



Third Session - Thirty-Seventh Legislature

of the

**Legislative Assembly of Manitoba**

**Standing Committee**

on

**Municipal Affairs**

*Chairperson*  
*Mr. Tom Nevakshonoff*  
*Constituency of Interlake*



**MANITOBA LEGISLATIVE ASSEMBLY**  
**Thirty-Seventh Legislature**

<b>Member</b>	<b>Constituency</b>	<b>Political Affiliation</b>
AGLUGUB, Cris	The Maples	N.D.P.
ALLAN, Nancy	St. Vital	N.D.P.
ASHTON, Steve, Hon.	Thompson	N.D.P.
ASPER, Linda	Riel	N.D.P.
BARRETT, Becky, Hon.	Inkster	N.D.P.
CALDWELL, Drew, Hon.	Brandon East	N.D.P.
CERILLI, Marianne	Radisson	N.D.P.
CHOMIAK, Dave, Hon.	Kildonan	N.D.P.
CUMMINGS, Glen	Ste. Rose	P.C.
DACQUAY, Louise	Seine River	P.C.
DERKACH, Leonard	Russell	P.C.
DEWAR, Gregory	Selkirk	N.D.P.
DOER, Gary, Hon.	Concordia	N.D.P.
DRIEDGER, Myrna	Charleswood	P.C.
DYCK, Peter	Pembina	P.C.
ENNS, Harry	Lakeside	P.C.
FAURSCHOU, David	Portage la Prairie	P.C.
FRIESEN, Jean, Hon.	Wolseley	N.D.P.
GERRARD, Jon, Hon.	River Heights	Lib.
GILLESHAMMER, Harold	Minnedosa	P.C.
HAWRANIK, Gerald	Lac du Bonnet	P.C.
HELWER, Edward	Gimli	P.C.
HICKES, George	Point Douglas	N.D.P.
JENNISSON, Gerard	Flin Flon	N.D.P.
KORZENIOWSKI, Bonnie	St. James	N.D.P.
LATHLIN, Oscar, Hon.	The Pas	N.D.P.
LAURENDEAU, Marcel	St. Norbert	P.C.
LEMIEUX, Ron, Hon.	La Verendrye	N.D.P.
LOEWEN, John	Fort Whyte	P.C.
MACKINTOSH, Gord, Hon.	St. Johns	N.D.P.
MAGUIRE, Larry	Arthur-Virden	P.C.
MALOWAY, Jim	Elmwood	N.D.P.
MARTINDALE, Doug	Burrows	N.D.P.
McGIFFORD, Diane, Hon.	Lord Roberts	N.D.P.
MIHYCHUK, MaryAnn, Hon.	Minto	N.D.P.
MITCHELSON, Bonnie	River East	P.C.
MURRAY, Stuart	Kirkfield Park	P.C.
NEVAKSHONOFF, Tom	Interlake	N.D.P.
PENNER, Jack	Emerson	P.C.
PENNER, Jim	Steinbach	P.C.
PITURA, Frank	Morris	P.C.
REID, Daryl	Transcona	N.D.P.
REIMER, Jack	Southdale	P.C.
ROBINSON, Eric, Hon.	Rupertsland	N.D.P.
ROCAN, Denis	Carman	P.C.
RONDEAU, Jim	Assiniboia	N.D.P.
SALE, Tim, Hon.	Fort Rouge	N.D.P.
SANTOS, Conrad	Wellington	N.D.P.
SCHELLENBERG, Harry	Rossmere	N.D.P.
SCHULER, Ron	Springfield	P.C.
SELINGER, Greg, Hon.	St. Boniface	N.D.P.
SMITH, Joy	Fort Garry	P.C.
SMITH, Scott, Hon.	Brandon West	N.D.P.
STEFANSON, Heather	Tuxedo	P.C.
STRUTHERS, Stan	Dauphin-Roblin	N.D.P.
TWEED, Mervin	Turtle Mountain	P.C.
WOWCHUK, Rosann, Hon.	Swan River	N.D.P.

**LEGISLATIVE ASSEMBLY OF MANITOBA**

**THE STANDING COMMITTEE ON MUNICIPAL AFFAIRS**

**Thursday, August 8, 2002**

**TIME – 8:30 a.m.**

**LOCATION – Winnipeg, Manitoba**

**CHAIRPERSON – Mr. Tom Nevakshonoff  
(Interlake)**

**VICE-CHAIRPERSON – Mr. Cris Aglugub  
(The Maples)**

**ATTENDANCE - 11 – QUORUM - 6**

*Members of the Committee present:*

Hon. Mses. Barrett, Friesen, Hon. Messrs.  
Lemieux, Selinger

Messrs. Aglugub, Loewen, Nevakshonoff,  
Mrs. Mitchelson, Messrs. Reid, Reimer,  
Schuler

*Substitutions:*

Hon. Ms. Wowchuk for Hon. Ms. Barrett at  
3:15 p.m.

Hon. Mr. Smith (Brandon West) for Mr.  
Reid at 3:15 p.m.

Mr. Cummings for Mr. Schuler at 3:15 p.m.

**WITNESSES:**

Bill 27–The Safer Workplaces Act  
(Workplace Safety and Health Act  
Amended)

Mr. Chuck Fossay, Keystone Agricultural  
Producers

Ms. Cindy Skanderberg, Private Citizen

Mr. Peter Wohlgemut, Manitoba Teachers'  
Society

Mr. Paul Moist, Canadian Union of Public  
Employees, Local 500

Mr. John Doyle, Manitoba Federation of  
Labour

Bill 39–The City of Winnipeg Charter Act

Mr. Paul Moist, Canadian Union of Public  
Employees, Local 500

Mr. Ken Simpson, Concerned Condominium  
Owners of Winnipeg

Mr. Glen Murray, Mayor, City of Winnipeg  
Ms. Julia Van De Spiegle, Private Citizen  
Mr. Nick Ternette, Private Citizen  
Mr. David Sanders, Colliers Pratt McGarry  
Mr. Dave Angus, Winnipeg Chamber of  
Commerce

Mr. Chuck Chappell, Private Citizen  
Mr. Harry Lehotsky, New Life Ministries  
Organizations and the West End Community  
Improvement Association

Ms. Shannon Watson, Spence Neighbour-  
hood Association

Mr. George Fraser, Urban Development  
Institute, Manitoba Division

Ms. Iris Ingram, Private Citizen

Mr. Michael Mercury, Q.C., Private Citizen

Ms. Shelly Wiseman, Canadian Federation  
of Independent Business

Ms. Danielle Davis, Spence Neighbourhood  
Association

Bill 41–The Manitoba Hydro Amendment  
Act

Mr. Bill Bage, United Steelworkers of  
America (USWA), Local 7106

Mr. Ray Berthelette, Thompson Labour  
Committee

Mr. Michael Anderson, Manitoba Keewatin-  
owi Okimakanak

Ms. Gloria Desorcy, Manitoba Branch of the  
Consumers' Association of Canada

Mr. Charles Cruden, Manitoba Society of  
Seniors

Bill 49–The Purchase of Winnipeg Hydro  
Act

Ms. Gloria Desorcy, Manitoba Branch of the  
Consumers' Association of Canada

Mr. Charles Cruden, Manitoba Society of  
Seniors

Mr. Paul Moist, Canadian Union of Public  
Employees, Local 500

Mr. Patrick English, Winnipeg Association  
of Public Service Officers (WAPSO)

**APPEARING:**

Mr. Stuart Murray, Leader of the Official Opposition  
 Hon. Jon Gerrard, MLA for River Heights  
 Mr. Harry Enns, MLA for Lakeside  
 Mr. Larry Maguire, MLA for Arthur-Virden

**WRITTEN SUBMISSIONS:**

Re: Bill 27—The Safer Workplaces Act (Workplace Safety and Health Act Amended)

Ms. Arlene Draffin Jones, Manitoba Lung Association

Ms. Maureen Hancharyk, Manitoba Nurses' Union

Bill 39—The City of Winnipeg Charter Act

Mr. Douglas Forbes, Manitoba Chapter of the Canadian Condominium Institute

**MATTERS UNDER CONSIDERATION:**

Bill 27—The Safer Workplaces Act (Workplace Safety and Health Act Amended)

Bill 39—The City of Winnipeg Charter Act

Bill 41—The Manitoba Hydro Amendment Act

Bill 49—The Purchase of Winnipeg Hydro Act

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**Mr. Chairperson:** Good morning. Will the Standing Committee on Municipal Affairs please come to order? Our first order of business is the election of a Vice-Chairperson. Are there any nominations?

**Mr. Daryl Reid (Transcona):** I nominate the Member for The Maples (Mr. Aglugub).

**Mr. Chairperson:** The Member for The Maples has been nominated. Are there any further nominations? Seeing none, the Member for The Maples is appointed Vice-Chairperson.

This meeting has been called to consider the following bills: Bill 27, The Safer Workplaces Act (Workplace Safety and Health Act Amended); Bill 39, The City of Winnipeg Charter Act; Bill 41, The Manitoba Hydro Amendment Act; Bill 49, The Purchase of Winnipeg Hydro Act.

We have a number of presenters registered to speak to this bill and I will read from the list. Rob Hilliard, John Doyle will be presenting for him. This is on Bill 27. Paul Moist; Pete Walker; Shelly Wiseman; Iris Taylor; Harry Mesman; Diana Ludnick will be presenting for Carol Loveridge; Peter Wohlgenut will be speaking for Brian Ardem; Cindy Skanderberg; Dave Angus; Paul LaBossier will be speaking for Bill Gardner; Graham Starmer; Ellen Olfert; Wayne Bergen; George Fraser; Ed Hubert; Jim Baker; Maureen Hancharyk; Jim Carr; Chuck Fossay; Arlene Draffin Jones.

Bill 39: Mayor Glen Murray or Jenny Gerbasi; Jae Eadie; Julia Van De Spiegle; Nick Ternette; David Sanders; Dave Angus; Paul Moist; Chuck Chappell; Doug Forbes and Larry Beeston; Brian Grant; Jim Baker; Harry Lehotsky; Ken Simpson; George Fraser; Shannon Watson; Gordon McIntyre or Mary Williams; John Stefaniuk; Iris Ingram; Harvey Smith, Councillor, Daniel McIntyre Ward, City of Winnipeg.

Bill 41: Bill Bage; Ray Berthelette; Grand Chief Francis Flett and/or Michael Anderson; Todd Scarth; Gloria Desorcy; Charles Cruden; Chief Roy Redhead.

Bill 49: Paul Moist; Gloria Desorcy; Charles Cruden; Patrick English.

If there is anyone else in attendance who wishes to speak to these bills, please register with the attendant at the back of the room.

We have a number of out-of-town presenters in attendance today as indicated by an asterisk on the speaking lists. The out of town presenters are: Cindy Skanderberg, Ellen Olfert and Wayne Bergen of Bill 27; Bill 39, nobody; Bill 41, Bill Bage and Ray Berthelette; and none for Bill 49.

Is it the will of the committee to hear the out-of-town presenters first? *[Agreed]*

I would like to further inform the committee that two presenters for Bill 41 have asked for special consideration regarding the order of presentations. Mr. Bill Bage, No. 1 on the list, has travelled here from Flin Flon, and Mr. Ray Berthelette has travelled here from Thompson. They are both hoping to get home today and have therefore asked if they might be able to present first. Does the committee agree to these requests? *[Agreed]*

Also, Chuck Fossay of Keystone Agriculture Producers, on Bill 27, has an appointment at 10 o'clock, and he has also requested special consideration. As I said, he has an appointment at ten o'clock. Is it the will of the committee that he present first, on that basis? *[Agreed]*

For the information of presenters, 20 copies of any written versions or presentations would be appreciated. If you require assistance with photocopying, please see the attendant at the back of the room.

How does the committee propose to deal with presenters who are not in attendance today but have their names called? Shall they be dropped to the bottom of the list and then dropped from the list entirely after being called twice? *[Agreed]*

In what order do we wish to hear presentation of bills this morning?

\* (08:40)

**Mr. Reid:** Mr. Chairperson, it would be my recommendation that we hear bills in the order of Bills 41, 49, 27, followed by 39.

**Mr. Chairperson:** It has been proposed that we deal with Bills 41, 49, 27 and 39. Agreed? *[Agreed]*

Okay, we will deal with those who asked for special consideration first.

Did the committee wish to set time limits on presentations?

**Mr. Reid:** Mr. Chairperson, considering the number of presenters and bills here today, it is

my recommendation that we have 15 minutes for presentations, followed by 5 minutes for questions and answers.

**Mr. Chairperson:** It has been proposed that we deal with presentations with 15 minutes and then 5 minutes for questions.

**Mr. John Loewen (Fort Whyte):** We do not have any objection to that, just hope the committee will show some flexibility if we are near the end of a presentation, a couple of questions here and there.

**Mr. Chairperson:** It is agreed, then, that we will allow for some flexibility on a case-by-case basis.

Finally, as a courtesy to presenters, are there any suggestions as to how long the committee should sit today?

**Mr. Reid:** Mr. Chairperson, it is my recommendation that the committee sit this morning until 12 noon and then reconvene this afternoon at 3 p.m. until conclusion of all bills and presentations.

**Mr. Chairperson:** It has been proposed that we sit till 12 noon this morning and then reconvene at 3 p.m. and sit until completion.

What is the will of the committee? *[Agreed]*

#### **Bill 27—The Safer Workplaces Act (Workplace Safety and Health Act Amended)**

**Mr. Chairperson:** I will call Mr. Chuck Fossay, Keystone Agricultural Producers, to present on Bill 27. Mr. Fossay, do you have a written presentation for the committee?

**Mr. Chuck Fossay (Keystone Agricultural Producers):** Yes, I do.

**Mr. Chairperson:** You do.

**Mr. Fossay:** Yes.

**Mr. Chairperson:** Okay, sir, proceed when you are ready.

**Mr. Fossay:** Thank you very much. On behalf of the Keystone Agricultural Producers, I wish

to thank you for this opportunity to present our organization's position with respect to Bill 27, The Safer Workplaces Act.

**Mr. Chairperson:** Could you speak a little closer to the microphone, sir?

**Mr. Fossay:** Okay. Is that better?

**Mr. Chairperson:** Yes.

**Mr. Fossay:** Okay. Thank you very much. On behalf of the Keystone Agricultural Producers, I wish to thank you for this opportunity to present our organization's position with respect to Bill 27, The Safer Workplaces Act.

KAP is a democratically controlled general farm policy organization representing and promoting the interests of agriculture for producers in Manitoba. It is an organization run and funded by its members and farm units throughout Manitoba. Over the past years, our organization has worked for the survival of the agricultural industry in an economically sustainable manner; therefore, we want to ensure that this legislation does not have a negative impact on that sustainability.

