

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON LAW AMENDMENTS

Tuesday, February 13, 1990

TIME — 10 a.m.

LOCATION — Winnipeg, Manitoba

CHAIRMAN — Mr. Helmut Pankratz (La Verendrye)

ATTENDANCE - 11 — QUORUM - 6

Members of the Committee present:

Hon. Messrs. Connery, Cummings
Messrs. Gillehammer, Harapiak, Helwer,
Kozak, Lamoureux, Pankratz, Patterson,
Storie, Taylor

APPEARING:

Rob Walsh (Legislative Counsel)

WITNESSES:

Mr. Manson Ivor Coles, Private Citizen
Mr. David Brant, Private Citizen
Mr. Charles E. Lamont, Enconaire Systems
Ltd.

MATTERS UNDER DISCUSSION:

Bill No. 83—The Ozone Depleting Substances
Act

* * * *

Mr. Chairman: The Committee on Law Amendments is called to order. Bill No. 83 will be considered today. I have a list of persons wishing to appear before this committee. Should anyone else wish to appear before this committee, I would wish that you advise the Committee Clerk at this time and your name will be added to the list. Is there anybody else? If there are any presenters here who have written presentations, please pass them on to the Committee Clerk at this time. That has already been done, I am informed, so we will have them ready for distribution.

First person to appear today is Mr. Manson I. Coles. Will you please come forward to the podium, Mr. Coles? I understand your written presentation has been distributed. Does everyone in the committee have a copy? Mr. Harapiak, there are copies around. Mr. Coles, you may proceed.

* (1005)

Mr. Manson Ivor Coles (Private Citizen): Good morning, ladies and gentlemen.

My name is Manson Ivor Coles, as you will notice on my program there. I was born at Miami, Manitoba, and my father was a cripple because of polio. I was not able to get higher than Grade 8 education during

the Dirty Thirties, they called it. I was fortunate to get further education by mechanical engineering through Hemfil(phonetic) Diesel School in Chicago, and construction engineering through Ernest Nebny(phonetic) Clayton in Winnipeg. I think most of you people will know who they are. Using the education I have mastered myself and my ability to see things—you will notice by my program that I have here—I have invented two other products that are very valuable on the market.

The one is in use worldwide, and that is the Radiant frozen food that was stolen from George Rodway and myself by a lawyer who got eight and a half years in jail. I am not going to mention any names. It is one of those things in life that happen.

As you will notice by my program, I have invented the world saviour in pollution. That is why I am here today, to distribute this literature and let the world know that we no longer have to rely on fossil fuels and coals and the sun and everything to produce energy. They said it cannot be done. When I invented the Radiant frozen food, I was told by Mr. Ashdown that I was a fool. He told George Rodway and I to our face.

Look at today, every grocery store you walk into, practically has the open shelving with the Radiant frozen food going up the back and dropping down over the produce. I got nothing. The wife and I lived on poverty because it was stolen from us. But that is life.

Anyways, gentlemen, I just want to inform you that—you all have my literature here—if I can get this put through in Manitoba instead of going overseas for backing, it will build up Manitoba, my home province, as one of the greatest industrial areas in the world. I will leave it up to the politicians to decide whether they want to assist me in seeing that this achievement is progressed here. If not, I have already been contacted by Japanese industrialists, and they are willing to back me on my program. They want it solely for Japanese industry. That I have not been able to tolerate as of today.

Have you all had a chance to read what I have typed out there?

Mr. Chairman: Mr. Coles, once you are through with your presentation, I will ask the committee Members whether they have questions.

Mr. Coles: Well, it reads there that I contacted the patent attorney with my wooden model. He informed me, as you will notice, to burn it and come back with a working model to run a generator—even a bicycle generator, he said—to prove that my breakthrough works. To make a working model out of sprockets and chains, everything has to be machined. I have gone to three machine shops; I cannot go to one because they would be just as bad as what happened with the other

projects I endeavoured in. The thing of it is that I have to go to three different machine shops to get the working parts, and then I put them and do the work myself to put the article together, the power source, so that it can be patented.

Then the world can see that we no longer have to rely on fossil fuels and coals and the sun. Everybody has been trying to harness the sun as a future energy. But when it clouds over, our energy goes down with the clouds. That is my program here. Are there any questions anyone would like to ask me on this?

Mr. Chairman: Members of the committee, does anyone have any questions that you want to ask Mr. Coles? Mr. Minister.

Hon. Glen Cummings (Minister of Environment): I just have a couple of questions. Thank you for your presentation. I would only be interested to know if you had contacted private investors?

* (1010)

Mr. Coles: I am not interested in private investors after what happened before. As you know, I invented a concrete pump. I could not get sufficient backing, and we took American backing at Langdon, North Dakota. The thieves down there stole everything on us and kicked the wife and I and my two sons out of North Dakota, sent us home, and we wound up with nothing. It cost the shareholders here in Manitoba \$265,000 to promote it, which was a total loss because of greed, not need. It made my wife and me cry. That is what happened.

I am disillusioned with private industry. I want somebody, either the province or the federal Government—I was sent by the federal Government to see a chap after contacting Mr. Mulroney. Jake Epp sent me to see a Mr. Clark. Mr. Clark was only interested in, what is in it for me. He kept asking—seven times he asked me, how does it work. Well, Stan Ade informed me that I cannot reveal it until it is patented. Then the world can see it.

That is what happened before. It was too much revealed on Radiant frozen food. The lawyer took my plans that I had drawn up, and he sold them to Hussmann and Tyler for half a million dollars. George Rodway, Tom Ford, from Miami, myself, Elmer Nordquist (phonetic) and Melvin Nordquist (phonetic), the shareholders I had, we got nothing.

So Stan Ade informed me. Manson, he said, if you cannot get the province and the federal Government to back this program, and if the Japanese have offered you to take it over and advance you the \$60,000 on conditions that they get the sole world distribution manufacturing rights—and I want them to abstain Canada, so Canada would be able to manufacture their own. They want the world. They said, no, no abstentions whatsoever. That is the last meeting I had with them, just before my birthday in October this fall, in Vancouver at the Japanese embassy.

So, the thing of it is, after talking to Rodger Clark, I informed him that I have no intention of filling one

individual's pocket. I walked out of his office, and that was the end of it.

The wife and I met Jake Epp in the mall just before Christmas at Steinbach. I said, Mr. Epp, and he said, who are you. I said, I am the gentleman who invented a power source that will run without fuel. He said, ha, I have no time for garbage like that. I said, the only garbage is you walking down this aisle, because you do not know what you are talking about. He walked on. That is as far as I got with Mr. Epp and his crew. If they do not want to believe in it, there is nothing I can do. I am 70, I will be 71 on my next birthday. How long does a person live?

I intend to see this thing in use with Manson Ivor Coles' name on the power source. The bells on the telephone—what happened in Manitoba? You do not see Bell on the telephone. It is Manitoba. Why? I cannot figure it out. It is things like this that do not ring for me. The telephone is listed as Manitoba Telephone. Why is it not Bell Telephone? He was the inventor of it. He was the guy who got nothing, if you read his autobiography on Alexander Bell.

Judge Glowacki said, Manson, do your damndest to try and get help in Manitoba, get the federal Government. If they do not want to help you, then you take the Japanese offer. That is from Judge, Q.C.—I lived next door to him for almost 11 years, and that is the advice he gave me while we stood and talked over the fence right there on Jefferson and Main.

Mr. Chairman: Okay, thank you for your presentation, Mr. Coles. Is there anybody who has any questions for Mr. Coles? Thank you, Mr. Coles, for your presentation.

Mr. Coles: I thank you. I hope the people wake up and find out that we do not need Japanese. Thank you.

Mr. Chairman: Thank you, Mr. Coles. The next presenter is Mr. David Brant, Environmental Growth Chambers. Mr. Brant, do you have a written presentation?

Mr. David Brant (Private Citizen): No, I elected to make a verbal presentation only.

Mr. Chairman: Very good, Mr. Brant. Go ahead.

* (1015)

Mr. Brant: I would like to first clarify the point that, although I am the Canadian representative for Environmental Growth Chambers, my capacity here is that of a private citizen. Basically that is given only as a point of reference as to my qualifications to speak on the topic.

My qualifications basically are that I have been a licensed refrigeration mechanic with an interprovincial certification for in excess of 25 years. I have been deeply involved in the refrigeration trade as a whole, have a background as an electrician prior to involvement in refrigeration. I also happen to be of Native extraction, which has some impact on my environmental views. I

Tuesday, February 13, 1990

thought I would make these clear to the conference at hand. I have also been successful in presentation of a number of environmental management programs as they relate to energy conservation, which have been funded by the federal Government through their Ener-Demo Program.

Now I speak this morning not in opposition whatsoever to the premise of the Bill that is before you gentlemen, but because of my belief both as an individual and as a member of the Native community which is sincerely concerned with the environmental state of affairs that these issues have to be addressed and have to be addressed in a forthright manner. However, I am somewhat concerned with the vagaries that are listed in the presentation Bill before you. So my concern lies not with the intent of the legislation, nor with the Bill as written, but rather concerns the deal with the omissions and the tailoring of a consultation process into law as surrounds the implementation of the Bill.

I am extremely concerned that 100 percent of the implementation as being stipulated is left in the hands of civil servants, and perhaps because of the vagary of the Bill itself to interpretations of the courts, which could cause to be brought down rulings surrounding environmentalist presentations in haste and panic.

