosexual couple, there would have been no problem. Because they were two men, the company would lose business in a small town. Even though this had not in fact yet occurred, the patient was fired.

Two other patients have shared with me their experiences in job applications in which they believe they were discriminated against solely because they were known to be homosexual by persons on the interviewing panel. One instance involved a lesbian who was highly qualified for the job and, in the other case, the man who applied was the only applicant with the appropriate qualifications and the job was not filled.

Two patients have also reported separate cases of discrimination in accommodation which they believe was due to their sexual orientation. I admit that in none of these cases that I have selected to you was any investigation carried out. Were this legislation passed, I believe that investigation would have been carried out and the truthfulness or not of these reports could have been investigated. However, I know the individuals concerned, and it's my sincere belief that they were speaking the truth.

In none of these cases was the individual flamboyant or in any way militant about their sexuality. We've heard a great deal tonight from people who clearly do not know many mainstream homosexuals about pedophilia and perverting their children and all this kind of stuff which is just irrelevant to my experience in my practice. This does not occur in any significant way.

So these people all struck me as rather sober citizens trying to make the best of a difficult lot in life and doing so with as much honesty as they could muster in the face of a society which seemed to prefer dishonesty, dissembling and deceit.

I would like to talk briefly about the medical issues surrounding homosexuality, since I believe it's important that legislators understand fully prevailing medical beliefs and concerns on this issue.

This is the current issue of the diagnostic and statistical manual of mental disorders. It's the official catalogue of mental diseases and is published by the American Psychiatric Association, which is the official body representing American psychiatrists. This edition took five years to develop and involved over 200 psychiatrists all eminent in their fields.

In the index, there is only one heading under homosexuality. It is a condition called ego-dystonic homosexuality. As I read the description of this disorder, I would ask the members of the committee to imagine themselves growing up as I did and discovering in their late adolescence that they were gay and knowing that they live in a society which will permit people to deprive them of employment, service and housing solely because of who they are, not because of what they do outside the privacy of their own lives, not because of

their abilities, not because of their demeanour, their attire, their attitudes or their probity, but solely because of their sexuality.

Ego-dystonic homosexuality, the essential features are a desire to acquire or increase heterosexual arousal so that heterosexual relationships can be initiated and maintained, and to sustain the other component of this condition is that it occur in an individual who has a sustained pattern of overt homosexual arousal and that the individual explicitly states he has been unwanted and a persistent sort of distress to that individual.

This category is reserved for those homosexuals for whom changing sexual orientations is a persistent concern and should be avoided in cases where the desire to change one's sexual orientations may be a brief temporary manifestation of an individual's difficulty in adjusting to a new awareness of his or her homosexual impulses. Individuals with this disorder may have either no or very weak heterosexual arousal.

Typically, there is a history of unsuccessful attempts at initiating or sustaining heterosexual relationships. In some cases, no attempt has been made to initiate a heterosexual relationship because of expectation of lack of sexual responsiveness. In other cases, the individual has been able to have short-lived heterosexual relationships but complains that the heterosexual impulses are too weak to sustain such relationships with honesty. When the disorder is presented in an adult, usually there is a strong desire to be able to have children and a family life.

Generally, individuals with this disorder have had homosexual relationships but often the physical satisfaction is accompanied by emotional upset because of strong negative feelings regarding homosexuality. In some cases, the negative feelings are so strong that the homosexual arousal has been confined to fantasy. The course of this disease is described as follows.

There is some evidence that in time many individuals with this disorder give up the yearning to become heterosexual and accept themselves as homosexuals. This process is apparently facilitated by the presence of a support of homosexual subculture. It is not known how often the disorder without treatment is self-limited. However, there is a general consensus that spontaneous development of a satisfactory heterosexual adjustment in individuals who previously have a sustained pattern of exclusively homosexual arousal is rare.

I would, in this context, like to draw the committee's attention to the probability that individuals who are witness to the fact of having been homosexual and become heterosexual probably were bisexual individuals with a predominantly heterosexual personality and that they have really discovered their true sexual identity because discovering one's sexual identity is very often a question of exploration.

Now if we come to predisposing factors to ego-dystonic homosexuality, they say, since homosexuality itself is not considered a mental disorder, the factors predisposed to homosexuality are not included in this section. The factors that predispose to ego-dystonic homosexuality are those negative societal attitudes towards homosexuality that have been internalized, in addition, features associated with homosexuality such as having children and socially sanctioned family life may be viewed as desirable and incompatible with a homosexual arousal pattern.



I think it's very important to know that because I'd like you to be aware of what physicians are doing when they see homosexuals in their office, and this is not myself. This is the mainstream of physicians educated in Manitoba. This is what family physicians are being trained to do. The problems that they have to deal with are helping persons to accept themselves as gay or lesbian people, of helping relatives of homosexual persons to accept the reality of homosexuality in society, in their own lives, to cope with adolescent suicide because of difficulty of coming to terms with homosexuality.

I want to assure the Christians that, because of their own beliefs, they do not protect their children from being homosexual persons, and what they do ensure is that their children can never share their true identity with their parents. Respected suicidologists specializing in adolescent suicide in the United States, individuals sitting on federal committees, now believe that the major cause of adolescent suicide in males is homosexuality and difficulty in coming to terms with it. In the event that a Christian has a child who is homosexual, there is a good chance they are going to lose him one way or another, and that will be more disruptive of family life than my own situation in which my lover of 10 years' standing and myself are fully integrated into both our wider families.

Another area in which physicians have to work is in treating sexually transmitted diseases. This has been alluded to in terms of AIDS. Now I think it's very important that the committee understand that one of the reasons that sexually transmitted diseases are a major problem in the gay community is the clandestine lifestyle forced upon people by societal negative attitudes, fear of loss of employment and so on. If a person is unable to reveal his name and phone number to a partner for fear that, somehow or other, it's going to get out that he is gay, then how can he ever establish a relationship? If two men are afraid to live together for fear that they will be recognized as homosexual and lose employment, how can they ever develop an enduring relationship?

Providing couple counselling when problems arise in relationships is another important part of work with

homosexual patients. Not infrequently, the problems are exacerbated and even caused by societal pressures in trying to keep a relationship going in this hostile environment.

I would also like to report that, in my practice, I have treated six different gay men who have been the victims of unprovoked physical assault which was accompanied by hostile, derogatory remarks about their sexuality. In a couple of cases, the injuries were extensive and severe. Where does the social sanction for this kind of behaviour come from? What teenagers feel the compulsion to go out and beat up these people? The source of these feelings comes from these Christian people who express these viewpoints.

Finally, I would like to say that a lot of what I have heard from the Christians has struck me as very un-Christian. My understanding of what Christ advised people to do was to treat people as they would like to be treated themselves. I think that, as many homophobic parents whose children have finally summoned the courage to tell them that they're gay have discovered, when you come to the reality of homosexuality, when you come to its presence in your life, as I had to do as a person who went through every available means, including medical, religious, psychiatric, to try and adapt and become heterosexual, when you come to the reality of that in your life, then you have to face the fact that caring for people as you would wish to be cared for and Christian love includes acceptance.

Thank you.

**MR. CHAIRMAN:** Questions? Hearing none, thank you, Dr. Smith.

There is a final presenter, I hope. Rhéal Hébert.

**MR. R. HEBERT:** I'll wait for tomorrow -(inaudible)-

**MR. CHAIRMAN:** Committee rise.

**COMMITTEE ROSE AT:** 2:20 a.m.