The family farm is a unique workplace when compared to almost all other industries. The farm is not only the place where we work, but also where we live and raise our families. Farmers are the owners, managers and often the main workers on their operations. In addition to this, the farm family members are often the main workforce.

Keystone Agricultural Producers believes that the best way to deal with farm safety and health issues is by continuing and expanding upon existing education programs. We also believe that the Government can play a more active role in creating an awareness of existing programs. There can certainly be a role for agricultural representatives and other extension staff who have the ability to allow a continuous flow of information through farm meetings and farm visits. Safety programs should also be started in the schools, educating our youth about the importance of machinery shields, staying away from moving machinery and the proper way of working with tools. These programs

should continue to provide information and education to producers as their operations grow and change.

In some sectors of our industry, such as the hog sector, they are already being proactive by creating their own educational awareness programs. Commodity specific programs can be useful, but have to be developed by that specific commodity in order to reflect the needs and diverse conditions of that sector.

KAP encourages farm equipment dealers and input suppliers to have, readily available at their business locations, the safety supplies and instruction manuals for implements and/or inputs. Also, dealers and suppliers of used equipment should ensure that all safety shields are in place and in good condition before resale of such equipment.

We do not believe that inspections and fines on family farm operations will achieve anything but angry producers. A lot of family farms are struggling to survive the current hard financial times and do not need another layer of bureaucracy and regulations imposed upon them.

KAP and its members are aware of the high level of fatalities and injuries that occur on the farm and want to work with the Government to reduce these injuries. We believe that the role of a farm safety officer should be one of promoting awareness and education. A farm safety officer could fill the gap of resource person or coordinator when a farm operator asks for assistance in implementing a farm safety plan for their operations.

One of the great tragedies of farm life is that so many of the deaths and injuries that occur strike the very young and the very old. Because of the very tough financial conditions on farms these days, farm wives often take off-farm jobs to help pay the bills. If they have children, this means their spouses often have to watch the children while doing daily chores, because there is a lack of child-care centres in rural Manitoba. The province should investigate the possibility of creating programs that will encourage the development of affordable child-care centres in rural areas to provide options for farm parents in busy seasons. Such programs need to be

affordable and designed to reflect the busy seeding and harvesting seasons which have extended hours of labour. This would help reduce the potential risks to farm children.

The average age of farmers is increasing, but many producers do not want to believe that they cannot do the same chores at 65 that they could at 40. This is a difficult problem and is, again, best dealt with through educational programs that can provide farmers with ideas on different and safer ways of doing chores.

KAP also encourages the Government to develop, in co-ordination with producers, a voluntary self-assessment program of potential farm accident areas that can be used by the farm community. A template for safety assessment can prove to be a very important and more effective tool than enforcement. We believe that Government can play a role in encouraging all farm employers to develop a farm safety policy plan that they review with their families and employees to follow strictly.

It has been suggested that Workers Compensation Board should be more involved in the agricultural industry. If Workers Compensation Board was to be involved, it would have to be on a strictly voluntary basis and not compulsory. The Workers Compensation Board, in consultation with industry, should develop affordable programs that can meet the needs of farm owners and operators. By doing so, the WCB would have available, on a voluntary basis, programs which farmers could want to buy into.

In closing, we will recap our recommendations that we request the Government to give serious consideration to the following: continuation and expansion of existing education programs; play a more active role, including financial, in creating an awareness of existing programs; safety programs starting in schools; recognition of the current income situation that would only be heightened by inspections and fines; investigation of the possibility of developing programs that will encourage the placement of affordable child-care centres in rural areas; developing a self-assessment program in conjunction with farmers of potential farm accident areas; recognizing the need that a farm safety

officer's role should be one of awareness and education, not enforcement; and playing a role in encouraging all farm employers to develop a farm safety policy plan that they review with their employees and follow strictly.

We have to ensure that agriculture is not negatively impacted by this legislation.

In closing, we would like to thank you for this opportunity to present on Bill 27 and hope that the Government will give utmost consideration to the concerns that we have raised.

**Mr. Chairperson:** Thank you for your presentation, sir. Are there questions from the committee?

**Ms. Becky Barrett (Minister of Labour):** Thank you very much for your presentation. This will be very useful as we work towards our system of, not only the legislation, but the other programs that we have in place.

I wanted to let you know that we do have a provincial farm safety co-ordinator who has a number of years of experience both in health and safety within the Department of Labour, and also experience in dealing with the unique challenges that are facing agriculture today. You have outlined these very succinctly and very clearly for us, not only in the health and safety, but in a lot of other areas.

This presentation will be very helpful for all of us as we work together; because we all have the same goal of ensuring that every workplace, whether it is urban, rural or agriculture, manufacturing is as safe as it can possible be. So thank you very much. I appreciate your very thoughtful presentation.

\* (08:50)

**Mr. Chairperson:** Mr. Fossay, a response to that.

**Mr. Fossay:** No, I do not think so.

**Mr. Stuart Murray (Leader of the Official Opposition):** Thank you very much for your presentation. It is very well thought out. I wondered if you could tell me: Did you have a

chance to meet with the Government and put your views forward prior to, or as the legislation was being developed?

**Mr. Fossay:** Yes, we attended the series of rural meetings that were held by, I guess, the committee last year, and I believe we also made a presentation. Our former president, Don Dewar, made a presentation, I believe, to this committee as well.

**Mr. Stuart Murray:** You make a comment in here just that you say you want to ensure that this legislation does not have a negative impact on that sustainability, talking about the sustainability of our agriculture industry in Manitoba. In your opinion, as the bill sits now, do you believe it has a negative impact on, or potentially has a negative impact on the sustainability?

**Mr. Fossay:** In general, I do not feel that there are any real restrictions at this time. But, like any bill, I guess it is in the details and how the legislation is actually implemented and policed.

**Mr. Stuart Murray:** I just would like to, again, comment and recommend that one of the things that you have done here in a very succinct way is lay out some issues that clearly are going to help your industry, rather than hinder. I just want to commend KAP and your entire organization for taking time to bring some specific recommendations to this that will help improve, rather than have a negative impact. I want to thank you for your presentation.

**Mr. Fossay:** Thank you very much for your comments, and we very much want to work with the Government to make sure that legislation benefits everyone.

**Hon. Jon Gerrard (River Heights):** Just to clarify, the major concern that you raise with the bill really is in the punitive sanctions, the punitive approach to problems, where they arise in safety. Is that right?

**Mr. Fossay:** Yes, that is correct. Our main concern is, like I said in the presentation, quite often, people who are affected by accidents on the farm are the producers themselves or their farm members. So really, fines and penalties against people who are probably suffering

already—because if it is a family member, that is the worst thing that could happen to you. If it is something that happens to yourself, it does not benefit anybody to apply additional fines to that.

**Mr. Chairperson:** Any further questions? Thank you for your presentation, sir.

#### **Bill 41—The Manitoba Hydro Amendment Act**

**Mr. Chairperson:** We will now move to Bill 41 and hear two out-of-town presenters. I call Mr. Bill Bage, Local 7106 USWA, United Steel Workers of America. You may proceed when ready.

**Mr. Bill Bage (United Steel Workers of America (USWA), Local 7106):** Through my presentation to this committee, I welcome the opportunity to participate in the discussions regarding the proposal to share Manitoba Hydro profits.

I am president of the United Steelworkers of America, Local 7106. My membership includes employees of the Snow Lake School Division, R.M. MacIsaac Drilling and employees of Hudson Bay Mining and Smelting in Flin Flon and Snow Lake. We have approximately one thousand members. Since the Budget of 2002, we have had some informal discussions regarding this proposal, and I am here to put forth our views for your consideration as you debate this legislation.

Residents of northern Manitoba, along with the rural areas, have for many years paid a higher rate for hydro than the southern urban areas. Recently, this Government changed that practice to equalize rates so that everyone pays the same rate. Given that the hydro actually begins in the North, it is only fair that we now pay the same as southern consumers. I mention this only because, so long as Manitoba Hydro remains a Crown corporation, the Government can continue to ensure good service provisions to all Manitobans.

This cannot be said about our telephone system. Since the privatization of MTS by the former government, we in the North have seen our rates increase, our access to cellular telephone service stall, and access to high-speed

Internet is sporadic at best. When there is need for repairs, many communities now face long delays because it is not cost-effective to send technicians into the isolated communities. When it was a Crown corporation whose assets were built by the taxpayers, there was some accountability to the people of Manitoba, not to shareholders who are looking for a profit.

We are pleased to hear that Manitoba Hydro will continue to be owned by the people of Manitoba to provide some of the cleanest, most efficient and certainly renewable resources to our residents. When we heard about the proposal put forth by the Minister of Finance (Mr. Selinger) to have Manitoba Hydro contribute financially to our operations of the Province, our education, our highways, social services, we welcomed this suggestion.

The province of Alberta, who enjoys a large resource sector which is non-renewable, reaps great benefits from the oil and gas industry. These funds allow that province to have a lower tax base than many other provinces, but eventually those non-renewable resources will run out.

Manitoba Hydro, through its sales of excess power, will continue to serve the citizens of Manitoba and to provide some of the lowest hydroelectric rates in North America to all of its residents.

In northern Manitoba, it is essential that we have a reliable method of heat for our homes and for our businesses. As a Crown corporation, Manitoba Hydro is accountable to the people of Manitoba and thus responds to concerns about outages and service problems almost immediately.

Specifically, we are in favour of having Manitoba Hydro contribute to the operations of our province. When Limestone was built, Northerners and Manitobans benefited by being given first access to those construction jobs. Now, since its completion, Manitobans have benefited because of our ability to export our excess power as interruptible service. This ensures our needs are met first, and then we can sell the excess for a profit.

After MTS was sold to private shareholders, and I dare say that I believe many of those

profiting are not even from Manitoba, the consumers in Manitoba were asked to make up the shortfall for payment of income taxes which it did not pay as a Crown corporation. To have Manitoba Hydro contribute an amount which would be small in comparison to the amount of income tax it would pay if it was applied is a small request. If it benefits all of Manitoba, we see nothing wrong. After all, we still own the dams, we still own the asset, and we still have our access to our low hydro rate to heat our homes, farms and businesses.

Given the choice of cutting the provision of programs like the Northern Patient Transportation Program or limit access to the inter-universities north first degree university courses, or to have our highways return to their state of pre-2000 condition, I believe most northern residents would say that it is fair for Hydro to pay some of the costs. Through its contribution, Manitoba Hydro would be helping to keep our population healthy and educated, keep our roads safe for travel, keep our hospital beds open and keep our trained workers in Manitoba.

I have looked into some of the other payments made by other hydroelectric companies in Canada to their respective government bodies. I would like to share some of those numbers with you. In the City of Winnipeg, Winnipeg Hydro, which, I understand, may soon become part of Manitoba Hydro, paid to the City \$16.5 million in the fiscal year 2000-2001. The province of Saskatchewan, for the same period, received \$69 million from SaskPower. The province of Québec received \$539 million from Hydro Québec, and British Columbia received \$372 million from B.C. Hydro. It is my understanding that Manitoba Hydro is being asked to pay \$288 million over a three-year period.

\* (09:00)

All Manitobans will benefit from these contributions. We all enjoy our health care system. We all enjoy good roads, highway maintenance, and those employed in the affected sectors will enjoy some security knowing that their pension liability is being addressed by this Government.

While researching for this presentation, I learned a bit about the operations of Manitoba

Hydro. I learned that Manitoba Hydro, after the completion of the Limestone generating station, has seen its earnings increase substantially from \$159 million in '92-93 to \$1.088 billion in 2000-2001.

In the 1986 legislation, called the Manitoba Energy Foundation, provisions were made for the profits of export sales, after cost, to be divided between Manitoba Hydro and the Manitoba Energy Foundation to support social structure in Manitoba. In the 1980s, the opposition of the day opposed that legislation which allowed all Manitobans to profit from our renewable resource and the profit it generates. On August 1, 1986, Harry Enns said: One can certainly take the position that it is preposterous to talk about profit flowing at any time as a result of our generation of hydro.

I am glad that the government of the day did not take his advice, chose to invest in our future, the future of Manitobans. I also found a statement by the former premier, Gary Filmon, during his visit to Thompson in 1999 when he announced that he was mandating Manitoba Hydro to double its export sales over the next 10 years. He was quoted as saying: Any increase in earnings from sales outside of Manitoba will go toward keeping hydro rates low and fund infrastructure development in northern Manitoba.

I must admit that I find the position of the current members of the Opposition, many of whom were in the Filmon government, puzzling. Their opposition to the Minister of Finance's proposal is confusing based on the commitments of their former leader. How can you be in favour of something at one time and opposed to it the next? Is it not better for Manitoba Hydro revenues to be used to benefit all Manitobans?

In closing, I would like to stress that we support the concept of Manitoba Hydro putting some of their profits into the operation of the Province, to the benefit of all Manitobans, while continuing to be owned and enjoyed by all of us. Thank you.

**Mr. Chairperson:** Thank you for your presentation, sir. Questions from the committee?

**Hon. Greg Selinger (Minister charged with the administration of The Manitoba Hydro**

**Act):** I do not have a question. I will just thank Mr. Bage for his presentation and putting his comments on the record.

**Mr. Chairperson:** Mr. Bage, comment?

**Mr. John Loewen (Fort Whyte):** I would, too, like to thank Mr. Bage for his presentation. I would encourage you to look at the transcripts from the Public Utilities Board hearing of May 27 and June 3, which will indicate quite clearly that officials of Manitoba have indicated to the Government that they will have to borrow the money in order to pay this dividend. I would also encourage you to look at some of the information that was supplied by the industrial power users group which clearly indicates that this year alone the Government of Manitoba will require Manitoba Hydro to pay them between \$415 million and \$488 million in cash. That is in a year in which projected earnings are roughly \$100 million. I would just like to ask you to look at those issues in your research, too.

**Mr. Chairperson:** Further questions? Seeing there are no further questions, thank you for your presentation, sir.

I will now call Ray Berthelette, Thompson Labour Committee. Mr. Berthelette, do you have a written copy of your brief?

**Mr. Ray Berthelette (Thompson Labour Committee):** No, I do not. This will just be an oral presentation.

**Mr. Chairperson:** Proceed when ready, sir.

**Mr. Berthelette:** First of all, I would like to thank Brother Bill for giving us a good rundown on the macro level of what Hydro can do and what was done before, so there is no need for me to get into that. That will make my presentation even shorter.

Thompson Labour Committee represents about 2300 people. Although we are basically situated in Thompson, we also get a flavour of all the other labour organizations in northern Manitoba, including Flin Flon. I have been elected to that position for about a year now, and part of what we have been working on is developing some policy initiatives. One of the

policy initiatives is working with the constituency level people and helping them get a flavour of what labour can do in the North. At this point, we feel we are succeeding, and, as a result of that, that is one of the reasons I am here today.