We have all been concerned with the level of fish in our sea, the content of the rains that fall upon us. Now there is concern being expressed relevant to the ozone layer and the filtration of the sunlight that reaches us.

As an individual who has a great deal of experience with refrigerants, I might point out that they were brought in as very, very stable compounds to replace what at the time were considered to be very dangerous and toxic substances such as hydrogen sulfide and ammonia, which were originally used in common refrigeration practices. Those gases were replaced with halocarbon refrigerants which are extremely stable, slow to break down and indeed have no direct human toxicity.

Now we are looking at a law that to my understanding, and I do not purport or pretend to be an attorney, basically in essence, at square one, states that all these are decidedly hazardous substances, and therefore their use must be controlled, banned or at least surrounded with legislation to restrict.

My concerns basically state that No. 1, as of today's date there are no defined products that are listed as non-hazardous to humans unequivocally. There are no other products on the market that have been tested for other potential pollution factors. As a result, if we banned the existing substances, there is an extreme danger of coming into play and into general use substances which perhaps could be considerably more dangerous than those currently in use.

Beyond that, not being a degreed scientist, I do have some concern, because one of the prime pollution things being brought forth surrounding the automobile is the creation and generation of ozone, which I understand in tonnage exceeds the amount of CFCs that are being generated and released to the atmosphere. So it seems to me that there must be some sort of a balancing process and an ongoing state going on.

* (1020)

In my position as the Canadian representative of Environmental Growth Chambers and as a contractor, therefore, who is doing business with not only the Government of this province but the Governments of other provinces and the federal Government, not to mention the institutions and research facilities throughout the country, we have seen a segment in the legislation before you which allows for the voiding of commercial contracts which could be drawn by either this Government or any other level of government for very large installations. I will cite a case point surrounding the new agricultural facility for research on the environment, which is being drafted for Brandon, Manitoba, by the federal Government, and agricultural research that I happen to be personally involved in.

Delivery time frame on the equipment for the environmental chambers in that facility is in excess of two years from signing of contract. You are bringing before this committee a law which stipulates that any delivery can be cancelled within 90 days. You are therefore suggesting that what we in good faith design, prepare and deliver could be stipulated as illegal by point of delivery, by a hard and fast contract drawn with the federal Government of this land. I find that exceeding the authority of normal case law.

The other thing is that there is no stipulation within the drafted legislation which refers to a consultation process, either with the manufacturers of the supposed polluting substances, CFCs, or with the manufacturers who incorporate those products into their manufactured goods. There are a number of manufacturers within Winnipeg and the Province of Manitoba who do indeed produce goods incorporating CFCs into their production process, who are going to be impacted severely by the costs of changeover to a new regime. There is no incentive currently in place in the purchasing practices of this Government, its senior or lesser governmental levels, for environmentally friendly products in the area of ozone depletion.

There is no preference, no incentive called up in these purchasing practices. I would feel that a Government that is indicating an intent concern in the area of ozone pollution should surely initiate the process by bringing forth into law, at square one, an incentive program for manufacturers to supply and supplant in the current marketplace products which are known to contain hazardous substances under the definition of this Act.

I feel that implementation should precede any banning or definition of bans surrounding the current practices, because indeed I have not heard of anyone coming before the committee and stipulating that there are other products available that are going to do an equally safe job in terms of the human population surrounding the equipment.

It is very, very easy to override, by good-natured effort and well-intended effort, the ultimate goals of nature. We have seen this in massive cutting of forests that has resulted in various and sundry problems in game management. We have seen this by dumping of pollutants into lakes, waters and streams, where the actions are taken first and the consequences are reviewed later.

I have a concern here that we have delivered up a Bill whose intent is excellent, but we have not delivered up a consultation process for its implementation. We have not delivered up alternate goods, funded research, created incentives for manufacturers to produce goods which are better alternatives. Where are we going? Do we want to have food poisoning as a large component of our health program as a result of a lack of refrigeration by the banning of hazardous substances at a time when the research on the ozone layer has not been carried out to a long enough process, even to know if its intensity and density is impacted by the solar cycle which to my understanding is 11 years long?

I offer to you my concerns as an inhabitant of this world, that we do not bring forth legislation that gives a blank cheque to a court, to an environmentalist who may be off on a tangent of extreme ends to impede the progress of a society as a whole. You are looking at making perhaps a rash or a snap decision by a bureaucrat, not an elected political representative, that could result in the same kind of impact as the introduction of rabbits to Australia which I am sure we have all heard of.

* (1025)

Let us not jump the gun. Let us implement a process whereby there is consultation, where there is a defined law in place that allows the consultation of a specified and stipulated duration. Let us not create a regime that is ad infinitum of consultation with no action. We have all seen this in the acid rain study undertaken by the U.S. Government. Instead, let us implement a Bill with a defined consultation time frame, a defined consultation process whereby manufacturers, industry and Government work together to make sure that what is used to replace the existing substances is equally safe to the person on the street at square one and less hazardous by definition and proof than the current substances. I also feel that we should move forth immediately to make environmentally friendly, ozone friendly, energy conservation friendly contracts be given preference in the governmental purchasing regime.

Government is one of the largest purchasers of any manner of equipment. That is at all levels, not only the Government of Manitoba. They can direct development by making it economically interesting and profitable. Profit is not a bad word to manufacturers to deliver up superior products. However, when you take those people and the entire criteria for a levelling and delivering up of governmental contracts for equipment is solely price, you by definition force the contractor, the manufacturer, to deliver up the most proven oldest development technology.

Thank you very much for your time, gentlemen and ladies.

Mr. Chairman: Thank you, Mr. Brant, for your presentation. Are there any questions? Mr. Kozak.

Mr. Richard Kozak (Transcona): Mr. Chairman, I would like to ask the presenter if he feels that the Bill before us would not in fact constitute a substantial incentive to research and development by the private sector.

Mr. Brant: No, Sir. May I clarify my statement in saying flat no. You are talking about implementing a regime which is going to say in essence what you are doing today is banned. In the Province of Manitoba no one has implemented such a program on a nationwide basis. My company's manufacturing as an example, the amount of product delivered to the Province of Manitoba is miniscule.

As far as we are concerned, it would be a lot more economical for us to allow you to do without refrigeration and to convince you to produce equipment for delivery elsewhere where it is acceptable than to try and upgrade our entire manufacturing process to meet the standards in this one given zone, which would be at phenomenal cost, being the zone is such a small percentage of our marketplace to meet your criteria, convert our manufacturing process to these requirements and then find ourselves non-competitive in the rest of the world. What you are asking is physical suicide.

Mr. Kozak: Mr. Chairman, this presenter is certainly very helpful to this committee. I commend him on the clarity of his presentation. There is one area, however, in which I would seek to elicit further clarity. I believe the presenter is calling for a consultation between various sectors, and co-operation in the development of environmentally friendly products in this area. Is the presenter in a subtle way asking us for Government subsidies for this process?

Mr. Brant: No, Sir, I am not. What I am asking for is the Government to indicate a financial preference not unlike that which was done a few years back as we faced an energy crisis surrounding the price of oil, wherein the Government said, there is a cost to energy consumption. There is also a cost to ozone depletion. We should allow for a reduction in depletion in the purchase price of equipment as an upscale purchase. Therefore, competition for the first on stream with that development flows without a dollar input handed out to a researcher entered in any corner, in any dedicated manner, which could be misconstrued under the terms of free trade, but rather puts everyone on a level playing field to present their product as more friendly than their competitor, and to command a 10 percent, 15 percent, maybe only 3 percent higher price in the competitive process of tendering.

Mr. Chairman: Any more questions?

* (1030)

Mr. Cummings: I will just make a couple of comments. Perhaps I could allay some of your concerns regarding the consultation process. I agree with you wholeheartedly that we should not put ourselves in a position where we totally disregard the practicalities of what it is we are trying to do.

Under The Environment Act, we are required to consult with the stakeholders prior to development of regulations. It is our intention to do that in relationship to this Bill, and commit ourselves to those who had previously expressed that concern in writing. I am

Tuesday, February 13, 1990

prepared to commit ourselves to you today on the record that there will be consultations prior to development of regulations. Those consultations will have to take into consideration the availability of replacements, which are more ozone friendly.

The other aspect of that is that before regulations become law, they are passed by Cabinet, so ultimately the elected representatives of the day will be responsible for the regulations that are put in place. I do not know whether that is cold comfort or not, but at least you can be assured that elected representatives will have to ultimately approve the regulations, and they will not be brought forward prior to consultation.

In terms of relationship with the bringing forward of purchasing guidelines, I want to thank you for your comments in that area as well, because we have brought forward regulations for purchasing in other areas where we stipulate more environmentally friendly products would be given some preference. You correctly pointed out that we have not done that yet, but that may very well be part of the results of our consultation process. I would hope it will be.

I would ask if you have suggestions about what you feel would be useful in terms of replacements. The most practical replacements are what we need. Companies are working on that, but R-12, for example, is touted as being somewhat more friendly. I wonder if you have any thoughts on that approach.

Mr. Brant: Yes, I do have thoughts on that approach. I think perhaps you have misspoken; R-12 is considered to be one of the terrible, R-22 being somewhat better. I am sure that is—

Mr. Cummings: I am sorry, it is the other way around, the replacement of R-12.

Mr. Brant: Right, with R-22, that probably does have a significant ultimate impact on the ozone-depletion characteristics of the refrigerants being used. In many cases, it can be used as a substitute. One of the things that I have to point out about R-22 is that it operates at condensing pressures which are almost treble that of R-12, particularly as you approach the 100 degree zone. Those pressures can indeed in some circumstances, for example in automobiles, create very hazardous potential physically damaging conditions. So even within what has been approved in an ongoing use of R-22, its substitution, for example, in automotive air conditioners wherein when you shut off the engine, the engine compartment can become extremely hot, you may indeed find your hood on the roof of this building following such an event with an R-22 air conditioner.

There has to be a lot of moderation and study in these utilizations and in terms of the implementing of the purchasing preference program. This will in itself, because of the financial benefits to be reaped by those people who hold patents and develop technologies, as well as the gases themselves, in specific areas hold rewards of their own and will hopefully cut down on the amount of dollars expended which many times flow into impractical research from government coffers.

So I am not here making a pitch at all for the Government to fund these researchers, but rather for

the Governments—and that is not only this level, but also the ultimate federal or back down into the municipal Governments—to offer this environmentally friendly purchasing process. My concern surrounding drafting of the regulation for consultation stems from what I have seen, and again I do not pretend to be an attorney, so my interpretation may be incorrect, is that laws drawn by the Legislatures—and this seems to be a universal thing, both in our country and the one south of the border—are open to interpretation by the courts.

My concern is that there is mass hysteria in some specific groups surrounding environmental issues. I am not saying that there is not just cause for some of this, but I am quite certain that all of us can recall probably about 10 years ago when we could not get cranberries for our Christmas turkeys because someone had discerned that there was a horrendous problem with the spray being used on cranberries. Therefore, they were all banned. The cranberries were withheld from the market. This was done by court-ordered interpretation of existing legislation.

I am concerned that someone in a point of hysteria is going to approach a judge in a format of saying they have a law in place which bans this substance. The interpretation of that law is absolute. Therefore, Mr. Judge, because I have demonstrated this sincere concern about the impact of this material on the ozone layer, that you ban it outright, absolutely and forever. That judge will slam down his gavel and say, nobody is here with an opposing argument; so be it. Now, given that, we could find ourselves in a circumstance where equally inappropriate chemicals, or perhaps far worse in terms of explosivity, in terms of personal, individual toxicity, are brought into immediate use without adequate research. Therein lies my concern. If the consultation process is defined in the law, I believe, that happenstance is precluded.

Mr. Cummings: I do not want to extend the discussion any longer than absolutely necessary. I just would ask you, if in your concept of defining that, if you would agree that because replacements and the changing and moving knowledge about potential replacements makes that time line somewhat indefinite and very difficult to set a definite date for complete replacement because of the uncertainty of the speed of development of replacements. I wonder if you have an opinion on that.

Mr. Brant: Yes, I do have an opinion on that. Granted, it is an unstipulated time line at this point, and granted, there are many uses to which CFCs are currently being put where they can be replaced. The consultation process would define those areas where it can be phased out nearly immediately and define those areas that should be retained mayhaps with some control of the availability of the product within very short time frames. What we need is finite definition of what can and cannot be done. I do not believe that is at hand today to implement a Bill that does not define the consultation process.

Mr. Chairman: Okay. I have one question I would like to ask you, Mr. Brant, and that is in respect to the ozone layer. You seem to be quite knowledgeable in that

level as well. Do feel actually that there is a little bit of an outcry in response to the depletion of the ozone layer that is greater than the actual extent of what exists today?

Mr. Brant: Let me say that I have to deal with that topic as a layman rather than as an expert in refrigeration, which happens to be my trade. If I can hang an expert handle on myself it would be in the refrigeration trade.

* (1040)

My interest in that is as a layman, and my observations are that we have a hue and cry throughout the land of the ozone being generated by combustion processes, by automobiles, which is undefined. We also have a situation where in-depth detailed readings of the magnitude of the ozone layer have only just been within our capability, and we therefore have not been studying that layer in depth for a long enough time frame to know whether there is a natural cyclic action to that ozone layer, which certainly would be of ultimate concern, because indeed we are not damaging it severely. It is rather a routine cyclic event surrounding the solar cycle, and ozone and free electrons from solar cycles definitely do have a relationship of some form which is undefined. We do not have an 11-year full solar cycle study of the depth, scope, magnitude and density of the ozone layer, to my understanding. Mayhaps we are getting involved a little bit ahead of having 100 percent of the criteria.

Again, I relate back to my little analogy to the cranberry scare. Yes, it was proven that the pesticide involved was decidedly a carcinogen. However, at the level it was present in the cranberries, if you recall, one would have to eat 600 to 700 pounds per day for a period of four or five years to equate the pollution that was being taken up by the test rats. I am concerned here that perhaps we are seeing a natural deviation which is being reacted to beyond its true scope of impact.

I would also—mayhaps I should point out that I am involved in something called Phitofarm, which we are attempting to locate at Portage la Prairie, so the production of plants, the study of lighting as it surrounds photosynthetic materials and the gases present in the atmosphere does happen to be an area that I have been involved in.

Mr. Chairman: Any more questions to Mr. Brant?

Mr. Harry Harapiak (The Pas): I missed an earlier point; as a matter of fact you said you were involved in the manufacturing of gases.

Mr. Brant: No, we are not involved in the manufacturing of the gases. The firm that I represent throughout Canada is Environmental Growth Chambers Limited, which is a manufacturer of environmental chambers for the study of plants, the study of other materials in controlled environmental conditions.

We, as a manufacturer, have long provided equipment which is used in the studies of the various regimes

being undertaken. Those units, a great number which are out at the University of Manitoba, involve refrigeration processes because we, for example, provide units where 50 percent of the intensity of sunlight is duplicated within a room. Obviously that also produces a great deal of heat, and in order to maintain a uniform temperature within that room one uses refrigeration systems to extract the heat.

They also involve the studies of exotic gases, for example, plants grow much better in a slightly elevated level of CO₂. You do not exchange fresh air for cooling, but rather use refrigeration process. This actually is the defined technique for understanding the impact of various gases on plants. Those test regimes are conducted in chambers that are manufactured by the firm that I represent, by the firm that Mr. Lamont, who is waiting to speak, represents and by another firm called Conviron which is situated and has their prime manufacturing plant here in Winnipeg.

Mr. Harapiak: In your experimentation, has there been any effort made to manufacture equipment so that it is made possible to recapture more of the CFCs or gases that are being lost? Is there any work being done for recycling and reusing the material?

Mr. Brant: The norm of construction technique as it surrounds the equipment that the firm I represent manufactures is such that they are not designed to lose at any time the charges which are placed within them of CFCs. This does happen by accidental puncture or other uncontrollable means, but it certainly is not the intent. The devices are routinely supplied with fittings, techniques and valves to allow for the extraction of those gases.

However, current service practices by the refrigeration industry in the field make it uneconomical to attempt to salvage that gas at the time of a repair if a repair is required. Instead those gases are routinely vented to the atmosphere. I strongly advocate that the purchase of new refrigerants by the service industry should be moderated by the recycling of refrigerants that are currently in service. I have absolutely no problem with that being instilled in the legislation.

Mr. Harapiak: Who should take the leadership then if, you are saying it may be cyclical, the ozone depletion, in the event it is not, who should be taking the leadership and making sure that our atmosphere or our universe is protected?

Mr. Brant: It is my understanding that that research is now being carried out by any number of levels of Government, universities and other people who are far more knowledgeable than myself in those specific areas. However, everyone who is involved in the research has to admit that the first readings have been very recent, within the last five-six years, of any detailed knowledge of the intensity and density and magnitude of the ozone layer.

Therefore, extrapolation from that data would be much the same as my suggesting that because I saw you run down the hall this morning travelling flat out

at perhaps 30 miles an hour that your normal mode of operation is at 30 miles per hour. I feel that we have two small a base of data to extrapolate from. I sincerely doubt that you run back and forth at 30 miles an hour routinely. Therefore, the definition of these requirements is going to require more input from the scientific community and addressing what they define, what they discern is going to have to follow those absolute definitions. Thank you, very much.

Mr. Chairman: Thank you, Mr. Brant. No more questions? I want to thank you for your presentation.

Mr. Brant: Thank you very much, ladies and gentlemen.

Mr. Chairman: I call on the next presenter, Mr. Charles E. Lamont, Enconaire Systems Limited. Mr. Lamont, have you got a written presentation?

Mr. Charles E. Lamont (Enconaire Systems Ltd.): Unfortunately, no. Had I been aware of the legislation earlier, I might have been able to put together a written presentation. Unfortunately, I do not at this time.

Mr. Chairman: That is okay. Just proceed, Mr. Lamont.

Mr. Lamont: I guess the first point to be made is, the legislation deals with a most remarkable set of compounds which we have abbreviated to CFCs. I believe they were designed or invented in the 1920s. They were designed around certain criteria: non-flammability, not explosive, non-toxic. They have fulfilled all of these requirements. They have operated I assume, I think there are some fridges still 60 years old that are still running using the CFCs as a refrigerant.