We, the Thompson Labour Committee, support the bill 100 percent. We feel that this is a vision that the Government has. It is a great amendment to the bill, and it will further the residents of Thompson and the labour people in Thompson, as well. When I say it will favour, we have some action happening, I guess, in the North that, with previous administration, we never had before. When I was driving down here yesterday, the seven-hour, seven-and-a-half-hour trip took about an extra hour, and that was because they are actually doing some road repairs. Part of those road repairs comes from the increase that the provincial government has allotted, of 15.5%, and we are finally getting an adequate portion of what we should be getting for road repairs for the North.

Secondly, we are also benefiting in the school taxes by Thompson getting an increase of 7 percent or making an amendment which is giving Thompson an extra \$1 million, directly going towards schools, which will, in effect, reduce our taxes or not raise our taxes in Thompson city this year. We have also got some other projects on the go, the recreation centre, a nursing home, which, without this amendment, probably would be shelved. The Thompson Labour Committee and a lot of the people in Thompson, because we are a strong labour town, feel that this is a dividend, and it not only benefits Thompson, but it will benefit the province as a whole.

I look at the alternatives. What alternatives do we have if we do not use this great vision of the Government? There are a couple of things, I guess. We could not pay down the debt this year. I am sure that the Opposition would probably not follow that way. We could cut tax cuts. The Conservative government has a strong idea that we should be cutting taxes and cutting taxes and cutting taxes, but we should not be giving anything back to the people. We believe we should be giving back to the people.

I was in Thompson for the worst-case scenario. The worst-case scenario was when the

previous administration sold MTS. Not only did they sell the corporation, but they sold a whole bunch of jobs of real-life people. These real-life people, I happen to know a whole bunch of them who had jobs at MTS who no longer do. What do we have representing MTS in Thompson right now? We have got a for-profit private sales office in the middle of one of the malls. What we had before is we had a bunch of working people, single mothers who, when they found out they did not have a job, were crying on the streets in front of the building because they did not know what their future was going to be. At least, with the dividend from this bill, we know that, for the next three years, we have a plan, a vision of the Government that we can follow through with some of the initiatives that the constituency has in the Thompson region.

I believe, and the committee believes, that this is an equitable way of addressing a bad situation because nobody likes to run a deficit. Nobody ever wants to run a deficit, so we have to do the alternative, and I believe we have to take the dividend from Manitoba Hydro. Thank you.

\* (09:10)

**Mr. Chairperson:** Thank you for your presentation, Mr. Berthelette. Are there questions from the committee?

**Mr. Selinger:** Thank you, Mr. Berthelette, for your presentation. I take it from what you said that you believe that the shareholder, the people of Manitoba should have this dividend from Manitoba Hydro?

**Mr. Berthelette:** Yes.

**Mr. Chairperson:** Mr. Berthelette, I have to identify you for the purposes of recording. Any further questions?

**Mr. Selinger:** Have you had a chance to receive the annual report this year of Manitoba Hydro?

**Mr. Berthelette:** No, I have not.

**Mr. Selinger:** I am going to ask that we make a copy available to you so that you can see the whole story about Manitoba Hydro's retained earnings having grown to \$1.3 billion.

**Mr. Berthelette:** Thank you.

**Mr. Loewen:** I thank you for the presentation, as well. When you do get a copy of the financial statement from the minister, I would encourage you to look at page 47, which also indicates that Manitoba Hydro carries a debt load of over \$7 billion. You might want to give some thought to what constant increases in that debt load might have, what effect that may have on the corporation.

Mr. Chairperson, I would also encourage you to look at the transcript from the Public Utilities Board for May 27 and June 3. That may give you further insight into some of the risks that are inherent with Manitoba Hydro and why we object to this policy of raiding Manitoba Hydro simply to cover, as you indicated, the Government's deficit.

**Mr. Berthelette:** Thank you.

**Mr. Chairperson:** Any further questions? Seeing none, thank you for your presentation, sir.

**Bill 27—The Safer Workplaces Act  
(Workplace Safety and Health Act Amended)**

**Mr. Chairperson:** We will now return to Bill 27 to hear a couple of out-of-town presenters. I might add that Ms. Ellen Oldford has informed the attendant at the back that she is not from out of town, so her name will be called in general order.

I will call Ms. Cindy Skanderberg, private citizen, to come forward. Ms Skanderberg, do you have a written copy of your presentation for the committee?

**Ms. Cindy Skanderberg (Private Citizen):** Yes, I do.

**Mr. Chairperson:** You may begin when you are ready.

**Ms. Skanderberg:** This is a presentation to the Manitoba Legislature on Bill 27. It is an act to amend the Workplace Safety and Health Act. It is presented by myself, and it is written by my sister, Shirley Post.

Mr. Chairperson, ladies and gentlemen, my name is Cindy Skanderberg. On December 8,

1999, my 19-year old son, Michael, became a workplace fatality. It breaks my heart to think that this death was completely avoidable and preventable. If he had lived, he would be halfway through his electrical apprenticeship program, a trade he dearly loved. It breaks my heart to think that if he had apprenticed in any other province in Canada, chances are he would still be alive today.

It breaks my heart to think that we ever returned to Manitoba with our three children in 1998. Little did we know that we returned to the province which had the reputation of having the most unsafe work culture in all of Canada, a province which had the distinction of having the highest time loss work injuries, and which had not reviewed its safety and health legislation for over 25 years. There is no system on this earth that can withstand the test of time without regular maintenance and/or reviews to keep it in touch and successful in our ever changing world.

Without the proper nurturing, that system becomes stagnant, outdated and ineffective. Bill 27 is going to help pull Manitoba out of that quagmire into which it has sunk. Without it, the work culture in this province will never change. It will only get worse. We have all heard the statistics. We have all seen the results, and my son has paid the ultimate price for this obscene negligence. Life is precious and that is the reason I stand before you today, to ask for a life in a safer workplace, not only for my daughters, but also for your sons and your daughters.

On the night that Michael was killed, he was working alone on a fluorescent light fixture in a Beausejour school when 347 volts of electricity surged down his arm and through his torso. His employer, Clearwater Electric, pled guilty for failing to provide training and supervision on procedures for working with electrical equipment. For many months after December 8, I experienced hate in its very purest form, a hate so intense that, when combined with a mother's grief, it totally consumed my mind and my body. I could not work. I could not eat. I could not sleep. I could only hate, and I could only cry. It was totally debilitating.

Only the love and support of my family and my faith in God helped to pull me back from the

brink of that very dangerous world into which I almost slipped. I began to realize that the cause of Michael's death was more than just Clearwater Electric. It was more the fault of our Manitoba laws which allowed companies like Clearwater Electric to exist. It was more the fault of the Manitoba laws which have not been reviewed in 25 years.

The Workplace Safety and Health Act deals very inadequately with the death of a worker. The proposed changes being set forward in Bill 27 are missing some very key issues. There are three areas that should have been included in the Bill. They are: mandatory inquests into any fatality in the workplace; director liability for negligence, even after bankruptcy or lack of prosecution; and an increase in fines for prosecution.

We must learn from our dead in order to protect our living. We must have director liability, and fines must be more meaningful. These changes would even the playing field between those companies that already comply with the laws, to those that do not. Manitoba fines are ridiculously low and that fact is compounded when fines are used as tax exemptions.

At this time, I must digress for just a moment so that I can bring you up to date on my own personal struggle for justice over the death of my son, Michael. I do so because it substantiates the need for change in Manitoba. In all honesty, there has been no justice.

Clearwater Electric was fined a total of \$27,500 which they could pay in interest-free instalments of \$1,000 a month. Each month after the sentencing, I faithfully phoned the cashier at the Law Courts to make sure that Clearwater paid their monthly instalment. All went well until the summer of last year, when monthly payments suddenly dropped to \$250 a month. Why?

Tony Bruneau, owner of Clearwater Electric, had gone to the cashier with a box of Kleenex and a few tears, and had been able to negotiate a reduction in his monthly installments of \$1,000. I could hardly believe that a cashier could negate a judge's recommendation, but was told that this kind of thing happened all the time.

\* (09:20)

On July 9 of this year, I was further advised that Clearwater Electric had been dissolved. That means that after paying only \$10,000 or less, Clearwater has been absolved. Owner Tony Bruneau, is free to set up shop under any other name, and free to operate in any province in Canada. He is totally exonerated. He is free to enjoy the luxuries of life while spending the summer at his massive cottage on Lake of the Woods. Smart businessman, lousy justice system. What is the point of a lengthy, expensive workplace safety and health investigation, followed by a lengthy court case, when there is absolutely no consequence for the guilty party? It is an absolute atrocity.

Bill 27 must plug these kind of loopholes. I look around me here today, and this is where the difference starts. This is where the laws are made. This is our opportunity to give the people who work with this antiquated system the proper tools to do their jobs effectively.

The proposed changes in Bill 27 are not earth-shattering changes. In fact, they are very subtle, but they are a step in the right direction. Amongst many changes, the bill expands the duties of employers and supervisors, and also establishes the principle of administrative penalties. These penalties include a guarantee of pay for workers during stop work orders and while exercising their rights to refuse dangerous work.

The employers who currently defy the clauses of the act will be the ones who will be more resistant to this change. If these added costs impede their right to do business, then I must ask why the fear of a fine due to a worker's injury or death does not instill the same concern. Could it be that the fine is not substantial enough to cause a concern? Is it less expensive to risk an employee's health or life than it is to pay an employee's wages while a dangerous situation is corrected? That, indeed, is a sad thought, and one that compliant companies do not even consider. As an employer myself, I do not fear this change. In fact, I embrace it.

If for whatever reason I have overlooked a potentially dangerous situation, then I want to be made aware of it. After all, we are a family run

business in a small community, and the lives of my husband, my daughters and the members of my staff could be in jeopardy. Personally, I am not willing to take that kind of risk.

As you recall, negative reinforcement was used to encourage seatbelt usage. When fines were imposed for non-usage, there were outcries from individuals who claimed that they should be given a choice. Eventually, the cries died down, and so did the fatality rate. What I am trying to say is that we cannot not change because we fear opposition. We must change because it is the right thing to do.

Over the last year, I have accepted the fact that big changes do not happen overnight. They happen over time propelled by people who are dedicated to a cause. I am no longer driven by hate, but I am angry, and I am driven by a deep resolve to change the work culture in this province. I have made numerous workplace safety presentations to hundreds of school-aged children throughout this province in the hope that the message gets out there. You have the right to refuse dangerous work. We cannot just focus on training and educating our people if we do not change our existing work culture. That would be the very worst kind of abuse.

I could not save my child. Perhaps we can save yours. This is a picture of the child we could not save. This is a picture of my son, Michael William Skanderberg, aged 19 years. For every workplace fatality, there is a face, there is a story and a preventable death. No acceptable justice has ever been served for even the most heinous of any past Manitoba workplace crimes. Bill 27 will not bring justice to our dead, but it will bring us all a fresh new hope for tomorrow. Thank you.

**Mr. Chairperson:** Thank you for your presentation. Questions from the committee?

**Hon. Becky Barrett (Minister of Labour):** Not a question, a comment. Your presentation was wonderful. You have been a remarkable force. You have taken what is an inexcusable tragedy that every parent, every family member in this world fears. It happened to you. It happened to your family. I cannot even begin to imagine what you have gone through. You have done

such a wonderful job in reminding us and pushing us all to make something positive happen out of this.

Your presentation this morning is just a continuation of that. I think all your comments are very well right on the money, but your comments that, if we do not change the work culture, we are not going to change anything is exactly what is behind this bill. As you say, it steps in the right direction. I think we, on the Government side, and people in Manitoba agree that workplaces must be safe, and everything we can do we have a responsibility to do to ensure that, as much as is humanly possible, people who leave their homes and their families can come home to their homes and their families.

That is a right and a responsibility for all of us. I thank you for having done the work that you have done. I am just so horribly sorry that you have had to do this, but you have done a remarkable job. Thank you from all of us, and thank you for all the young people and the workers that your work is going to help save.

**Ms. Skanderberg:** Thank you very much.

**Mr. Ron Schuler (Springfield):** Cindy, thank you very much for coming forward with your story. Of course we remember reading about it in the newspapers. It is always a tragedy when we lose a young Manitoban. Nineteen years old is far too young. Certainly, we cannot understand the pain that you feel in a mother's heart.

What I think is very telling about your presentation is you got over that anger and that bitterness which you initially feel. You say in here: I have made numerous workplace safety presentations to hundreds of school aged children throughout this province. Do you think that part of this should also be a focus on education, and should there be more in the bill dealing with the whole education side of this?

**Ms. Skanderberg:** I believe that school-aged children right from toddlers should be taught workplace safety. I think it should become part of the curriculum, work culture. It has to be implanted in our brains to work safely, and that is why going out to the schools and with the workers of tomorrow, that it is so important that

we get this message across to our children, because I do not ever want it to be you standing up here begging for a safer work culture and for a safer Manitoba.

**Mr. Schuler:** Thank you.

**Hon. Greg Selinger (Minister of Finance):** I just want to thank you again for turning your grief and your anger into positive action for all Manitobans. That is a true act of citizenship and parenthood on your part. Thank you very much.

**Ms. Skanderberg:** Thank you very much.

\* (09:30)

**Mr. Chairperson:** No further questions? Thank you for your presentation.

Mr. Wayne Bergen has since informed the attendants at the back that he is not from out of town, so that means that is all of the out-of-town presenters. We will now return to the regular order and return to Bill 41.

#### **Bill 41—The Manitoba Hydro Amendment Act**

**Mr. Chairperson:** We will now return to the regular order and return to Bill 41.

I will call to the microphone Grand Chief Francis Flett and/or Michael Anderson from MKO. Mr. Anderson, do you have a written copy of your presentation for the committee?

**Mr. Michael Anderson (Manitoba Keewatin-owiw Okimakanak):** I do, Mr. Chair, thank you.

Good morning, Mr. Chair, and members of the committee.

**Mr. Chairperson:** Okay, pass it around, please, and begin when you are ready.

**Mr. Anderson:** Grand Chief Flett sends his regrets. Basically, on the notice that we had, and with your busy schedule, he was not able to come down from northern Manitoba where he is currently touring several of our communities.

As a matter of observation for preparing our submission, notwithstanding the fact that we registered to appear shortly after first reading,

the Hansard, for second reading of the bill and referral to committee, is not available on the Web site yet, so our submission, I must say, is prepared absent to the ability to read the debate of the honourable members in the House, but we are here. I look forward to reading it, by the way.