The other point to be made here is that they are excellent refrigerants. You do not speak in terms of the efficiency of a refrigerating system. You speak in terms of its coefficient of performance. That is because the efficiency is over 100 percent. It is not that we are creating energy. We are moving energy from inside a room to the outside or from inside a room into the water stream or whatever have you. My point there is that we may wind up finding that we have to replace these excellent refrigerants with refrigerants that are not as efficient, that mean that they have to burn more coal to create more electricity to cause more acid rain and you are back on the treadmill.

The further point is that if these CFCs had only been used as refrigerants I do not think we would even be talking about them today. The problem, if there is a problem, and in my mind there is still some debate on that, the problem with CFCs is when they got into other uses. Specifically aerosol cans, I guess, would be the major one, where for something like the last 25 years people put shaving lotion on their faces and hair spray on their hair, there were billions and billions of these aerosol cans manufactured.

* (1050)

The point there is that while in refrigeration we try to retain the refrigerant, and in many cases successfully so, in the use of aerosols, as propellants in aerosol cans, all of that goes to the atmosphere ultimately.

Another major use became as a blowing agent in the creation of foam plastic insulation. Again all of the Freon or the CFCs wind up in the atmosphere. They have also been used as a solvent and they are an excellent solvent, particularly in cleaning printed circuit boards in the electronic industry.

Beyond that I would comment that this is a global problem although we in Manitoba may be contributing to it, and in my view it requires a global solution. My understanding is that Canada represents 2 percent of the consumption of the CFCs and Manitoba represents approximately 5 percent of that. We are about .01 percent of the problem in terms of the CFCs. Europe is still using aerosol cans with CFCs as the propellant in them. What we are likely able to do here has to be so minuscule in the face of 300 million people buying and using aerosol cans and is very, very questionable.

I would also add that while there is strong suspicions that the CFCs are a contributing factor to the depletion of the ozone layer, this is not hard fact. When Mr. Brant alluded to the fact that while, for instance, first of all we heard that there was a hole in the ozone layer in the Antarctic, the current thinking is that there is a lens in the Antarctic that thins and thickens seasonally. We do not know if that hole was there 100 million years ago. I certainly do not know and neither does anybody else, because they have only just begun studying this problem.

We have a propensity to discover that something is or may be a problem and we have a tendency in that context to grossly overreact. One of the most obvious ones is asbestos. In the January 29 Time magazine, an overblown asbestos scare, and in there they indicate that asbestos in buildings is not a health hazard in spite of the fact that I guess we have spent certainly tens of millions, if not close to billions of dollars removing it from buildings, it in fact is not a health hazard. I quote briefly from it, yet nearly all cases of asbestos related disease have been confined to people who have mined the mineral or those who have worked with it in manufacturing or installation jobs.

In other words, we panicked in the legislation. We have removed it out of various buildings and we have done so unnecessarily, an absurdity particularly in a city where—and I did not believe this when I first read it, where you can turn on your tap in certain areas and wind up with 10 million fibres of asbestos in a litre of water. That is 160,000 fibres in a cubic inch.

If you are using that to humidify, if you are using the so-called cold steam humidifiers, you are getting 100 percent of that in your house. If you are using a rotating drum type you are probably getting 25 percent and if you are using the wick type you are likely getting 10 percent directly into your home, and here we are tearing it out of buildings completely unnecessarily.

The bottom line on the asbestos, the risk of dying from smoking, drowning, airplane crashes or even playing high school football is 100 to 1,000 times as great as the risk of dying from asbestos exposure in buildings. They have known this for two years, and I think they are still going on taking it out.

PCBs became another scare. I can recall within the last three or four weeks a lady on the television, I would

have to say hysterical over the fact that there was a shed in Transcona that "contained PCBs." I do not know what mental image she had in her mind of what those PCBs consisted of. I have friends who have literally, not figuratively, worked with them up to their thighs and up to their armpits. PCBs in themselves are not a hazard. They are an extremely stable compound and they served us very well. Their major problem is they do not break down which is what they were designed not to do. You do not want something breaking down in the transformer. The worst indication is the fact that when they burn they can create dioxins and that is the real hazard to health. It turns out that shed in Transcona has a number of ballasts in it. The PCB content in there is in a capacitor about yay in diameter and about an eighth of an inch thick. The quantity of PCBs is almost zero.

We had a couple of rats die in Ottawa and that shut down the entire diet soft drink industry in North America. Apparently by legislation the administrators in the United States had to react and cyclamates were banned. They are now back by the way, available for human consumption because it was an overreaction, again the equivalent to the feeding of those rats for an individual to drink 820 soft drink cans a day, a little out of size.

The other thing that bothers me about this legislation here is that I am a competitor of Mr. Brant's and we do North American—we are very friendly competitors I may add—business. I operate as a consultant to Controlled Environments, who does international business. What bothers me is, are we going to wind up with some 60 different jurisdictions legislating 60 different regulations in North America alone? You have 10 provinces, you have 50 states. What sort of a mishmash are we going to wind up with? So I have serious qualms in that area.

As you have heard on a number of occasions, there is no current substitute for what we are using. The two major consumers—I also build refrigeration systems from scratch and in the process have to use CFCs as the refrigerating medium. The other two major—and they are much more major than I am—would be Controlled Environments, who build refrigeration systems and Coldstream, who not only build refrigeration systems but they also use the CFCs as a blowing agent in the production of walk-in box panels, urethane insulation.

Beyond that what sort of bothers me about the legislation is, aside from what has already been pointed out in the way it reads on proclamation, we have to unplug our fridges. I gather that would be taken care of. Mr. Brant talked about the retroactive disallowing of contracts. I think that is totally unsound but beyond that it is legislation by regulation.

It is interesting to me. I have seen a few Bills. I have appeared before committees here before. I have never seen one that sort of takes us back to 400 years ago where the monarch has the right to pass all the legislation. This was done with the advice of the monarch's advisors. Now we are going to have legislation by Cabinet or civil servants advising Cabinet who then advise Her Majesty's representative to sign

into law various regulations. This terrifies me. I do not mind you people passing legislation, but I think you are abdicating your responsibilities as MLAs when you turn it over to the monarch for signature. It should be passed in this House.

My own feeling on the whole issue is that what I would prefer to see—if you want to ban those one-pound cans of aerosols or one-pound cans of refrigerants that people use to top up their air conditioners in their car, I could not care less. Beyond that, if you are going to pass legislation, I would like to see the legislation passed on the basis that we begin to monitor the uses of the CFCs in Manitoba so we have some idea of what we are dealing with here rather than legislating any bans or adding any other substances, banned substances. Let us find out what the problem is because I do not think realistically you can hang two fairly significant manufacturers here with regulations that their competitor in Ohio does not have at the current time. I think we have to be fairly careful in this area. When somebody says to me in a—we do currently by the way. If the quantity is sufficient, we will recover Freon from systems, but when you are dealing with 10 ounces of Freon, which is worth about \$1.25 and you have to spend \$60 of labour to try and recover it, it just simply is not an economic thing. To force us to do that here, while our competitors elsewhere do not have to do it, is going to give us a handicap which may cause—depending on how severe it is—some people here to move.

I would point out that Controlled Environments has a plant in Pembina, North Dakota where their refrigeration work could be done. Coldstream is currently a part of Hussmann Corporation, which has another plant in Ontario and about 13 more plants in the United States. I would add that without legislation, Coldstream has already foamed several panels. I cannot tell you exactly how many, using a water-based blowing agent, in an attempt to replace the CFCs that they have been using up to now. I would say all of us are concerned about our environment.

* (1100)

I do not think the hard facts are in on CFCs, which as I say are an extremely stable compound in terms of their actual depletion of the ozone layer. I read indications that it is the chlorine radical that is the problem. If chlorine is a problem, what about all the water treatment we do of our drinking water in the City of Winnipeg? We certainly have a routine, if we are going to use it for watering our plants or put it in a goldfish bowl, and we leave the water sit for at least 24 hours to get rid of the chlorine, where is it going?

The other thing that sort of surprises me, if it is in fact the case, if CFCs are a problem in the stratosphere, I am surprised, because we know that if we go down wells we may get trapped there because carbon dioxide which is a high molecular weight molecule tends to settle in wells and in any low places. The Freons are even higher molecular weight molecules. It surprises me that they would tend to drift to the stratosphere as opposed to staying down near ground level.

In any event, I would urge that if there is any banning to be done it be extremely restricted and that we

legislate monitoring, from which we can actually begin to take a look at actual legislation, because I cannot see a solid replacement for what we are currently doing, five, 10 years down the line. Perhaps we never come up with anything as good as the ones we have, although we probably can come up with replacements. Let us find out what we are doing here in Manitoba at the current time before we begin legislating ourselves out of existence. Thank you.

Mr. Chairman: Thank you, Mr. Lamont. Any questions? Mr. Storie.

Mr. Jerry Storie (Flin Flon): I would like to thank Mr. Lamont for a very thoughtful presentation, and perhaps for his adding some technical detail to what is a very complicated issue for most of the people around this table, who are not chemical engineers, who are not refrigerant specialists and do not work with CFCs on a regular basis.

First of all, to your concern I guess that this legislation is very non-specific and that most of what is going to be done in terms of banning substances, in terms of limiting the production and use of CFCs is done by regulation. Do you feel right now that we know enough to be more specific in the legislation with respect to what should or should not be used, what alternatives might be available for certain kinds of uses? Do you feel that there is enough information available to the Government, to us, to allow us to be more specific?