In respect of the legislation, we prepared a bit of a summary which all of the members, of course, are familiar with, as a way of a background for central positions on the bill. Shortly after the government was elected in December 1999, there were indications, mainly through the media and others, that the Government was considering mechanisms for accessing the net revenues from profitable Crown corporations of which, of course, Manitoba Hydro is noted.

Mr. Chairperson, on February 7, 2000, the *Winnipeg Free Press* published an article headlined: Hydro profits may be in the NDP's spring budget. It was not at that time, but it was also reported that the Crown Corporations Council was asked by the minister to file a written report on the matter. Since that time, of course, national and international events have provided additional rationale for Manitoba to propose accessing the export-related profits of Manitoba Hydro.

On April 22, in the Budget Address, the minister summarized the circumstances, financially, of Manitoba Hydro; that is, the corporation is projected to make in excess of \$400 million in profit between 2001-02 and 2003-04. The minister discussed the struggles the Province is facing as a result of the federal taxation error, and, of course, the corporate tax downturn, and indicated that he was intending to seek \$288 million in export revenues from the corporation which, of course, is embodied in the bill before us today.

There was a schedule for setting out withdrawals from the bill, which I do understand, from the interesting discussion of the annual report of Manitoba Hydro, may be varied depending on the actual financial performance of the corporation. On July 2, of course, the bill was given first reading. On August 6, it was given second reading and referred to you.

Some of the observations that have been made regarding some of the testimony, for

example, that was brought out on May 27 before the Public Utilities Board I would like to review, and comment on one of the matters raised by the minister in response to the comments made by a previous presenter.

The so-called special export payment, as it was described before the Public Utilities Board, required to be paid retroactively for 2002: If you include the increases in the water rental fees, also for 2002, the amount of the provincial debt guarantee fee, which also increased in 2002, and the addition of the sinking fund charge, plus corporate tax, that would mean that, in 2002, remembering that the bill does imply retroactive payment, Manitoba Hydro would contribute \$354 million total to the Province of Manitoba, all fees, taxes, payments included.

\* (09:40)

The \$354 million represents approximately 30% of Manitoba Hydro's total corporate expenses of \$1.2 billion, which is a 20% increase over the previous year. These numbers were confirmed by Ms. Wray and Mr. Warden in cross-examination by PUB counsel. Many of you have reviewed the transcript.

Mr. Chairperson, another comparison that Ms. Wray was brought to by Ms. Kalinowsky was that all of these payments together would also represent, on a different comparison, 45% of Manitoba Hydro's total domestic revenue requirement, including Winnipeg Hydro, of \$791 million.

That is all the money that the corporation needs to raise to meet its obligations. This amount in total—all contributions together—represents almost 45% of that amount. Whether or not it compares to the global percentages in Saskatchewan, Québec or British Columbia, I do not have the data at this point to indicate, but it is a substantial amount of money relative to the corporation's operations.

The 50 000 members of MKO, of course, pay rates. They are all customers of Manitoba Hydro, and so we were keenly interested as registered interveners in the cross-examination on this point. On May 27, it also became clear that, because of the cash position of the

corporation—and I understand that Mr. Brennan is there, so he knows the numbers like no one else—would require approximately \$257 million in short-term borrowings in order to meet these payments. That is partly because, as I understand it, retained earnings is not necessarily cash, and the corporation indicated in its cross-examination that: "Its cash position fluctuates wildly" from year to year. That was Ms. Wray's testimony in her cross-examination.

So the requirement of the corporation to potentially borrow will create different financial circumstances in terms of rates, which means it creates additional expectations—certainly on the performance of the export operations of the corporation—to meet not only the payment schedules over the next three fiscal years, but the \$257 million in forecast borrowings. That number was calculated by Public Utilities Board staff, and was confirmed by Manitoba Hydro at that time.

Of concern to MKO, in addition to the pressures on the corporation to keep rates stable, is that Bill 41 continues to direct the benefits and revenues of resource developments, within the MKO region, in a manner that does not take into account the treaty obligation to guarantee equitable access to natural resources by treaty First Nations persons, for the purpose of obtaining at least a moderate living through the harvested resources. That is, where the actions of the Crown, in allocating resources or authorizing resource developments, have the effect of denying equitable access by Treaty First Nations persons to natural resources. These actions represent an infringement of the treaty harvesting and livelihood right, and appropriate resource revenue sharing mechanisms must be established to ensure an equitable sharing of the benefits and revenues from such resource developments.

Simply put, MKO First Nations perceives correctly that there are large amounts of dollars coming from the largest resource corporation operating within the MKO region. The MKO region extends from Indian Birch on the west side of Manitoba, Wuskwi Sipiik Cree Nation, all the way to the Nunavut boundary, across to the Hudson Bay coastline and then down the east side to Island Lake. That is a tremendous part of

the region. It is the majority of Manitoba Hydro's operations, and all of their major facilities.

The Northern Manitoba Economic Development Commission, some 10 years ago, did some tallying of all the resource values. First Nations clearly perceive that the share in terms of their continuing access to resources is not available. Not only is there not a direct stream in some form of sharing the resource revenues, but access to the resources, which were the central point of entering into treaty, has also been substantially infringed through very large mineral allocation, through exploration permits and claims, to exceedingly large allocations to forest companies. For example, Tolko's current licence area is approximately 100 000 square kilometres of Manitoba, all of it now in the MKO region, as well as the substantial water power reserves established by the Crown along waterways, along the Saskatchewan River, the Nelson, Lake Winnipeg shoreline, the Churchill. Basically, all of the major flowing waterways in northern Manitoba are allocated to Manitoba Hydro.

Compared to the benefits returning to the communities, MKO First Nations look at this proposal and recognize that it is time to enter into discussions with the Crown on resource revenue sharing. The intent of treaties, as shared by the elders, was that it was not simply a surrender and a relocation to reserves to be encased in islands of poverty. The issue was that the Crown, Her Majesty's government, through her policy, established with the treaty promise that the lands would be shared forever.

\* (09:50)

The Supreme Court of Canada has restated this kind of perception as equitable access. They used this precise language in their decisions on the *Marshall* case where they determined that the Mi'kmaq of the east coast had a treaty right to engage in a commercial fishery. That is, the Supreme Court determined that the treaty simply would not make sense if, in entering into peaceful relations with the Mi'kmaq, the Mi'kmaq were not able to, at least, provide for a moderate livelihood by having a guaranteed access to resources and, in their treaty, the ability to trade in the resources they harvested.

The meanings of the Prairie Treaties, which the Supreme Court examined as well, also carried forth this principle of economic aboriginal self-sufficiency. They refer to the intent and the language in some of the documents surrounding the original Prairie Treaties.

In our case, when we look at resource revenue sharing within our region, the only document that I am aware of that Manitoba Hydro had published on it was in their submission to the 1999 Interchurch Inquiry into Northern Hydro Development. Their document was entitled: *Issues Associated With Proposals to 'Share the Benefits.'* In this document, Hydro examined and dismissed the concept by saying: ". . . 'sharing the benefits' implies payments that go beyond making sure that local residents are no worse off. It involves payments to some group of people to improve their situation, simply as a result of having lived in the correct location in respect to the development."

In our submission, Mr. Chairperson, Manitoba Hydro completely missed the point. Location is everything. The fact of the matter is that these projects are developed within First Nations' traditional territories, affecting signatories to documents entered into with Her Majesty based on an explicit promise of continuing ensured equitable access to resources.

So the fact that their projects are built adjacent to certain communities is the entire point. The Supreme Court of Canada in *Sparrow* indicates that where a right is expropriated, compensation must be paid. The similar situation and analogy is the same here. Where the equitable access to resources for the purposes of pursuing self-sufficient economic activities and a moderate livelihood are infringed or denied, there must be some mechanism for an ongoing sharing of the benefits and revenues of those same economic activities.

More recently, of course, the present provincial government has directly linked the proximity of a First Nation to a requirement to directly involve a First Nation affected by a proposed hydro electric development, appropriate mechanisms to ensure an equitable sharing of the revenues from these proposed developments,

and has described this requirement as a treaty obligation.

This occurred, of course, on December 15, 2000, when Minister Robinson rose in the House to make a ministerial statement saying, of course, "for the first time in the history of this House, the Government of Manitoba recognizes that the Northern Flood Agreement is a modern day treaty and expresses its commitment to honour and properly implement the terms of the Northern Flood Agreement as recommended by the commissioners of the Aboriginal Justice Inquiry in 1991."

The minister also described the agreement that had been recently entered into with the Tataskweyak Cree Split Lake Cree First Nation regarding the development of the proposed Gull Rapids project.

We also note that on November 13, 2001, in the Speech from the Throne, the comment was made: "A special focus will be the development of partnerships with First Nations and the Métis community for resource management and development. One model for partnership is the equity and training agreements recently signed by Manitoba Hydro and the First Nations of Split Lake and Nelson House. Other models of resource co-management are being developed with First Nations and Métis organizations."

More recently, in the minister's Budget Address, he said: "Pending final approval, the Wuskwatim dam project will be constructed in partnership with the Nisichawayasihk Cree Nation (NCN). Apart from ensuring no significant environmental impacts in the project's design . . . ." And we have highlighted these next two comments in our submission.

**Mr. Chairperson:** Mr. Anderson, you have less than two minutes left. We are going to allow some latitude, but I ask that you start working towards your conclusion.

**Mr. Anderson:** Fine. Two minutes will just about do it, Mr. Chair, and thank you for the comment on latitude.

"The equity partnership will provide NCN a revenue stream for community and economic

development. The NCN will build their own future with new economic tools derived from resources on their traditional lands," which is precisely what the treaty implied in a modern context. "There are other projects being developed with First Nations that follow this innovative model."

In Manitoba, Mr. Chairperson, we agree that it is an innovative approach in terms of equity and resource benefit sharing. The comment is that securing a "revenue stream for community and economic development . . . with new economic tools derived from resources on (First Nation) traditional lands." Combining those two key statements in the Budget speech succinctly describes the central objective of First Nations and government for establishing appropriate mechanisms for resource benefit and revenue sharing.

We have approached it with communities that are directly adjacent to the projects in northern Manitoba, contrary to Manitoba Hydro's earlier submission to the Interchurch Inquiry. The committee might be interested to know that, in the original Liberal red book, the federal government committed itself to entering into discussions with the provinces on resource revenue sharing. It was a commitment that the present federal government made to all First Nations in Canada.

In 1998, Saskatchewan, Canada and the Federation of Saskatchewan Indians entered into governance discussions which included fiscal tables, which explicitly included resource revenue sharing as an objective. Many of you may be aware of the agreement recently signed by the government of Québec and the Grand Council of the Crees of Québec, which is, in essence, approximately \$3.1 billion over 50 years, where, as the payment schedule ramps up, the government of Québec has promised to pay a minimum of \$70 million per year to the Council of the Crees of Québec in exchange for a wide array of releases on legal actions the Crees had advanced, but also to make way for new Hydro projects.

So the concept of resource revenue sharing is a direct contribution of dollars to First Nations in recognition for their reduced equitable access to those resources that were promised in treaty is

a topic of discussion across Canada. This particular bill, I must say, triggered that discussion, or renewed it within the MKO First Nations once again, largely because of the magnitude of the dollars involved, because of the possible borrowings involved, and so forth.

Summarizing all of these, I would also point out that the reasons for doing this are on pages 5 and 6 of our submission. One of the issues, of course, is that more recent case laws indicated that the Province does not have the authority to infringe unjustifiably the exercise of their right; that is a key phrase, "infringe unjustifiably." So where access is reduced to resources for the purposes of exercising the livelihood right, the Crown must justify it. To most extents, that has not been done within Manitoba for existing projects. It is being done for the future ones during a rather expanded and considerably more detailed environmental assessment mechanism that is in place for Wuskwatim and Kiask.

But I would say that what we recommend as an amendment to Bill 41, and, eventually, we hope, to all resource and utility legislation in the province is at the bottom of page six, that "where the actions of the Crown in allocating resources or authorizing resource developments and/or where the facilities and operations of Manitoba Hydro have the effect of infringing or denying the equitable access by Treaty First Nations persons to natural resources for the purpose of obtaining a moderate living, the Minister shall establish, in consultation with the affected First Nation persons and Manitoba Hydro appropriate mechanisms to ensure an equitable sharing of the benefits and resources from such resource developments.

That, Mr. Chair, members of the committee, is our submission. Thank you very much.

**Mr. Chairperson:** Thank you for your presentation, sir, and I note you did not really get through your full written brief. Would you like to have it included in its entirety in the text of the transcript?

**Mr. Anderson:** With the committee's assent, that would be appreciated. Thank you.

**Mr. Chairperson:** Okay. Is that the will of the committee? *[Agreed]* Okay. So ordered. Questions for this presenter?

**Hon. Greg Selinger (Minister charged with the administration of The Manitoba Hydro Act):** First of all, thank you, Mr. Anderson, for your presentation. It is very thoughtful as I found your other presentations and informative. You bring a lot of knowledge to the subject.

Would this argument that you have made here in substance and form be the same argument you would have made at the time that Manitoba Telephone System was privatized?

\* (09:50)

**Mr. Anderson:** At the time that MTS was privatized, the theory of it is similar in terms of Crown assets and resources. The physical occupation of land by MTS is relatively limited in terms of its land use. Considerably different, of course, than Manitoba Hydro.

If it could be demonstrated that the microwave transmitting stations and tower sets, and in the case of Churchill, for example, the underground fibre optic connector to get it away from the storms on the coast, infringe the exercise of the right, that would be an identical argument. I think this similar analogy would be large forest companies, mining operations and others. On that point, minister, resource sharing and benefit agreements are common in federal jurisdiction. North of 60 they require it. The National Energy Board requires them. That in cases where the Government is required to consider the Aboriginal and treaty rights of First Nations people, these agreements are mandatory. Thank you.

**Mr. Selinger:** Secondly, I noted your comments about how we are proceeding on future projects. I take it at this stage of the game you are satisfied with the process and the mechanisms put in place to look at sharing of the resources with First Nations communities?

**Mr. Anderson:** I would agree that the process that is undertaken is innovative for Manitoba. It is a welcome change from the manner in which previous projects were developed. The First Nations have an opportunity, to engage

themselves in an equity partnership to the extent largely of their financial capacity, as I understand the arrangements, although there are caps. It is certainly an expensive proposition to become a partner with Manitoba Hydro in the construction of a station and the training initiatives that are associated with it certainly would be quite different than even the best efforts under Limestone.

A former MKO First Nation chief once described the persons leaving the Limestone program as the most highly trained unemployed people in Manitoba. So the process that is being undertaken with these two projects appear to be aimed directly at ensuring capacity development and training that is effective in obtaining employment and so forth. It is a welcome change, minister. Thank you.