Mr. Lamont: No, I do not believe that there is enough information available. We do not even know what is going on in Manitoba. Somebody suggested there were 90,000 one-pound cans of Freon that came into Manitoba. How many of them went out? How many of them were used here? We have no idea of what is going on here, and I do not see how you can legislate on that basis.

Mr. Storie: Well, it is an interesting comment. It is quite true there are probably very few statistics that would tell us how many one-pound cans are being used here. We do not even know what is going on in Manitoba. Somebody suggested there were 90,000 one-pound cans of Freon that came into Manitoba. How many of them went out? How many of them were used here? We have no idea of what is going on here, and I do not see how you can legislate on that basis.

Mr. Storie: Well, it is an interesting comment. It is quite true there are probably very few statistics that would tell us how many one-pound cans are being used, how many people are going to Canadian Tire and picking

up those cans and using them for one purpose or another. In your remarks, however, you said that you would have no problem with a ban on those kinds of products, those products that tend to be for convenience, not particularly efficient and to which there is no hope of recovery.

Would you see it as a logical alternative for the Government then to ban those kinds of substances immediately, given that there are alternatives, safer, more economical and more environmentally friendly alternatives?

Mr. Lamont: There are no alternatives to the CFCs that I know of, except in their use in refrigeration, which is the area of my concern. There are no alternatives.

Mr. Storie: Mr. Chairperson, I was referring only to the alternative method of use, I was referring to your suggestion that the one-pound can, for example, could be gotten rid of because there are people out there who can top up air conditioning units and so forth safely and without a great deal of loss of CFCs into the environment. Is that an area where you would recommend that if the Government wants to move, it move?

Mr. Lamont: In the first place, it does not tell us what we are currently consuming. Because in my experience, as you have pointed out, most people are relatively ignorant of refrigeration systems, period. Banning the one-pound cans does not tell us what we are currently doing with them in that context. It also does not stop the release of the CFCs into the atmosphere, because the reason people are buying the cans is to replace the CFC that has already dissipated out of their air conditioning system in their car.

This is quite a difficult technical problem actually, because you have to have a shaft going out to be driven so that you can drive a compressor on an automobile, and the problem is the seal of that shaft, and it is exacerbated I think by the fact that we live in a country where there are times when we get temperatures that would cause Freon-12, for instance, to have a negative pressure in relationship to the atmosphere, so you get working on both sides of these seals. There is a suggestion that you should keep starting your air conditioner every once in awhile to throw some oil up in the seals, but the fact is that once somebody has gone to buy a one-pound can of Freon he has already got rid of something.

I do not know whether you could convince people to pay an awful lot of money to have them replace a seal on a compressor on an automobile, and it would be an awful lot of money, \$100, \$200, when they can probably take a slide down to the States somewhere and get their air conditioner topped up and then have an enjoyable weekend to boot.

My feeling is I would far sooner see us begin to monitor to find out what we are doing here, and I hope that we wind up with national legislation, hopefully continental legislation and even global legislation when we get down to actually trying to legislate the specifics of this.

Controlled environments again are in 70 countries around the world. Every state in the U.S. and every province in Canada, you have an awful lot of potential jurisdictions legislating rules that we would not even be aware of.

Mr. Storie: I guess you posed the real dilemma for us because obviously someone has to act first. I think it would be naive for us to sit around the table and believe that there was going to be an international convention on CFCs that was specific and direct and immediate or short term in the next five years, 10 years, and the dilemma for I guess us as well as legislators is trying to decide whether we can afford to wait.

I think you will agree that there have been all kinds of products that were commonplace in the market, cyclamates, PCBs, whatever, for which we have found replacements. I would be willing to bet that there were people before legislative committees prior to their banning which said we could not do it, we should not do it, it would be expensive, there were not alternatives. How are we going to find the alternatives, how is industry going to come up with the alternatives if we do not start limiting or stopping their production and use? Is it ever going to happen?

Mr. Lamont: Well, in terms of the Manitoba legislation we are talking about stopping a hole that is maybe your little finger wide of water flowing, while Niagara Falls pours down alongside of you. We still do not know as I stand here, and I humbly suggest that you do not know either, what is the pattern of consumption of CFCs in Manitoba? What is its pattern of losses? From that we can perhaps deduce what is its pattern of losses. But you are legislating completely in the dark. We do not know what our problem is; we do not know how much of a problem we represent.

When Manitoba was indicated to be 5 percent of Canada's problem, or consumption, not necessarily problem, an awful lot of that would probably represent Coldstream's use of CFCs as a blowing agent in their foams. But I do not know that, you do not know that, nobody knows that. I would assume that within the next year that use of CFCs will have stopped, regardless of what you do here. They will have switched to the water-based blowing agent and that will have stopped.

In the balance of the refrigeration systems, I do not see how we can do anything other than keep on going until something like 134A, which has a lot of problems still, comes along as a replacement. You are still, I have to suggest, legislating completely in the dark because you do not know what we are doing now.

Mr. Storie: I take issue with that, I guess. We are legislating in the dark to some extent because there are going to be some exigencies we cannot know. There are going to be some decisions that will have to be made by the Government at some point about what we will allow and what we will not for, heaven forbid, the sake of economics.

* (1110)

Our prime consideration has to be the environment and our collective long-term survival. I am wondering—

you say we do not know the scope of the problem when clearly we know that I guess industry average would say that one-third of vehicles have air conditioning. Many people would say that it is a luxury.

Should we be jeopardizing the environment by allowing or encouraging the use of CFCs in automobile air conditioning units? Should we be allowing spray cans to have any kind of propellant, which have CFCs in them? Is that not a luxury? Are there not kinds of products that we should be saying immediately, let us ban these products, let us not produce them, let us not use CFCs in them as propellants or anything else? Are there not different categories of products in use in society that we should be looking at?

Mr. Lamont: My understanding is that their use in aerosol cans has stopped. They are using other propellants in aerosol cans. If you want to legislate—if you are prepared to take the flak to legislate that we cannot use in a car our air conditioner anymore, then that is a political decision. I do not think it is one that I would go along with, certainly in its entirety and if it was legislated, I would certainly suggest exemptions to it.

As I stand here again, to what extent is the automobile air conditioning in Manitoba contributing to the problem of the ozone layer? I submit we do not know. So are we legislating with respect to a major problem, or is it a minor one?

Mr. Storie: Mr. Chairperson, that is a difficult question. I assume that our pattern of automobile ownership and the percentage of automobiles that have air conditioning is no different than the rest of Canada or much different than the rest of North America. The question is: do we not have to start somewhere, should we not start somewhere?

I guess the other question I would ask is: is it practical to make regulations that would require air conditioning units to be serviced regularly? Would it be logical to have only qualified refrigerant technicians service air conditioners? Is there some way to make sure that if it is decided that air conditioning in vehicles is absolutely essential, that there is a better way to do it to make sure that we minimize, to the extent possible, the release of CFCs? Is there not an alternative, a compromise available somewhere there?

Mr. Lamont: My comment would first of all be, I do not think we are typical consumers of automobile air conditioning in a North American context certainly, and probably not even vis-a-vis southern Ontario. I happen to have a car air conditioner now, but that was because it came with the automobile, not because I was insisting on having one. I think the demand for car air conditioning by individuals in Manitoba will be substantially lower than the demand for air conditioning in automobiles in Florida where probably every one of them has it in.

Again we are getting back to—we do not know how much Freon is being dissipated by the automobile air conditioners. This is my point. We are back sort of at square one. How much is Manitoba contributing to the overall picture? We just do not know.

Tuesday, February 13, 1990

Mr. Storie: I like your analogy of the finger in the dike. I think your analogy can be carried a little bit further. The dike is full of holes. What we are doing, and what I would like to see done by this legislation, although I agree that it is by regulation it is not very specific. It was introduced as a political gesture more than any realistic attempt to deal with the problem, but that is another matter. I think that somebody has to start putting their fingers in those many holes.

in Manitoba we may have only 10 fingers to put in those holes, but somebody better start putting their fingers in. All I am trying to find out is what you think is a realistic number of fingers to stick in the dike at this time. You let us know that there are some things that you do not see as practical in the short term. I would like to think that there are some practical things that we can do in the short term that are not going to disrupt us unduly, make us unduly uncompetitive. Are there not things that we can do?

Mr. Lamont: I was here when the Refrigeration and Air Conditioner Contractors' Association made their presentation, agreeing very strongly with the notion that regulation be put into place and that only licensed people be able to handle these. Mr. Brant and I could both tell you some horror stories about the abilities of some of the licensed people currently extant. I can also say that I could almost see them rubbing their hands, like the Canadian Tire's Scrooge, at the prospect of all the money that is going to be made. I will not make any money out of this and, if anything, it is likely to cost in our area. It still gets back to that we do not know the extent of it. I am not sure where you could begin legislating. Until we know what our problem is or to the extent that we are contributing to the problem, until we know that it is difficult to say—as I say, I could not care less about one can, one-pound cans of Freon because we do not deal with them. We normally have 125-pound drums. Occasionally, we use the 25-pounder, the 50-pounder or whatever the equivalent now in kilograms is. But, in terms of being able to suggest to you what should be regulated or what we need to have some rules with respect to handling, until we know what the problem is, I cannot recommend anything. Aside from the one-pound cans, I cannot really recommend anything.