**Mr. John Loewen (Fort Whyte):** Thank you, Mr. Anderson, for a very well-thought-out and well-researched presentation. You have hit the nail on the head in a number of instances, but in particular, in identifying the negative ramifications not only to the corporation through the increased debt but also to your communities through a lack of consultation.

The most serious problems, and we have a lot of problems with this piece of legislation obviously, but one of the most serious problems is the fact that it is primarily there and has been treated basically as an ad hoc cash grab in our view to bail the Government out of a very damaging financial situation and has not been done as you are recommending and as the business council has recommended with the view of a long-term strategy in terms of how the possible resources of Manitoba Hydro should be shared throughout the province with all the stakeholders.

It is our belief that a lot of that would have been flushed out and would have been well served by following what we believe would have been proper process, would have been taking this issue to the Public Utilities Board where an intervener, such as yourselves, could have been prepared to question officials of Manitoba Hydro and got to the information behind the facts. I just would like to know how you feel about issues such as this going to the Public Utilities Board

prior to being dealt with through legislation in this House.

**Mr. Anderson:** The core position of MKO is that matters that affect the interests of our members should be subject to adequate consultation between ourselves and the Crown on a government to government basis, precisely as Minister Robinson indicated in his December 15, 2000, ministerial statement.

The Public Utilities Board, as it is, is a vehicle for examining proposals which may affect Manitoba Hydro and, certainly, their rates. As I had indicated before, all of our members are customers of Manitoba Hydro, so we are keenly interested in any financial matter that may have the effect of affecting the rates paid by our members and the service provided to them. The Public Utilities Board, at the present time, is the vehicle for examining it.

Having said that, on the basis of a government to government arrangement, though, MKO has, for quite a while, demonstrated a keen interest in utility and resource issues and in government fiscal relations. There could be, prior to legislation being submitted, consultations outside the Legislature, including the legislative members, with organizations like MKO that have some record and expertise. For example, we have participated, I believe, in every regulatory proceeding affecting Manitoba Hydro since the NEB hearings in 1984. So we have a substantial record and some considerable knowledge of the corporation.

**Mr. Selinger:** Just a quick point. If there was a government to government relationship entered into between, say, Manitoba Hydro as a Crown corporation and a First Nations community, are you comfortable with that going in front of the Public Utilities Board?

**Mr. Anderson:** The fact that an arrangement between a single First Nation and Manitoba Hydro is done with a MKO member—there are 27 MKO First Nations, and we would certainly desire the opportunity, if there are impacts that may affect rates and services, to comment on it.

As I understand, Minister, as we are registered interveners in the status update

proceeding, there are questions being asked by all the interveners regarding the costs, for example, with Wuskwatim and Kiask arrangements. We have not objected to those questions. We believe that if it is a good deal, it is a good deal, and that by asking questions and having them thoughtfully answered, the benefits of the projects will become evident.

**Mr. Chairperson:** No further questions? Thank you for your presentation, sir.

**Mr. Daryl Reid (Transcona):** Mr. Chairperson, with the leave of the committee, I am looking through the list of presenters here today, and I am wondering if the committee would give leave to allow presenters who are listed on several of the bills to make presentations back to back for the convenience of the members of the public.

I wonder if there is leave of the committee to allow that to occur.

**An Honourable Member:** Agreed.

**Mr. John Loewen (Fort Whyte):** We have no objection to that, of course, if that is what the presenter wishes to do. If they would rather present at a separate time, I think that is how they should be handled.

**Mr. Chairperson:** Okay. That is agreed then.

#### **Bill 27—The Safer Workplaces Act (Workplace Safety and Health Act Amended)**

**Mr. Chairperson:** I have been informed by the attendant at the back that Peter Wohlgemut, speaking for Brian Ardem, is from out of town. He is No. 8 on Bill 27. Therefore, we will return to Bill 27 for his presentation.

I am sorry, sir. I note that the minister is not in her chair, so we will ask you to wait. We will call Todd Scarth on Bill 41, and then we will return to you immediately after that.

I see the minister is now back in the building, so we will deal with you at this point in time.

Do you have a written copy of your brief, sir, for the committee?

**Mr. Peter Wohlgemut (Manitoba Teachers' Society):** Yes, I do.

**Mr. Chairperson:** Okay. You may proceed when ready.

**Mr. Wohlgemut:** Thank you. My name is Peter Wohlgemut. I am a member of the provincial executive of the Manitoba Teachers' Society. For your information, I also am a president of the Borderland Teachers' Association, and my work-site is a small country school in the Borderland School Division.

I am here today representing the 14 000 public school teachers of Manitoba. I am pleased to have this opportunity to share my views on Bill 27 and workplace safety and health issues as they relate to public school students and teachers. Workplace health and safety is extremely important for teachers, as schools are our work-sites, and, in fact, the act defines students as workers. So, in effect, I am here speaking on behalf of over 200 000 Manitobans.

Workplace safety and health affects our working lives, the safety and performance of our students, and the health of everyone that sets foot in our schools and classrooms, including parents, secretaries, EAs and various other members of the public. The society believes that Bill 27 is a step forward in improving workplace safety and health in Manitoba. The amendments in this bill will help reduce workplace injuries and death, but this legislation must be reinforced by better education and training; something we, as teachers, know a bit about, and which I will deal with more specifically later on.

\* (10:00)

Currently, some school divisions in Manitoba have workplace safety and health committees that work effectively. Unfortunately, many do not. In some cases, the committees meet for a quick hour before the start of school, or after school. This may be sufficient for minor issues, but does not lead to effective discussion of real problems. The existing situation undermines the whole effort of workplace safety and health, and that is why the society is pleased that Bill 27 spells out and expands the duties of these committees. By giving them the duty to make

recommendations, conduct safety inspections at regular intervals and investigate accidents, these committees will have more teeth.

In addition, Mr. Chairperson, these amendments will help ensure that committee members can carry out their duties without loss of pay. We are also encouraged that the employer is required to respond to the recommendations of the committee with a timetable for implementation. However, committee members need more time and training to understand the act and the responsibilities within it. Since the committees are charged with keeping a safe workplace, training should be expanded beyond the two days that currently exist so that the members have the knowledge necessary to fulfill their responsibilities.

Students in schools are rarely consulted on workplace safety and health situations, despite being defined as workers under the act. Teachers are frequently isolated, and are accused of being hypersensitive when they do raise a concern. Sometimes, the teachers transfer to another worksite while nothing is done about the offending workplace. In such situations, students are even more at risk. We already know the effects on children who have been exposed to second-hand smoke. We should not ignore the long-term effects of exposing sensitive children to harmful substances for long periods of time.

Air quality is a matter of money. In winter, fresh-air intake is significantly reduced to save money, even though less fresh air often causes sickness. Mould and glue substances are also significant factors that cause illness. There are school divisions that have moved quickly to solve problems by checking behind walls for mould, ensuring the air-handling system is clean, making certain that waste products, cleaning products and toxins are handled appropriately, and by checking carpets. We applaud those efforts.

Unfortunately, some school divisions spend too much money on testing air quality and not enough money on improving it after poor test results. We are optimistic that the expanded duties of the workplace safety and health committees will help address these kinds of workplace problems.

In far too many cases, tar, paint and other substances are applied while schools are occupied. Although there are two months in summer when the schools are empty, the convenience of contractors often takes precedence over the health of teachers and students. In addition, such work is often done without any advance notice.

Teachers would like notice when work that produces noxious odours is being performed at their schools. These substances can severely affect teachers as well as students. We are pleased that Bill 27 will now give our members a means to be assigned to another worksite, or pay in lieu, until the workplace is made safe.

School divisions should be responsible for the safety of their employees and students. Thus, the effective suppression of workplace violence and harassment, be it verbal or physical, should be taken seriously as a matter of workplace safety and health.

Currently, many school divisions have lofty policies on this matter, including zero tolerance policies. In actual practice, execution of these policies is often inadequate. Political pressure by parents, the fear of such pressure, or merely the attempt to make the school look good often prevent effective action. Some school divisions do a good job, but improvement is required.

Teachers are encouraged that this bill will give the Government power to make regulations to prevent and respond to violent situations, and to outline measures that employers can take to prevent harassment in the workplace.

As an earlier speaker pointed out, proper safety precautions are an attitude, not merely knowledge picked up in one course. That is why the Manitoba Teachers' Society believes that it is vital that portions of workplace safety and health instruction—in particular, prevention methods related to sound, air, light and chemicals—be included in the curriculum at various levels in the school system.

Too many young people are killed on the job or injured during their very first job because of their lack of experience and training. We are hopeful that this legislation will address the

training issue, but these deaths are also the result of a failure to teach our children that safety must come first. This must start when students enter school.

Younger students should learn safety measures based on their experience and exposure to the working world. Students at the high school level should learn more advanced techniques, along with information about their legal rights in the workplace.

If taught over the entire span of a student's life at school, Manitoba graduates will have the knowledge and habits to ensure safer worksites. As a result, we may be able to save lives and prevent injuries to our young people. The fact that one-third of the injuries that result in benefits from the Workers Compensation Board involved workers from 15 to 29 is a statistic that teachers are willing to change.

Thank you for this opportunity to present teachers' views on workplace health and safety in our province and the merits of this new legislation. The Manitoba Teachers' Society believes that the measures contained in Bill 27 will result in improved workplaces for all employees in Manitoba, including teachers and students. Thank you.

**Mr. Chairperson:** Thank you for your presentation, Mr. Wohlgemut. Questions for this presenter.

**Ms. Becky Barrett (Minister of Labour):** Thank you very much for your presentation. You have raised some very pertinent issues that I know that the department will be looking at.

I wanted to let you know that part of the whole workplace safety and health effort on the part of the Government, which is more than just this legislation, also does include working with the Department of Education on curriculum. As you and Ms. Skanderberg have very accurately pointed out, we do need attitude changes and information. As you, as a teacher, know, you start young, you can inculcate good habits into young people, and that will go a very long way.

I appreciate this, and look forward to working with the teachers and the education system in

this very important part of our entire workplace safety and health process. Thank you very much for your presentation.

**Mr. Wohlgemut:** Thank you very much. I appreciate hearing that those efforts are ongoing and look forward to working with you.

Attitude is terribly important. I know in my situation in the school I teach in, I require my students to wear helmets when they play hockey, but I know, also, at the end of the day, when the supervision is gone, so are the helmets. So attitude is something we need to work on.

**Mr. Ron Schuler (Springfield):** We spent yesterday evening in committee together, and welcome again, and thank you for presenting.

What you very well articulated in various areas of your presentation, and I quote from page 1, "but this legislation must be reinforced by better education and training," and you talk about how that is something well known to teachers. Page 6, you talk about failure to teach our children that safety comes first. Younger students should learn safety measures, based—and then it goes on and on.

When the minister did consultations, and there was a committee put together by labour and management, one of the key areas that they came up with was: a component of this bill should be education. I take it you have had an opportunity to read the bill, and get a good understanding of it. Are you concerned that the Government's focus seems to be on punishment and has left out the education component?

**Mr. Wohlgemut:** In response, I guess, I would refer back to the minister's previous comments that the education portion will be addressed, not necessarily in this particular bill, but in discussions with the Department of Education and in working with teachers. So while it is not contained in this particular bill, my hope, and as was mentioned also, the hope of the previous speaker that was referred to, would be that this will be addressed. We do know that attitudes do need to be affected.

If we look in the areas, for example, efforts in regards to smoking. We know that I have had

students who have gotten their parents to quit smoking. We know that educating our children can have that impact, and so, while it is not in this bill and there is a focus on, in a sense, I guess, punishment, or addressing problems that exist, I am confident that education efforts will be there; if not here, elsewhere.

\* (10:10)

**Mr. Schuler:** And thank you for that, Peter. You are right. There are a lot of different areas that have to be covered off, and you have talked about second-hand smoke and mould and various toxic fumes. I think this bill is also supposed to address manufacturing areas, where, again, the issues are somewhat different, and the education component is not in there for them.

It is interesting to hear the minister is going to work with the Department of Education in regard to teachers, but are you not concerned, for instance, the education that the 19-year-old who died in an accident in 1999—that some education for him, should have been part of this bill? Your comments.

**Mr. Wohlgemut:** I take it you are referring then more to the training of workers onsite, that sort of thing? One of the comments I did make early in presentation, specifically referred to the committee, of course, is that even in that area we do think that the members of the committees do need additional training, beyond the two days that are currently in the act.

I would think that same sort of increase in training would be appropriate for other members, other workers as well. If the committee members need more training to become familiar with the act, and what their responsibilities are, and how to address issues, I would certainly think that other workers would also benefit from knowing what their rights are, what sort of things they can be expected to do, what their rights are when there is a dangerous situation. Expanding that training would certainly be beneficial to all workers.

You mentioned that this bill does address sites other than schools that are rather different than schools, but even in schools, we do have various chemicals. We do have various dangerous situations that can arise and making sure that

workers are aware of what their rights are I think would benefit all of us.

**Ms. Barrett:** Following up on the questions of the Member for Springfield (Mr. Schuler), you are a professional educator. Would you agree with the statement that while you are trying to educate students, but there does come a time when sometimes, in some circumstances, with some students or in some situations, education itself is not enough and that there are some situations that do require an authoritative kind of—what is the word I am looking for?—mechanism to ensure that compliance with basic educational situations in this example and your example are there, that there needs to be a range of activities and sometimes education, in and of itself, is not enough?

**Mr. Wohlgemut:** I would certainly agree that you do also need to have something in place, so that if there is a dangerous situation, that it can be addressed, and that there are some teeth, for example, to the committees, so that they can deal with dangerous situations and employers cannot wiggle out of addressing some of these situations.

Education is certainly an important component, though. As was pointed out, I think, this bill is making sure that some of the, to use your phrase, authoritative mechanisms are in place so that when a problem does occur, there is something there that can be used to deal with it. A component of education would be making sure that our workers in Manitoba are aware of that, and are aware of what those mechanisms are, but, of course, for them to work, they have to be there. That is what this bill is putting in place.

**Mr. Chairperson:** No further questions? Thank you for your presentation, sir. Thank you.

#### **Bill 41—The Manitoba Hydro Amendment Act**

**Mr. Chairperson:** We will now return, once again, to Bill 41. I call Todd Scarth, Canadian Centre for Policy Alternatives. Is Mr. Scarth here? Mr. Scarth will be dropped to the bottom of the list.

I call Gloria Desorcy, Manitoba Branch of the Consumers' Association of Manitoba—

**Floor Comment:** Canada.

**Mr. Chairperson:** Correction. It is Ms. Desorcy of the Manitoba Branch of the Consumers' Association of Canada. Do you have a written presentation?