Mr. Kozak: I wonder if the presenter could suggest to us what the use of alternative refrigerants would add to the cost of industrial refrigeration equipment manufactured in Manitoba. What would it do to our selling prices?

Mr. Lamont: We currently do not have an alternative except to go to ammonia. We do not have the equipment that we can utilize in any area other than ammonia; you have your CFCs and you have ammonia as the sole alternatives for refrigeration currently. There are a couple of alternatives that are currently under field testing, but they cannot be switched into existing systems. You have to do mechanical changes, and there are significant problems. One is designed to replace R-12 in that you do not have the excellent oil return, properties that R-12 has. You can wind up burning up compressors and discharging this stuff along with other

things into the atmosphere. There are a number of substitutes that can be—ethane has been used in ultralow temperature refrigeration. You can use propane, but it is somewhat flammable and somewhat prone to blowing up on you. As I said at the beginning of my discussion, the CFCs are a remarkable set of refrigerants.

Mr. Kozak: So in that case I imagine the presenter is suggesting to us that if the regulations under this Act are not applied with sensitivity and effective consultation with the industry, we could in fact find ourselves losing a significant industry or a large proportion of that industry from this province.

Mr. Lamont: I agree with the statement, and certainly if the regulations are too tough, the two major utilizers or creators of refrigeration systems are in a perfect position to pull out.

Mr. Kozak: Thank you once again, Mr. Chairman. The Bill that we see before us does not set out in detail the regulations that will be enacted as a consequence of the Bill. The Government in due course has full flexibility to take actions within the framework of the Bill before us in consultation with the industry and in light of developments in other jurisdictions outside of this province, jurisdictions such as other provinces, the federal Government of Canada, and state and federal Governments in the United States.

If proper sensitivity is pursued diligently by this Government and if consultation with industry is pursued diligently and if regulations enacted within the framework of this Bill are enacted with a respectful awareness of the state of the industry, the state of regulations in other jurisdictions would you, sir, find this Bill acceptable?

Mr. Lamont: The two areas that I do not find acceptable the way it is currently printed is the fact that as it is printed, on proclamation, we all have to unplug our fridges and deep freezers at home and stop using our car air conditioners.

* (1120)

I do not find acceptable the retroactive killing of legally binding contracts, because I have gone ahead and done something, created some piece of equipment and used some substances in there that after delivery, but before 90 days are up, by regulation, I am told that this is a banned substance and my customer can demand his money back if he has paid, or deny payment. I do not agree with that in any way, shape or form, and I would like to have some indication of what the regulations are going to be, as opposed to handing somebody a blank cheque that can add anything to that list and ban it.

Mr. Kozak: The point that the presenter makes with regard to the retroactive cancellation of contracts is a point that my colleagues and I must certainly be sensitive to, and I would suggest to the presenter that we will take it up with the Minister as debate on this Bill proceeds.

However, Mr. Chairman, although the presenter points out very well that we do not have full knowledge in many of the areas that we deal with on a day-to-day basis, we do know that for the first time since the mini ice age in Europe in the late middle ages, in the 1980s we are seeing some significant climatic change in Europe, 100-mile-an-hour winds, no snow in the Alps. We know something is going on and we know there is a problem that must be addressed.

Reputable scientific suggestions are made to us that this Bill is not entirely off the mark in terms of addressing the situation that we face in terms of our climate. Would it satisfy the presenter if Members of this committee take very much to heart his suggestions about the retroactivity of cancellation of contracts and take an interest in the formulation of regulations within the framework of this Bill?

Mr. Lamont: May I first of all comment on your comment with respect to the climatic changes. That is largely, I believe, as a result of the greenhouse effect rather than the alleged thinning effect of the ozone layer. I would comment beyond in that area.

Scientific American—I do not know—six, 12, 15 years back, had a two-page if not a four-page spread—I think it was a two-page spread—which was a picture of the Earth at night taken from composite photographs all around the world.

What you would expect to find in a photo of the earth at night would of course be London, Paris, Montreal, maybe even Winnipeg, the major cities, you would likely expect to find out. By a factor of two to five, the brightest lights in the night sky were the gas flares of Libya and Saudi Arabia. So here we are worrying about cutting down trees in the rain forest in Brazil, meanwhile, they are burning oxygen and creating carbon dioxide in an incredible way. It boggles my mind, because that is energy being flared.

It reminds me that back in the 1880s, or whenever it was, they were flaring gasoline to get kerosene. So, when you talk about the global weather changes, I think you are probably primarily talking about carbon dioxide and the greenhouse effect as opposed to ozone and the thinning of the ozone layer, and its potential effect of letting through more ultraviolet radiation.

Mr. Kozak: This witness has been most enlightening. While my colleagues and I recognize that much of the subject matter of this area is well beyond our jurisdiction and will have to be treated by other jurisdictions, I would simply like to offer an assurance to this witness that we will take to heart his concerns about the potential retroactive cancellation of contracts, and will take an interest in the development of regulations within the framework of this Bill so that we have a healthy refrigeration industry in this province. We recognize the importance of the industry. No one in this room has an intention of doing it irreparable harm, thereby threatening jobs.

Mr. Chairman: Thank you. Any more comments? Any more questions to the presenter? I want to thank you, Mr. Lamont, for coming forward and making your presentation. Mr. Minister.

Mr. Cummings: Mr. Lamont, I appreciate your concern that there might be some retroactivity in the way the wording of the Bill is. I want to assure you that is not the intention of it. I have been referring to the legal people to make sure that is not what we are doing, because that would simply be bad legislation. That is not what the intent of—if you are referring to 4(1) and (2) and (3), where the refund to purchaser, or sell the product, or requires the operation or use of, and is sold contrary to the Act, it was not meant and I do not interpret it as being retroactive, but we will make sure that aspect is cleared up.

Mr. Chairman: Any response, Mr. Lamont?

Mr. Lamont: That is fine.

Mr. Chairman: No? Okay, we want to thank you for coming forward, Mr. Lamont. Thank you.

Mr. Lamont: Thank you.

Mr. Chairman: Are there any more presenters that want to come forward to this Bill, Bill 83? If not, since all presentations have been heard regarding Bill 83, The Ozone Depleting Substances Act, we will now proceed with clause-by-clause consideration of the Bill. Does the Minister responsible have any opening statements?

Mr. Cummings: Just a word or two, Mr. Chairman. We do have some word changes that we will be proposing. I will refer to them as they come up. Most of them are not substantive and are to correct drafting or wording changes that need to be made, but where they are substantive, I will speak to them as I am sure the Members of the committee will wish to question the reason for them. So we could proceed.

Mr. Chairman: Very good, Mr. Minister. Mr. Harapiak.

Mr. Harapiak: Prior to proceeding, several of our presenters made reference to the lack of specifics. I guess I am wondering if the Minister has any process that he is going to be putting in place for consultation, dealing with some of the regulations. Are there any specific recommendations that he is going to be making, or is this just fluff, for public relations effort, to deal with a concern that the public has? I would like the Minister to answer that.

Mr. Cummings: Well, I would hate to think that the critic from the third Party, or anyone else around this table, felt that we were bringing this in as a matter of fluff. It is being brought forward with the full knowledge that we are going to have to work in a very co-operative way with the industry. It is being brought in to begin to bring this province in line with the Montreal Protocol. It is also, however, being brought forward with recognition of the fact that there were some rather unfortunate results from the legislation that Ontario brought forward, where materials were cut off at a very early date without much consultation with some of the industries.

We want to make sure that we move as quickly as we can to provide a reasonable phase out of those

parts that are ozone unfriendly. The consultation process will be thorough. I want to commit to you that the department will begin consultations in a fairly short period of time from this Bill being passed.

* (1130)

Mr. Chairman: Mr. Harapiak? No? Okay, very good. Then the Bill will be considered clause by clause. During the consideration of the Bill, the title and the preamble are postponed until all other clauses have been considered in their proper order by the committee.

If it is the will of the committee, we will start with Clause No. 1—pass; 2—Mr. Minister.

Mr. Cummings: Mr. Chairman, we have Legislative Counsel at the mike there that is welcome to be asked for clarification if any of the Members wish it. The first is in Section 2.

Mr. Chairman: Clause No. 2. Shall Clause No. 2 pass—Mr. Minister.

Mr. Cummings: I want to make an amendment. I move

THAT the definition of “make or use” in section 2 be amended by adding “sell,” after “sale,”.

(French version)

Il est proposé que la définition de “fabriquer ou utiliser”, figurant à l'article 2, soit amendée par insertion de “vendre”, après “vente,”.

MOTION presented.

Mr. Harapiak: By adding that, that is on the top paragraph on page 2—is that where it is being added? Offer for sale, sell, that does not—

Mr. Rob Walsh (Legislative Counsel): Mr. Chairman, if I could just briefly explain to committee Members, this comment was made by one of the presenters at an earlier meeting of this committee, as to whether offer for sale included actually selling. I would have thought it did, but out of abundance in caution this is now being amended so as to read: means manufacturer offer for sale, sell, make, use, transfer. So it is just making that distinction between offering for sale and actually selling.

Mr. Chairman: Does that clarify that, Mr. Harapiak?

Mr. Harapiak: Yes.

Mr. Chairman: On the proposed motion to Clause No. 2, the amendment clause, with respect to both English and French—pass; Clause 2 as amended—pass.