**Ms. Gloria Desorcy (Manitoba Branch of the Consumers' Association of Canada):** Yes.

**Mr. Chairperson:** It is going around. Okay, you may begin when you are ready.

**Ms. Desorcy:** Good morning. My name is Gloria Desorcy and, as was just explained, I am here today on behalf of the Manitoba Branch of the Consumers' Association of Canada or CAC Manitoba. CAC Manitoba is a volunteer, non-profit independent organization working to inform and empower consumers and increase awareness of consumer issues in Manitoba. On behalf of our organization, I would like to thank the committee for the opportunity to present our comments on Bill 41, The Manitoba Hydro Amendment Act.

CAC Manitoba is opposed to Manitoba Hydro remitting \$288 million in retained earnings to the Government of Manitoba. We believe that this is not in the best interests of consumers in this province, for a number of reasons.

Firstly, any removal of net income from Manitoba Hydro will result in higher interest charges. At the recent Public Utilities Board hearing into Manitoba Hydro's rates, information provided by the corporation indicated that all net revenue is allocated for some purpose, such as paying down existing debt. Any removal of earnings from net revenue, whether due to rate decreases or payments to government, would result in increased interest expenses for the corporation. The Hydro panel testified that the total cost of paying \$288 million to government including interest expenses could amount to more than \$500 million. These increased expenses could be passed on to ratepayers.

Secondly, transferring additional funds from Manitoba Hydro to provincial general revenue could be considered a regressive tax measure. Unlike income tax, however, which is income based, this tax, if you would, would be based on

the amount of electricity used by each consumer. Consumers with the most limited income sometimes use the most electricity due to poorly insulated housing and old appliances that do not meet current standards. There is no way to ensure that those consumers with the least disposable income would not end up paying the larger share of any cost that might be passed on to consumers.

Thirdly, Manitoba Hydro already pays an annual sum to the Province for water rental and debt guarantee fees. This amount has almost doubled from 2001 to 2002. Add to this the \$288-million payment, and Manitoba Hydro's total contribution to government becomes among the highest when compared with other electricity Crown corporations in Canada. If water rental and debt guarantee fees continue to rise, these increased costs could be passed on to consumers in the form of future rate increases. This might be avoided if export revenues were used to pay down current debt load, or to create a fund for the purpose of mitigating future rate increases.

Finally, consumers have the right to expect accountability and transparency from Manitoba Hydro. If Manitoba Hydro's revenues are being used for purposes other than providing electricity, it becomes impossible for consumers to know, with certainty, what they are paying for when they pay their Hydro bill. CAC Manitoba urges the Government of Manitoba to assure consumers in this province that Hydro rates will be used to cover Hydro costs, and that any retained earnings will be used to keep electricity rates low for ratepayers in this province. We urge the Government to defeat Bill 41.

Thank you for your time and attention.

**Mr. Chairperson:** Thank you for your presentation. Questions for the presenter?

**Hon. Greg Selinger (Minister charged with the administration of The Manitoba Hydro Act):** Thank you, Ms. Desorcy, for your presentation.

On a couple of the points you made on your last page there, are you aware that the guarantee fee that Hydro pays to the Government allows them to borrow at the Crown rate of interest, which saves them money?

**Ms. Desorcy:** I understand that, yes, that that does save them some money. But the fee has certainly increased in the last year by a very large amount. Again, if adding that to the \$288-million payment, the total amount that is being remitted to government is quite large. I have no information indicating how much money it is actually saving the corporation.

**Mr. Selinger:** Just on your last point, our estimates are that it saves them about 25 basis points, or about \$20 million a year, \$19 million to \$20 million a year. So that it is a good value for Manitoba Hydro to have the ability to use the Crown as its guarantor of the borrowings that it makes, and that the fee they pay is very competitive in the marketplace. In fact, if they did not have that guarantee, that their costs for borrowing would be significantly higher, \$19 million to \$20 million a year; for your information.

\* (10:20)

**Ms. Desorcy:** Thank you for that information.

**Mr. Selinger:** My second question is: Are you aware that Manitoba Hydro does not pay corporate taxes?

**Ms. Desorcy:** Yes.

**Mr. Selinger:** And that if they did, that the cost of them would be an additional \$93 million a year?

**Ms. Desorcy:** No, I would not have any information on the cost.

**Mr. Selinger:** For your information, that would be the additional cost if they were not a Crown corporation. In the private sector, they would pay an additional \$93 million a year in taxes.

**Ms. Desorcy:** Would that be to the provincial government?

**Mr. Selinger:** Combined federal and provincial taxation for corporations. Thank you for your presentation.

**Mr. John Loewen (Fort Whyte):** Well, thank you very much for your presentation. You have

summarized very clearly a number of issues and concerns that we share with you, with regard to this bill, and just with regard to the last few points raised by the minister.

While Hydro is able to borrow at a reduced rate, certainly the Government is on the hook for the debt. So that is sort of a moot point. Also, \$93 million in taxes would have been paid last year. This year, based on projections, it probably would have been somewhat less than \$50 million, in a year in which the Government is going to take over \$400 million out of the corporation. So you might want to consider that in the context of the minister's statements.

With regard to providing the funds that the Government feels it needs to provide services to Manitoba, would you, and in the cases we have here where that results in them spending more money than they have—would you and your association prefer that the Government borrow the money directly, or would your preference be that they do as they are doing in this bill, which is asking Hydro to borrow the money to give to them?

I guess, to simplify the question, if the Government needs to borrow money, would your association recommend that the Government borrow the money, or that they ask Hydro to borrow the money for them?

**Ms. Desorcy:** I think the key factor there for our association would certainly be what is the most visible process. If the Government is using the money for things that are typically considered government purposes, then it makes sense that the Government somehow acquire the money through whatever means they are going to acquire it. To take it out of Manitoba Hydro removes the transparency and visibility, from our perspective.

**Mr. Loewen:** Just to go back to the Public Utilities Board's transcript from May 27, it deals with the issue that you have raised with regard to potential rate increases. For the record, a question from Ms. Kathy Kalinowsky who is a lawyer for the Public Utilities Board: With a swing of \$550 million, Manitoba Hydro still does not think that it has to revise its rate increases or decreases; and the answer from Ms.

Carolyn Wray: It was a policy decision by the Government and announced as such that there would be no changes to rates as a result of the special payments—obviously indicating that the Government has told Manitoba Hydro that they should freeze their rates.

Again, Mr. Chairperson, I would ask in light of your comments regarding rate increases, would you prefer that Manitoba Hydro follow its policy, as it has done for many years, where it takes the need for rate increases to the Public Utilities Board where interveners such as yourselves have the opportunity to question the officials and get behind the information, as opposed to the Government determining at the Cabinet table that Manitoba Hydro will have to hold off any rate increases in the present year and deal with it at some later time.

**Ms. Desorcy:** Our association would definitely prefer that potential or proposed rate increases come before the Public Utilities Board.

**Mr. Loewen:** Have you been provided with information from Manitoba Hydro which indicates that in their presentation to the Public Utilities Board which was developed prior to them having knowledge of this withdrawal, that they had forecast rate increases beginning in the year 2003 over a series of years at 2 percent a year?

**Ms. Desorcy:** That was some of the information that was presented in preparation for the hearing that is still ongoing, yes.

**Mr. Loewen:** Are you fearful, Mr. Chairperson, given that the corporation already indicated its intent to increase rates consistently over a number of years to meet their needs prior to their knowledge of the dividend, and now, given the fact that not only the Government has taken the dividend but has ordered them to freeze rates, is it your concern that at some point, possibly after the next election, Manitoba Hydro will be faced with a situation where they might have to raise rates dramatically?

**Ms. Desorcy:** I think we believe it has to be one way or the other. Either Manitoba Hydro has sufficient additional revenue to cover expenses like this, in which case they would not have

needed a rate increase, or they do not, in which case they did need a rate increase.

I do not want to say whose numbers are right or whatever, but I am just saying I think it has to be one way or the other. If they were forecasting that they did need a rate increase to increase their revenue, then they did, then they will not have, I do not believe, the additional revenue without a rate increase. If they, in fact, did not need the rate increase or if they do have the additional revenue to pay this, then perhaps they did not need the rate increase to begin with.

**Mr. Loewen:** Just one last question. Have you seen the March 31, 2002, financial statements, and if so, are you aware that at that point the corporation—and this, I might add, is prior to the Government taking any of the \$288-million dividend—has \$14 million in cash on hand?

**Ms. Desorcy:** I have seen the report, but I have not had a chance to look at it. So, no, I am not aware of that.

**Mr. Loewen:** Thank you.

**Mr. Chairperson:** We are eight minutes into questions already. However, she only used four minutes for her presentation, so I am going to allow latitude for further questions. Is that okay with the committee? *[Agreed]*

**Mr. Selinger:** Are you aware of the fact that the former government had a water power rental agreement with Manitoba Hydro, whereby Manitoba Hydro paid for government projects in exchange for a freeze on the water power rental rate?

**Ms. Desorcy:** No, I am not aware of that.

**Mr. Selinger:** For the record, I want you to know that that agreement was there for several years. It was not reported in the Legislature or debated in any of the budgets. It was noted in the footnotes of the Manitoba Hydro annual report but it was not particularly a transparent agreement known to members like yourself in the past.

So I just want for the record for you to know that we ended that agreement and then brought

the water power rental rates up to a market rate which is still cheaper than other provinces.

Secondly, are you aware that Manitoba Hydro has retained earnings of \$1.3 billion?

**Ms. Desorcy:** I do not know the exact amount, but I believe it is in that ballpark.

**Mr. Selinger:** Have you received the most recent copy of the annual report of Manitoba Hydro?

**Ms. Desorcy:** I have received it, but, as I was saying, I have not had a chance to look through it yet.

**Mr. Selinger:** I would ask you to look at page 68, the definition of retained earnings, where it says net accumulated earnings that a business has not distributed to the shareholders, in this case the shareholders being the people of Manitoba through its government.

On the basis of that, retained earnings which have increased dramatically in the last several years, we thought it appropriate to take a dividend. It is an undistributed retained earning that we have decided to take as a special payment this year in the Budget. I am just drawing that to your attention.

**Ms. Desorcy:** I am surprised to hear that, given that at the hearing we were told quite clearly that all net income is allocated for something in Manitoba Hydro and that any removal of net income would require increased interest charges, so that does very much surprise me.

**Mr. Chairperson:** Mr. Loewen has a question, and at this point I want to advise members of the committee that question and answers are for questions and answers. I would encourage them to keep that in mind. If they want to debate this bill, there will be ample opportunity at the end of this process when we go through clause by clause.

So with that caution, I am going to allow one more question to Mr. Loewen, and then we will move on.

**Mr. Loewen:** I just have one more piece of information for you and I would recommend that

you review the transcript from the Public Utilities Board on May 27, in which case Ms. Kalinowsky clearly indicates that in spite of having retained earnings of over a billion dollars, that does not translate into cash.

Further, on June 3 and June 5, it was indicated quite clearly by officials of Manitoba Hydro that that billion dollars could be wiped out by a five-year drought which has a 20% possibility.

\* (10:30)

**Mr. Chairperson:** I am not sure that was a question. Would you like to respond to that, Ms. Desorcy?

**Ms. Desorcy:** Well, I would just like to say that that is actually what I was referring to when I responded to the minister.

**Mr. Chairperson:** If there are no further questions, I thank you for your presentation.

#### **Bill 49—The Purchase of Winnipeg Hydro Act**

**Mr. Chairperson:** I note that Ms. Desorcy is also listed to present on Bill 49. I would give her the opportunity at this point, as agreed previously by the committee, to present at this time. Ms. Desorcy, do you have a written copy of your presentation for the committee? Okay, I ask that you hand it to the Clerk and then begin your presentation when ready.

**Ms. Gloria Desorcy (Manitoba Branch of the Consumers' Association of Canada):** I guess I will dispense with the first two paragraphs since you just heard them.

CAC Manitoba's comments on Bill 49, The Purchase of Winnipeg Hydro Act, will not address the merits of the purchase of Winnipeg Hydro by Manitoba Hydro or the details of Bill 49. Our organization does not believe that it has access to sufficient information or expertise to evaluate the purchase or the bill. Our comments will focus on the venue chosen to make this decision.

CAC Manitoba believes that the Public Utilities Board, as the province's independent

regulator, is in the best position to determine whether or not the proposed sale of Winnipeg Hydro is in the best interests of both Winnipeggers and Manitobans. We urge the Government of Manitoba to request a PUB review of the proposal before making a decision on Bill 49 for the following reasons.

The Public Utilities Board process brings together the experience and expertise required to properly evaluate the impact of this sale on consumers both as Winnipeggers and as Manitobans. It provides consumers with access to more detailed information about the proposal and to the expertise required to make a meaningful contribution to the debate.

The PUB is in the best position to set objective benchmarks for monitoring the realization of projected cost savings and acquisition costs.

The recent PUB review of Manitoba Hydro-Centra integration has clearly demonstrated the importance of long-term monitoring of this type of acquisition. Since the Public Utilities Board reviews utilities on a regular basis it is able to ensure accountability on behalf of Manitobans.

In the delicate balance of the marketplace management and ownership perform a very different function than regulation in the case of a monopoly. As managers and owners of Manitoba Hydro, the Government of Manitoba already has a formidable job to do and should not be expected to perform the function of regulator as well. Maintaining the checks and balances of the regulated marketplace in Manitoba is clearly a job more suited to the PUB.

This acquisition will give Manitoba Hydro control of all power sources available to Manitobans. The larger the monopoly the greater the need for strong regulation. As Manitoba Hydro grows it becomes even more important for government to utilize a regulatory system that works to protect ratepayers' investment in the utility and to ensure the corporation's transparency and accountability to Manitobans.

Finally, section 82 of The Public Utilities Board Act requires Public Utilities Board approval for the sale of any utility in Manitoba.

While Manitoba Hydro is exempt from that requirement, Winnipeg Hydro is not. CAC Manitoba urges the Government of Manitoba to comply with section 82 of The Public Utilities Board Act before making a decision on Bill 49. Thank you for your time and attention.

**Mr. Chairperson:** Thank you, Ms. Desorcy. Are there questions from the committee?

**Mr. John Loewen (Fort Whyte):** Well, thank you, and I appreciate once again your presentation to the committee. It coincides with the position we have taken with regard to this bill. In fact, while we do not object to the purchase of Winnipeg Hydro by Manitoba Hydro, we do feel it is important that the process be followed. The correct process we believe would be to take it to the Public Utilities Board before closing.

Has your association been made aware with regard to this transaction of what type of capital will have to be invested by Manitoba Hydro after the acquisition to bring the, if you would accept the phrase, the plant and equipment of Winnipeg Hydro up to modern-day standards?

**Ms. Desorcy:** We have the information that is in the bill, of course. We have the information that was distributed publicly when the proposed sale was first announced. That does not ring a bell but it could be in there.

**Mr. Loewen:** I do not believe it is. It is unfortunate that it is not because that, in fact, will be a big cost to the ratepayers of Manitoba Hydro, that investment that will be required by Winnipeg Hydro.

Has your organization been given any indication of what—I hope this term is familiar to you—the hurdle rate that Manitoba Hydro used in determining how much its annual payments would be? In other words, that is the rate where they are saying that profits will justify an expenditure of, as they have indicated in the acquisition, \$25 million a year and \$20 million and then reducing to \$16 million forever.

**Ms. Desorcy:** Again, I am not sure we have that much detailed information. I think that is my point, or that is one of my points. That is the kind of stuff that we do not even maybe really

know to ask for because we are not experts in this area and, yes, we do not have the access to the expertise of the PUB to flush out that information and find out what we need to know. That is the issue.

**Mr. Loewen:** Thank you.

**Mr. Ron Schuler (Springfield):** Gloria, thank you very much for both of your presentations. We appreciate you coming forward.

My question to you is: At any time were you consulted as an organization on Bill 41 or on Bill 49?

**Ms. Desorcy:** No, we were not consulted, although we have initiated discussion with Mr. Selinger about Bill 41, the previous one, prior to it being called Bill 41 a long time ago.

**Mr. Schuler:** So I guess it would be a fair statement to say that the Consumers' Association and the people you represent, basically us, the public, have not been consulted on either of these two bills.

**Ms. Desorcy:** I would say, in a formal sense, not, not before this forum, no. I mean, certainly there has been some information in the media for consumers, but if you mean by consultation an opportunity to offer comments, some kind of public review, no.

**Mr. Schuler:** Thus your recommendation is to go to the Public Utilities Board because then the public actually has the right to make a presentation, to ask questions and to express concerns or support either.

**Ms. Desorcy:** You are talking about Bill 49 now? Yes, certainly to go to the Public Utilities Board because the public has the opportunity to ask questions and get information, and also for the purposes of long-term sort of maintenance of the agreement, the acquisition and the change over and all of that sort of stuff, which we have seen with Centra, and how that goes. The Public Utilities Board is in a better position to oversee all of that. If they are in on the decision making in the beginning, then they are able to monitor that decision in the long term and make sure whatever is contracted is carried out.

**Mr. Jack Penner (Emerson):** Gloria, thank you for your presentation. I think it is only a few hours that we saw you here last night. I certainly commend you for getting involved at both ends of the spectrum because we think this issue is a very important issue.

I want to ask you specifically from maybe a more rural-oriented position, this Government made much to-do about reducing the rates in rural Manitoba and what they called an equalization process. I believe the average saving to the rural Manitoban, the rural average farm, is probably \$20 a year by doing that. We do not discourage that. Let me not be critical of that.

However, the issue is that many rural people are now asking, the \$288 million that Hydro is going to have to pay to the provincial government in dividends and the interest costs incurred by borrowing that money to deliver to the Province will probably increase the hydro bill—I say probably because we do not have firm numbers on this—by \$700 a year. Now we think that is a significant offset in costs incurred and could cause significant hardships to the small producers in rural Manitoba, when we already know those producers have to operate at 50 per cent of the income of American farmers.

Has the Consumers' Association taken a look at this at all?

\* (10:40)

**Ms. Desorcy:** I guess until we know what we are talking about as far as the magnitude of a rate increase it is difficult to determine the impact it will have. Certainly concerns about small producers, concerns about people in remote areas and concerns about low-income consumers everywhere are at the top of our list, yes, but until you know how much the increase is going to be it is difficult to really evaluate the impact.

**Mr. Chairperson:** No further questions? Thank you for your presentation.

Before we move on to the next presenter, I have been informed, on Bill 27, Maureen Hancharyk of the Manitoba Nurses' Union, No. 18, and also Arlene Draffin Jones, No. 21, of the Manitoba Lung Association, are not able to

orally present today. Their written presentations have been circulated to the committee. I need leave, however, of the committee to have their presentations included into the transcript. *[Agreed]*

For the viewing public, I just want to make the offer at this point that they have that option. They can present their written briefs and they will be included into the transcript. So if anybody wants to take advantage of that, they can approach the attendant at the back of the room.

#### **Bill 41—The Manitoba Hydro Amendment Act**

**Mr. Chairperson:** With that said, we will now move back to Bill 41. I call Mr. Charles Cruden of the Manitoba Society of Seniors. I note that he is also listed to present on Bill 49, so therefore I give him the opportunity to present on both bills at once as did the previous presenter.

Mr. Cruden, do you have a written brief for the committee?

**Mr. Charles Cruden (Manitoba Society of Seniors):** Yes, I do.

**Mr. Chairperson:** Okay, sir. It will be distributed to the committee.

**Mr. Cruden:** Yes, I have given them both bills.

**Mr. Chairperson:** Okay. You are going to distribute both at this time. You may begin on Bill 41, please, when you are ready.

**Mr. Cruden:** Good morning. My name is Charles Cruden. I am a volunteer member on the Issues Committee of the Manitoba Society of Seniors, MSOS. I wish to thank this panel for the opportunity to make this presentation on behalf of MSOS.

To say that the Manitoba Society of Seniors is concerned at the thought of the Manitoba government levying an additional \$288 million on the Manitoba Hydro Crown corporation would indeed be an understatement, as MSOS is very concerned with the potential financial effect on current and future Manitobans.

At recent public utility hearings it was discovered that, not only could Manitoba Hydro

be required to pay the \$288 million, but that the additional cost of requiring borrowing could be as much as \$276 million, for a total cost of \$564 million. This is an abhorrent amount of money considering the population of Manitoba. It could also be considered another form of taxation on the general population in view of the massive portion of residents of Manitoba that pays for hydro-electric power.

As a Crown corporation owned by the people of Manitoba, is Manitoba Hydro obligated to offer the best possible rates to residents of Manitoba or is Manitoba Hydro obligated to be a source of income to the provincial government to sustain and replenish expenses incurred? In the estimation of MSOS, certainly best possible rates is a given, and also MSOS accepts the fact that Manitoba Hydro should contribute to the support of the Province of Manitoba.

Since 1996, Manitobans have seen increased expenses charged by the Manitoba provincial government to the Manitoba Hydro for capital tax payments. Water rental rates increased from \$1.62 mills per kilowatt hour to a current \$3.341 mills per kilowatt hour. Provincial Guarantee Fees increased from .5 of outstanding debt to a current .095.

In actual dollars the increases are as follows, and the source of the information was from the latest Hydro 51st Annual Report: water rental rates from \$47 million in 1996 to \$107 million in 2002; Provincial Guarantee Fees from \$25 million in '96 to \$72 million in 2002, capital and other taxes from \$31 million in 1996 to \$55 million in 2002, for a total of \$103 million in 1996 to \$217 million in 2002, considerably more than double the amount paid in 2002 by Manitoba Hydro to the Manitoba provincial government than in 1996.

Regarding capital and other taxes, it should be noted that the capital assets in service have increased from 6,866 billion in 1996 to 9,072 billion in 2002, an increase of 32 percent. However, the capital and other taxes have increased by 77 percent.

Manitoba Hydro is believed to be the highest percentage of gross revenues payer at 10.2 percent to provincial governments in

Canada through dividends, debt guarantee, water rentals and corporate capital tax. New Brunswick Power pays 1.5 percent. Hydro Québec pays 9.9 percent. Saskatchewan Power 9.3; B.C. Hydro 8.4, and the Northwest Territory Power 6.2.

Do these costs and amounts paid by Manitoba Hydro to the Province of Manitoba not indicate substantial increased revenues for the province? If Manitoba Hydro has to borrow an additional amount to pay the \$288 million, it is apparent that the provincial government has an additional source of income through the Provincial Guarantee Fee at a cost to Manitobans. For in the end it is the end user, the consumers of Manitoba Hydro, that will pay all costs.

Bill 41 states that Manitoba Hydro has accumulated substantial retained earnings as a steward of public resource. The Province of Manitoba faces exceptional fiscal challenges in light of: (a) the economic slowdown that followed the acts of terrorism on September 11, 2001; and (b) the significant impact of a federal accounting error on the Province's revenue.

If Manitoba Hydro has accumulated substantial retained earnings, which is questionable in view of the possibility that they may have to borrow the \$288 million, should they be penalized for their ability to generate funds? What is Manitoba Hydro's incentive to be good fiscal managers if the Province of Manitoba is going to legislate funds from them?

The provincial news release April 22 stating: Third quarter reports project positive balance for 2001-02 indicates how the slowdown in the economy has impacted on the Manitoba government. Even if there is a shortfall in revenue, should Manitoba Hydro be held responsible for the shortfall? At the time of preparing this presentation, I am not aware of any decision that has been rendered regarding the overpayment from the federal government.

A *Free Press* article, August 2, states that Mr. Selinger has been told by Ottawa that the Province will not be unduly harmed by the multi-billion federal accounting error. This being the case, is the provincial government seeking funds that may not be required? If a payment is

required, again, should Manitoba Hydro be the source of obtaining the funds?

\* (10:50)

Manitoba Hydro has a long-range expansion program that will require considerable funds and ability to obtain loans. Is it possible that the proposed \$288-million payment by Manitoba Hydro to the provincial government could put in jeopardy future expansion plans of Manitoba Hydro that, if completed, could prove to be a benefit to the population of Manitoba and also to Manitoba provincial government revenues received from Manitoba Hydro?

Is it possible, should Bill 41 legislation pass, that the provincial government will see a short-term gain that will result in long-term pain for Manitobans. In summation, the Manitoba Society of Seniors is very concerned with the effect that the proposed Manitoba government levy of \$288 million on Manitoba Hydro will have on the Crown corporation. It is not difficult to state that, in fact, the levy could be considered an additional form of taxation.

Manitoba is a great province with many benefits. Certainly the availability of renewable water power resource is one of Manitoba's greatest attributes that could prove very beneficial to the future generations of Manitobans if it is allowed to develop to its full extent. The ability to legislate is a fundamental government power but, morally, should this or any other government legislate funds from the people's Crown corporation that could in any way jeopardize its future growth and benefit to Manitobans?

I thank you for your time and opportunity to make this presentation on behalf of the Manitoba Society of Seniors.

**Mr. Chairperson:** Thank you for your presentation, sir. Questions from the committee.

**Mr. Harry Enns (Lakeside):** I want to thank Mr. Cruden for his diligent research in bringing to the awareness of the committee the fact that we in Manitoba have found many different ways of having Manitoba Hydro contribute to the general well-being of the province through water rentals and the other items that you related.

Nobody disputes that Manitoba Hydro should, in fact, be doing that. I think we should always be concerned about the levels, the amount of which we are taking out, because eventually it impacts on all our rates.

The question I have for you is: In addition to those amounts that you have researched, is your group aware of the amount of money that we are asking Manitoba Hydro to pay for such specific charges that we say are appropriate in terms of compensation for flooded lands for instance, for agreements with First Nations people, for the building of roads and bridges in northern Manitoba, that has resulted from that?

I understand, for instance, in this current year, Manitoba Hydro is building some \$20-million-plus worth of roads, chargeable to Manitoba Hydro. It would be an interesting exercise to add those amounts to the amounts your brief has already recommended. Do you by any chance have that information?

**Mr. Cruden:** I do not have that exact information. I had the last copy of the Manitoba Hydro annual report but a lot of the information is not in it. This is where anything like this, I think, where the Public Utilities Board—I am not an expert, I am just a yakker. I would like to think all this information would come out for people who have the expertise, as it becomes public.

**Mr. Enns:** I appreciate your response. I think you are right. That is a question more appropriately directed to the Minister responsible for Manitoba Hydro and/or Manitoba Hydro officials themselves, and we will do that.

The point I was just making is that Manitoba Hydro makes a very sizeable contribution to the well-being of Manitoba in the present arrangements, without these additional monies that are now being asked for by the provincial government.

**Mr. Chairperson:** Mr. Cruden, would you like to respond?

**Mr. Cruden:** Thank you very much. I would agree with Mr. Enns' statement.

**Mr. John Loewen (Fort Whyte):** Thank you, Mr. Cruden, for your presentation, obviously

well researched and well thought out. You have, from a financial perspective and the ramifications, identified some of the key issues we see as a problem with this bill.

Just in terms of your association's view, would it be fair to say your feeling would be if a government, for whatever reason, was in a situation where it had to, or was in a position where it was running and operating a deficit, that it fund that deficit, either from a draw from the rainy day fund or direct borrowing itself, as opposed to forcing a Crown corporation to go out and borrow money to cover off that operating deficit?

**Mr. Cruden:** I would think if the Government requires funds that the Government should obtain funds. As a taxpayer, if they need the funds that is the responsibility of the people of Manitoba to come forward.

To take them from Manitoba Hydro, if Manitoba Hydro does not have it, I see in the paper this morning that the Manitoba Liquor Commission has more profit, are they the next ones on the list to take money from?

I think, a government expense, the people of Manitoba should be paying for, but through a taxation system and not through a Crown corporation. In the long term, my concern is the long term here, and what rates could be. If we take money this year we are sure going to need the same money next year, in all probability.

**Mr. Loewen:** Just one final question. Does your association have concerns that after the Government lifts the policy they announced there would be no rate increases until after the dividend, that, in fact, Manitoba Hydro may be in a situation where they have to then increase rates substantially, not only to cover this dividend but to cover other circumstances the corporation may find itself in?

**Mr. Cruden:** The Manitoba Society of Seniors would see Hydro in Manitoba as one of the big benefits of the province. We would be very concerned for any reason to see increases. It was shown at the hearings for Hydro that they say they do not need an increase, but it was also

presented that there may be, for five years, a 2% increase. I would hope that Manitoba Hydro would be able to retain that all the people of Manitoba would be able to benefit from a resource that is ours.

**Hon. Jon Gerrard (River Heights):** Just to clarify a point you have raised. The total taxes or revenue transferred to the provincial government you list in 2002 as \$217 million. With the additional \$150 million of the 208 which would be transferred as of last year, with this bill that would be \$367 million, which would bring it up to, instead of 10.2 percent, somewhere around 17 percent of gross revenue. Most corporations, in fact, would pay taxes not on gross revenue but on net revenue.

I wonder if you have made any evaluation of how this would translate in terms if it were not a Crown corporation but a regular corporation, what sort of rate of tax this would be equivalent to.

**Mr. Cruden:** No, I have not. I am not an accountant. I am not an expert and I would prefer to leave that analysis to the experts, but with the amount of money that is going out there is only so much money and the concern would be where is it going to come from.