Clause 3—Mr. Minister.

Mr. Cummings: At the end of Clause 3

That section 3 be amended by adding the following subsection:

Non-application of prohibition

3(3) Subsection (1) does not apply in respect of a thing or product that contains, or for its use or operation requires, an ozone depleting substance where the thing or product, or a class of things or products to which class the thing or product belongs, is by regulation exempt from application of the subsection.

(French version)

Il est proposé que l'article 3 soit amendé par adjonction, après le paragraphe (2), de ce qui suit:

Inapplication de l'interdiction

3(3) Le paragraphe (1) ne s'applique pas à l'objet ni au produit qui contient une substance appauvrissant la couche d'ozone ou dont l'utilisation ou le fonctionnement nécessite l'emploi d'une telle substance, si cet objet ou ce produit ou une catégorie d'objets ou de produits à laquelle il appartient est soustrait par règlement à l'application de ce paragraphe.

Mr. Chairman: Any discussion to the amendment made by the Minister? Shall the amendment—Mr. Minister.

Mr. Cummings: For the Members who are looking at this, this obviously would make a substantive change whereby something is exempt by regulation. So to create some clarity in the minds of those who would have to apply this in the field, someone who wanted to know wherein he fell, that would be my interpretation. I look to Mr. Walsh.

Mr. Walsh: Mr. Chairman, comments have been made by Members of the committee and presenters regarding the extent to which products will be governed by this legislation, as indicated in regulation. What this means to do is enable our regulation-making authority to bring into application under this Act, in stages, if you like, in phases, various products or things by way of exemption, notwithstanding the fact that this product contains ozone or requires the use of ozone. For the time being it is not governed by the Act until such time as the exemption is removed, whereupon it becomes governed by the Act.

Mr. Kozak: Mr. Chairman, this amendment relates directly to the comments made earlier regarding the sensitivity of the application of regulations, the consultations involved in the development of regulations, and we have no problem with this amendment.

Mr. Chairman: Okay. Any more questions in respect to the amendment? Shall the amendment, as brought forward by the Minister, be passed in English and in French—pass; Clause 3, as amended, in English and French—pass.

Clause 4—Mr. Minister.

Mr. Cummings: I move

THAT section 4 be amended by adding the following subsection:

Non-application of section 4

4(4) Subsection (1), (2) or (3) does not apply in respect of a thing or product that contains, or for its use or operation requires, an ozone depleting substance where the thing or product, or aent, as brought forward by the Minister, be passed in English and in French—pass. Clause 3, as amended, in English and French—pass.

Clause 4—Mr. Minister.

Mr. Cummings: I move

THAT section 4 be amended by adding the following subsection:

Non-application of section 4

4(4) Subsection (1), (2) or (3) does not apply in respect of a thing or product that contains, or for its use or operation requires, an ozone depleting substance where the thing or product, or aent, as brought forward by the Minister, be passed in English and in French—pass. Clause 3, as amended, in English and French—pass.

Clause 4—Mr. Minister.

Mr. Cummings: I move

THAT section 4 be amended by adding the following subsection:

Non-application of section 4

4(4) Subsection (1), (2) or (3) does not apply in respect of a thing or product that contains, or for its use or operation requires, an ozone depleting substance where the thing or product, or a class of things or products to which class the thing or product belongs, is by regulation exempt from application of the subsection.

(French version)

Il est proposé que l'article 4 soit amendé par adjonction, après le paragraphe (3), de ce qui suit:

Inapplication des paragraphes (1),(2) et (3)

4(4) Les paragraphes (1), (2) et (3) ne s'appliquent pas à l'objet ni au produit qui contient une substance appauvrissant la couche d'ozone ou dont l'utilisation ou le fonctionnement nécessite l'emploi d'une telle substance, si cet objet ou ce produit ou une catégorie d'objets ou de produits à laquelle il appartient est soustrait par règlement à l'application de ces paragraphes.

And I would expect that the reason for this amendment is the same as the reason I gave above.

Mr. Chairman: Any questions? Mr. Harapiak.

Mr. Harapiak: Mr. Chairman, I think this would be an appropriate place to put in a clause dealing with retroactivity. I think that where a person, contrary to this Act—if we could insert in there some clause that after the Act is in place, so that people, like the issue that was raised today, might be caught in a jam because of its being retroactive. So I think it should be in this Act to cover that.

Mr. Cummings: Perhaps we could ask Legal Counsel for a clarification. It seems to me that retroactivity is

not implied in the way the Bill is presently structured, but I would seek legal advice.

Mr. Walsh: Mr. Chairperson, I would concur in the Minister's comments that the rule of statutory interpretation is one of a presumption against a retroactive application of a statute, unless it is made clear in the statute that it is meant to have retroactive application. In this case here 4(1), as you point out, declares sales to which it applies void. This Act comes into effect on proclamation. As of the date this Act comes into effect, sales entered into on that day or thereafter would be governed by 4(1); sales entered into prior to that date would not be affected by 4(1).

* (1140)

Mr. Chairman: Does that clarify it? Any more questions? Mr. Kozak.

Mr. Kozak: Not a question, Mr. Chairman, but a comment. I believe that the specific intent of this amendment is to address, or permit the Government to address, the concerns expressed in this committee regarding retroactive cancellation of contracts, and if my reading of this amendment is correct, we have no problem with it.

Mr. Chairman: Okay. Any more questions in regard to the amendment? Shall the amendment as presented by the Minister pass, and that would be in English and in French—pass; Clause 4 as amended in English and in French—pass; Clause 4—pass.

Clause 5—Mr. Minister.

Mr. Cummings:

THAT the English version of clause 5(2)(b) be amended by striking out "enforcement" and substituting "environment".

(French version)

Il est proposé que l'alinéa 5(2)b de la version anglaise soit modifié par substitution, à "enforcement", de "environment".

If I could speak to that, Mr. Chairman, I would feel that this would give some clarity as to who would be responsible for making the decision under the Act. It would not necessarily all be employees of the Environment Department, but there are certain other Government employees that are also designated environment officers.

Mr. Walsh: This is something for which I must own up here. The word "enforcement" is incorrectly in there. It should be "environment". The reference is in Subsection 5(2) and 5(1). It is of course to an environment officer. For some reason the word "enforcement" crept in there.

Mr. Chairman: The amendment as presented by the Minister to Clause 5 in English and in French—pass; Clause 5 as amended in English and in French—pass;

Clause 5(3) in English and in French—pass; Clause 5(4)—pass; Clause 6 in English and in French—pass; Clause 7—pass.

Shall Clause 8(1) pass—Mr. Minister.

Mr. Cummings: I move

THAT Subsection 8(1) be amended by striking out the words ahead of clause (a) and substituting the following:

Offenses and penalties

8(1) Where a person, other than a corporation, is guilty of an offense under section 7, the person is liable,

(French version)

Il est proposé que le paragraphe 8(1) soit amendé par substitution, au passage introductif, de ce qui suit:

Infractions concernant les personnes

8(1) Les personnes, à l'exception des corporations, qui commettent une infraction à l'article 7 se rendent passibles:

I move that in both English and French.

Mr. Walsh: Mr. Chairman, for the benefit of the committee Members, this is purely a drafting, technical amendment. 8(1) as you presently have it in the Bill sets out penalties, and by the wording presently in the Bill, it limits those penalties to contraventions of the Act only. Those penalties should also be available for application in the event of a breach of regulations.

Section 7 deals with offences under both the Act and the regulations, so really 8(1) and the next amendment 8(2) correct both subsections so as to apply the penalties to both a breach of the Act or the regulations.

Mr. Chairman: Any questions on the clarification by Mr. Walsh? No? Mr. Minister.

Mr. Cummings: Oh, I am sorry. We have to deal with that amendment first. I have another amendment for 8(2).

Mr. Chairman: Okay. We are on 8(1). We have an amendment presented by the Minister. The amendment in English and in French—pass; 8(1) as amended—pass.

Clause 8(2)—Mr. Minister.

Mr. Cummings: I move

THAT Subsection 8(2) be amended by striking out the words ahead of clause (a) and substituting the following:

Offenses and penalties: corporations

8(2) Where a corporation is guilty of an offense under section 7, the corporation is liable.

(French version)

Il est proposé que le paragraphe 8(2) soit amendé par substitution, au passage introductif, de ce qui suit:

Infractions concernant les corporations

8(2) Les corporations qui commettent une infraction à l'article 7 se rendent passibles:

Mr. Chairman: Any questions on that amendment? The amendment as presented by the Minister in English and French—pass; Clause 8(2) as amended—pass. Clause 8(2) as amended shall pass in English and in French.

Clause 8(3) Other penalties. Shall 8(3) pass—Mr. Kozak.

Mr. Kozak: Mr. Chairman, Clause 8(3) uses the word "person". Because of the distinction in Clauses 8(1) and 8(2) between persons excluding corporations, and corporations under the terms of 8(2), 8(3) possibly can create some confusion.

We all know that corporations are persons under the law. However, the distinction created between persons excluding corporations and corporations in Clauses 8(1) and 8(2) may result in some confusion and suggest to some interpreting this Act that Clause 8(3) refers only to persons under Clause 8(1). Perhaps an amendment that specifies persons including corporations might well be inserted into Clause 8(3).

Mr. Walsh: I do not wish to get into a debate with the Member certainly on the point that the Member makes. I would only say that the word "person" as the Member points out does include a corporation. It would be my judgment that 8(3) would not bear that ambiguity that the Member suggests, that the use of the word person in someone as being a person other than a corporation does not, in my view, result in use of the word person in Subsection (3) involving the same exclusion and that the word "person" would be taken to include a corporation wherever it is used.

* (1150)

Mr. Chairman: Does that clarify that for you, Mr. Kozak?

Mr. Kozak: Yes, indeed, Mr. Chairman, and I believe that as Members of this committee vote, it should read for the record that we are assuming that Clause 8(3) is to be interpreted as persons including corporations in terms of the intent of this committee.

Mr. Chairman: Clause 8(3) in English and French—pass.

Clause 9—Mr. Minister.

Mr. Cummings: Mr. Chairman, I have an amendment. I move

THAT section 9 be amended:

(a) by striking out "and" at the end of clause (g);

(b) and by adding the following clauses:

(h) prescribing, for purposes of exemptions under subsection 3(3) or 4(4), classes of things or products that contain, or for

their use or operation require, an ozone depleting substance;

- (i) respecting the disposal of ozone depleting substances or of things or products that contain, or for their use or operation require, an ozone depleting substance; and

(c) by renumbering clause (h) as clause (j).

(French version)

Il est proposé que l'article 9 soit amendé:

- a) par suppression, dans la version anglaise, de "and", à la fin de l'alinéa (g);
- b) par insertion de ce qui suit:
 - h) établir, aux fins des exemptions prévues aux paragraphes 3(3) et 4(4), des catégories d'objets ou de produits qui contiennent une substance appauvrissant la couche d'ozone ou dont l'utilisation ou le fonctionnement nécessite l'emploi d'une telle substance;
 - i) prendre des mesures concernant l'élimination de substances appauvrissant la couche d'ozone ou d'objets ou de produits qui contiennent une substance appauvrissant la couche d'ozone ou dont l'utilisation ou le fonctionnement nécessite l'emploi d'une telle substance;
- c) par substitution, à la désignation d'alinéa h), de la désignation j).

Mr. Chairman: Any questions in respect to this amendment? All in favour of the amendment as presented? Mr. Storie.

Mr. Storie: Mr. Chairman, No. (i), is this a requirement so that the Minister can set regulations governing the use of technicians in disposal and all of the other conditions surrounding recycling, recovery of ozone depleting substances? Is that the purpose of it?

Mr. Cummings: If you look under item (f) the certification of persons, this is to regulate the disposal of things or products that contain ozone depleting substances.

Mr. Storie: Just so that we are clear, this would then—for example, by regulation you could prohibit someone from bleeding off ozone from a refrigerator or whatever—air conditioner?

Mr. Cummings: I think what you are looking at is the disposal of equipment that contains the material—would be one aspect of it. We can regulate under item (e) the recapture of ozone depleting substances. Perhaps I do not understand your question.

Mr. Storie: I guess I am guessing, I am trying to anticipate what the reason for this additional amendment is, and the Minister keeps referring me

back to the Bill saying it is already covered. Perhaps he could elucidate for us the reason for this amendment.

Mr. Cummings: This allows the regulation and disposal of things or products that contain ozone depleting substances, which is what I referred to a moment ago where a product contains an ozone depleting substance. The manner in which it is disposed of could be controlled. If the Member is seeking specific examples I suppose I could come up with a couple. Is that what is the gist of his question?

Mr. Storie: I was using an example to see if it fit with what you are doing. My question would be, does this cover not only industry and the technicians that are referred to above, but this covers everyone? Are the regulations designed, or in your opinion at this point are the regulations to cover the individual actions: homeowners, automobile owners, anyone who has or uses ozone depleting substances? Would they be covered under this regulation?

Mr. Cummings: Yes, I think one of the underlying reasons for the need for this type of an amendment is to enhance the recycling and recapture at the end of use and that would include some domestic products.

Mr. Chairman: Any more questions? The amendment to Clause 9, as amended by the Minister in English and in French—pass; Clause 9 as amended in English and in French—pass; Clause 10—pass.

Clause 11—Mr. Storie.

Mr. Storie: Before we pass Clause 11, I have a couple of comments. First of all, when this Bill was introduced I had noted, as a number of the presenters did, that basically this Bill has no teeth. It gives the Minister the power by regulation to do many things. What concerns me is that the Minister, of course, has to have the will, the political will to actually implement some of the decisions that are going to be necessary if we are going to protect the environment. It is rather unfortunate that the Minister brings forward a Bill with no specifics. He had an opportunity to and he missed it.

I had a chance to speak to the refrigeration association members. In fact, I asked them specifically whether there had been any consultation and they said no. I spoke to Mr. Lamont just now, people who produce and use CFCs, whether there had been any consultation. He said no.

This Minister has brought forward a Bill with no teeth at this point whatsoever, without the consultation that was needed to bring forward a Bill that had more specifics, had some teeth, had a direction and would have been of immediate benefit to those using, producing ozone-depleting substances. It would have also been to the benefit of Manitobans if this Minister had been prepared, after the passage of this Act, to actually begin the process of eliminating them from use where possible, limiting their use where that is not possible, and prescribing the correct use of those products so they do not abuse the environment.

Unfortunately we are at a state now where we are passing a Bill which gives the Minister sufficient power

Tuesday, February 13, 1990

to do the regulation. We have not had an opportunity to be more specific about what is going to be done in what manner and in what time frame. Clearly that is of concern. This is a serious matter, and while no one is deluding themselves that we can initiate, as a province, measures which are going to protect in a major way the environment, we can start the process. We can put our finger in some of the holes in that dyke that Mr. Lamont was referring to.

I now challenge the Minister, and I hope that he will take up the challenge, to have some regulations in place, to do the consultation that should have been done months and months ago, to bring us to the point where we can actually do something about this problem.

I predicted, when I saw this Bill, that we would see no regulations before this Government left office, before the next election. I hope the Minister will prove me wrong on this particular Bill, that we will actually see some action.

An Honourable Member: When is the next election?

Mr. Storie: It does not matter, I do not think the political—the Member for Portage la Prairie (Mr. Connery) says, when is the next election? I do not think it matters, frankly. I do not think the political will is there. This is large measure fluff. If it was not fluff, the regulations would have been specific, and we would have been able to say to the people of Manitoba, yes, we are doing something, we are doing something concrete; here is the list of things we are going to prohibit, here is a list of things we are going to do to regulate the use of these products. Instead, we are passing carte blanche for the Minister to do nothing if he so chooses. It is very unfortunate.

Mr. Cummings: I am sorry the Member for Flin Flon (Mr. Storie) choose to turn the tone of debate at this committee away from the real issues at hand and try and make it into a political discussion vis a vis when the next election might be held or whether or not there is any desire on the part of this Government to deal with the regulations.

I would choose to let his remarks go, except that perhaps he was absent from the committee, or did not hear, when I asked the members of RACCA how many times they had met with my department to discuss the contents of this Bill. It was either four or five times that we had met with them. I do not want him to put on the record that we have not consulted with the people of that industry. The fact is, however, that we did not give them the pen to write the legislation; nor would he if he were sitting in my chair.

I would therefore ask that he consider the fact that we have made several commitments on the record in the fact sheet that we put out in connection with the

Bill as well. We indicated that we would be moving forward to consultation and then regulations.

He can call it cowardice if he likes, but I prefer to have regulations that are practical and reasonable, fall as closely as possible in line with the Montreal Protocol and make sure that we do everything that is within reason to stop the ozone damages that we believe are happening, and at the same time make sure that those fears that are raised, that we will no longer be able to afford to refrigerate our food, are not brought to fruition. That is the balance that we are trying to strike. I believe by taking it out to consultation before we strike the regulations in stone, we will be able to come as close as we are ever likely to in reaching that balance.

Mr. Kozak: My colleagues and I feel that substantial progress has been made here today and that it is really too early for us to begin the name calling and the finger pointing that politicians enjoy to do. It is certainly part of our work, and we take some pleasure in it when the facts of a particular case require it.

I would like the committee to be aware that my Party fully supports the granting of authority to the Minister that this Bill accomplishes. However, at the same time I would point out that we certainly intend to monitor the development of regulations under this Bill to see that the progress we have made today does not get lost over time in the future. We will monitor the progress of the regulations and hold the Government accountable for the development of regulations. That is after all the role of an Opposition, and we intend to pursue it.

Mr. Storie: Mr. Chairperson, I want to leave two comments on the record: No. 1, I never suggested that the intent of this legislation was not supported by Members of the New Democratic Party. The intent was. My concern is that we have really accomplished very little because we have left everything to the formulation of regulations at this point. When Mr. Lamont and others have said, some things could be done now, could have been done at the proclamation of this legislation, there could be more specifics in the legislation if the consultation on the Bill and its subsequent regulations had been done over the last two years. That is the point that I was trying to make. There is nothing inherent in the Bill which is objectionable. It is simply that we are now two years late in actually doing something.

Mr. Chairman: Clause 11 in English and in French—pass; the Preamble—pass; the Title—pass; shall the Bill as amended be reported—agreed. Is it the will of the committee that I report the Bill as amended? Agreed.

Committee rise.

COMMITTEE ROSE AT: 12:06 p.m.