**Mrs. Bonnie Mitchelson (River East):** Thank you for your presentation.

One of the things we did as government was ensure that Crown corporations were brought before the Public Utilities Board. That was a change that was made as a direct result of seeing political manipulation of Crown corporations. That happened in previous years where Autopac, we all know Autopac rates were politically manipulated and rates were set around the Cabinet table without full and factual information being available to Manitobans. There was significant public outrage.

The reason we determined that Crown corporations should go before the Public Utilities Board before rate changes were made was so there could be the experts that provided information, there could be questions under oath and all of the facts and all of the information would be available to Manitobans through that public,

open and transparent process. There would no longer be political manipulation or interference with the setting of Crown corporation rates.

I sense from your presentation and the presentation we heard previous to yours that those of you in Manitoba who are not the experts but really care about openness and transparency are seeing this step by this Government as a step backward as far as openness and transparency goes, because you do not have the ability now to have that kind of expert testimony and impartial analysis of what is happening. I am just wondering if you would agree that the changes this Government has made to that Public Utilities Board process is a step backward and that Manitobans are going to be the losers as a result.

\* (11:00)

**Mr. Cruden:** I would agree with what you say. Our members have expressed concern for what is happening in general with regulatory boards. The Public Utilities Board in Manitoba has served Manitoba very well in the past and we would hope that it would be left to serve the job it was set out to do because it is necessary.

**Mrs. Mitchelson:** Thank you.

**Mr. Chairperson:** Okay. We are nine plus minutes into questions and answers already. Questions can tend toward debate, which I would prefer we have at the end of presentations.

Mr. Schuler is on the list and I would put it to the committee, is there leave for one further question?

**Mr. Ron Schuler (Springfield):** I do not believe Mr. Cruden used all his 15 minutes. We have done that with other speakers. We talked about a little bit of latitude. I would just ask if I could put forward a simple, straightforward question. *[interjection]*

**Mr. Chairperson:** Okay, Mr. Schuler. You have leave to ask one brief question.

**Mr. Schuler:** Mr. Cruden, in 1995 I had the opportunity to go through a lot of apartment blocks on Henderson Highway, the northern part, and I was shocked at the amount of seniors,

not in poverty, but struggling financially. I came out of those apartment blocks—after having canvassed them, I was running for school trustee—shocked and changed. They did not complain but you could tell the seniors were struggling, and predominantly it was women. That is what shocked me even more.

You represent these individuals. Were you consulted on behalf of all these citizens who would be affected by the borrowing of this money in the long term? Were you consulted at all by the Government on this issue, on this bill?

**Mr. Cruden:** Not to my knowledge, other than we knew something was going to happen. We had heard through the rumour mill, but as far as consultation I do not believe so. I could be wrong in that response because the office is there, people go through the office and sometimes we do not always hear everything. To the best of my knowledge, no.

**Mr. Chairperson:** Thank you for your presentation, sir.

#### **Bill 49—The Purchase of Winnipeg Hydro Act**

**Mr. Chairperson:** Now you have leave of the committee to make your presentation on Bill 49.

**Mr. Charles Cruden (Manitoba Society of Seniors):** I will not give the first paragraph because I guess you know who I am now.

MSOS's primary reason for wanting to speak to Bill 49 is the concern for the manner in which the purchase of Winnipeg Hydro is being legislated, not following the regulatory procedure of going through the Public Utilities Board hearings. From the factual information that has been made available to the public, it is very difficult to ascertain whether the purchase of Winnipeg Hydro by Manitoba Hydro is going to prove a positive or a negative for current Winnipeg Hydro customers and possibly all users of hydro-electric in Manitoba in the future.

When Winnipeg Hydro Electric System was created in 1906, it was formed as a publicly owned utility to compete with the power monopoly held by the privately owned Winnipeg

Electric Street Railway Company. The development of Winnipeg Hydro Electric System created a competitive market that did result in lower customer rates and might be an important part of the reason Manitobans today enjoy the lowest rates in Canada. Therefore, the question could very well be asked in 2002 if the return of a monopoly hydro-electric source of power to Manitoba will see an increase in customer rates due to a lack of competitive market.

In 1973, Winnipeg Hydro and Manitoba Hydro established and implemented an equal rate schedule for the sale of electrical energy to consumers throughout the city of Winnipeg. Under provisions of The City of Winnipeg Act and an agreement between Manitoba Hydro and the City of Winnipeg made in 1976, the City retained the right to review all changes proposed by Manitoba Hydro. The agreement also ensured the rates for residential customers in Winnipeg would remain at at least \$1.35 per month less than the rates charged by Manitoba Hydro for residential customers elsewhere in Manitoba.

The current Government, without the benefit of the Manitoba Public Utilities Board input, recently changed this arrangement by legislative power, equalizing rates throughout all Manitoba. Certainly, the Manitoba Society of Seniors is not adverse to all Manitobans receiving power at the best possible price, but the concern is what will happen to the customer charge for power in the future. Are there costs that justify a differential in price throughout the province of Manitoba? With a monopolistic source of power available to all Manitobans, competition and agreements made in the past will not be part of the decision.

Winnipeg Hydro has certainly been a financial contributor to the City of Winnipeg. According to the Winnipeg Hydro 2000 year and for the 10-year period of 1991 to 2000 the total contribution was approximately \$158 million. Also the substantial Winnipeg Hydro capital assets of \$269 million, again from the 2000 annual report, should have been a bargaining point in the City of Winnipeg's endeavours to borrow money.

If Manitoba Hydro purchases Winnipeg Hydro for the amount stated in the press release of February 8, 2002, what is the future benefit to

the City of Winnipeg in addition to the funds already being received under the current arrangement? Past years' inflation has certainly increased the number of dollars generated. However, Bill 49 indicates a decreasing amount of revenue to be paid from Manitoba Hydro to the City of Winnipeg in perpetuity.

The residents of Manitoba have seen legislative decisions in the past, an example being the privatization of MTS, that in the minds of many Manitobans was and still is questionable. More recently, we have seen the legislated acquisition of Centra Gas by Manitoba Hydro. The synergy field is a complicated field and requires a great deal of expertise. Expert witnesses are producing evidence in the current Hydro hearings that indicate questions as to the capability of Manitoba Hydro and the Government in arriving at decisive decisions without allowing the Manitoba Public Utilities Board to hold hearings with unbiased input to render a decision that will be in the best interests of the purchaser, the seller, the general public and government.

It is true that government representatives, when elected, are expected to perform and make decisions that will prove beneficial to the people they represent, but it also an expectation of the general public that there will not be a moral abuse of legislative power. Recent years have seen the demise in some regions of regulatory boards and the consequences of not having full disclosure and transparency, particularly where utilities, considered to be a necessity of today's lifestyle, have been involved. Indeed one does not have to go beyond Canada to see what has happened to hydro rates in other provinces with utilities such as hydro-electric.

\* (11:10)

The Manitoba Society of Seniors' position on the purchase of Winnipeg Hydro by Manitoba Hydro is one of question marks before taking a for or against position. There are many questions that could be asked but four questions that are as follows: (1) What is a fair and equitable price if Winnipeg Hydro is to be purchased by Manitoba Hydro? (2) What effect on the overall financial position of the City of Winnipeg and its residents will the sale of Winnipeg Hydro have? (3) Competition in 1906 certainly proved to be a

plus. In 2000, competition is still touted to have controls on prices. In considering the long-range future, what is the assurance that a monopolistic source of hydro supply will prove a benefit to all Manitobans?

Last, but not least, and surely most foremost, MSOS is concerned with the Manitoba Government's legislative move to by-pass the Manitoba Public Utilities Board. The PUB has served Manitobans very well in the past and should be allowed to render a professional evaluation and decision on the purchase of Winnipeg Hydro by Manitoba Hydro.

I thank you for the opportunity on behalf of the Manitoba Society of Seniors.

**Mr. Chairperson:** Thank you for your presentation, sir. Are there questions from members of the committee?

**Mr. John Loewen (Fort Whyte):** Once again, Mr. Cruden, thank you very much for a very well thought out and concise presentation. You have hit the issues that we also are very concerned with. Most particularly we agree there is not enough information known for anyone to cast a view on whether this is, in fact, an appropriate transaction or not. Although we on this side agree that there may be some merit in Manitoba Hydro purchasing Winnipeg Hydro, we just do not know the facts. That is what the Public Utilities Board exists for is to, under questioning under oath, ferret out those facts.

Just in terms of the facts, because I do not have them, I am going to ask you. Maybe you have more information than I do. Has your association been made aware of any of the amount of capital that will have to be spent by Manitoba Hydro to upgrade the plants and the assets of Winnipeg Hydro after the purchase, in order to bring them in line with today's standards?

**Mr. Cruden:** I think most of the information we have is information that has come out of the media. Beyond that, I am not aware of consultation.

**Mr. Loewen:** Just to reiterate, without that type of information, without knowing the hurdle rate

that has been set up with regard to whether this is an economically viable transaction or not, it is very difficult for organizations such as yourselves and for us as committee members of this Legislature to be able to pass judgment on this bill. That is where the Public Utilities Board comes in.

I agree with your recommendation. I would hope that the Government, prior to closing, would see fit to taking this issue before the Public Utilities Board. Has your organization reviewed section 82 of the Public Utilities Act? If so, do you have a concern about whether this purchase and sale is actually contravening the Act?

**Mr. Cruden:** I am sorry. I am not sure what is in 82; but if it is the part that the City of Winnipeg was supposed to go to the PUB, then I think that is the way it should be.

**Mr. Ron Schuler (Springfield):** Thank you very much, Mr. Cruden, for that presentation. It is accepted in Manitoba, all parties, all politicians, all levels, that the Manitoba Society of Seniors does speak on seniors' issues. I want to be really clear with my question. Did the Government approach you as representing the seniors in Manitoba in regard to the purchase of Winnipeg Hydro by Manitoba Hydro? Were you consulted on this particular issue that you are aware of?

**Mr. Cruden:** Not to the best of my knowledge.

**Mr. Stuart Murray (Leader of the Official Opposition):** Thank you very much for your presentation. I think the Manitoba Society of Seniors, which is a very growing body in the province of Manitoba, is well represented. I think their views are always well thought out and presented, as was done in this brief. I do not have as much a question for you but just to make a comment, and that is: I think most people on the political spectrum would agree that if there was to be a purchase of Winnipeg Hydro, probably the only purchaser would be Manitoba Hydro, and so it is not a matter of opposing that. I guess the frustration that we share with you is the fact it is not so much in opposition to the actual deal, it is just that it is not going before the Public Utilities Board. We will press the Government to do that, because we believe that is the right thing to do for Manitobans.

I would like to applaud your organization for your determination and your constant repetition of representing a broad spectrum of Manitobans for the Doer government to do the right thing and bring this before the Public Utilities Board, so it can be a transparent process and Manitobans can see exactly what they are purchasing.

**Mr. Chairperson:** Would you like to respond, sir?

**Mr. Cruden:** Just thank you very much.

**Mr. Chairperson:** Okay. You have five seconds, Mr. Loewen.

**Mr. Loewen:** I can appreciate the forbearance of the committee. I just have one brief one. I just want to indicate, Mr. Cruden, that Bill 49 does provide a special exemption for the Government to ignore section 82 1(h) of the Public Utilities Act which would otherwise require the purchase or sale of any public utility to be brought forward to the Public Utilities Board prior to receiving approval. Just for your information because, unfortunately, the Government has excluded the Public Utilities Board from the process.

**Mr. Chairperson:** Okay. Time for questions has expired. Before we move on to the next presenter, I want to caution all members of the committee that the purpose of questions and answers is to put questions and not make statements. There will be ample opportunity when we get to clause by clause to put your thoughts on record at length. For the time being, let us try and limit our responses to questions to presenters.

#### **Bill 41—The Manitoba Hydro Amendment Act**

**Mr. Chairperson:** Now we go back to Bill 41. I have Chief Roy Redhead, private citizen. Is Chief Redhead present? Okay.

That concludes the presenters for Bill 41. Two presenters were not here, Mr. Scarth and Mr. Redhead. Their names will be called a second time at the end of presentations.

#### **Bill 49—The Purchase of Winnipeg Hydro Act**

**Mr. Chairperson:** We will now move to Bill 49, and the first presenter I have is Mr. Paul

Moist, CUPE Local 500. Mr. Moist is also registered to speak on Bills 27 and 39, so, as per arrangements for previous speakers, Mr. Moist will be allowed to present all three bills at this point in time. Mr. Moist, do you have a written copy of your presentation on Bill 49?

**Mr. Ron Schuler (Springfield):** Perhaps we can ask the committee, it looks like we will be running out of time by twelve o'clock. Perhaps Mr. Moist would present on two of the bills, and then could he come back at three, or are we going to extend the time in committee? I mean, I do not know what decision.

**Mr. Paul Moist (Canadian Union of Public Employees, Local 500):** Mr. Chairman, I am going to speak for about five minutes to each bill, and if you restrain your questions, we will be done by 10 to 12.

**Mr. Chairperson:** Okay, Mr. Schuler made a suggestion. Mr. Moist has responded to it. So we will go with what was previously arranged and allow him to speak on all three bills. Okay, Mr. Moist, you have a written presentation that has been circulated to the committee. You may proceed when ready.

**Mr. Moist:** Mr. Chairman, members of the committee. With respect to Bill 49, The Purchase of Winnipeg Hydro Act, CUPE 500 represents about 5500 civic employees including 500 Winnipeg Hydro staff. These staff, over the years, have served the interests of the citizens of Winnipeg for over eight decades and our utility, Winnipeg Hydro, has a proud history.

After years of rumours, Manitoba Hydro tabled a formal offer to purchase Winnipeg Hydro with the City on February 8 of this year. The offer to purchase was a bit of a surprise to our members. They were very nervous at the time when the offer was tabled and frankly, at that time, would have preferred to remain with the City. In the months since the offer to purchase was tabled, we have worked very hard with the City, with Manitoba Hydro, with other Manitoba Hydro unions and the provincial government to ensure that all employee interests are adequately addressed.

The parties have worked together and we believe the following agreements, which I will

list, to enable the sale have addressed all relevant human resource issues. Firstly, we signed an employee transition agreement between our local and Manitoba Hydro this past April. An asset purchase agreement was signed between the City of Winnipeg and Manitoba Hydro at the end of June. A proposed participation agreement between the City of Winnipeg Employee Benefits Program and Manitoba Hydro is currently being finalized and now we have before us Bill 49, which enables the sale of Winnipeg Hydro.

\* (11:20)

We wish to speak in favour of Bill 49. It provides the legislative assurances that the Premier (Mr. Doer) spoke of, on February 8, at the media conference which announced Manitoba Hydro's offer to purchase.

The following provisions of the bill before you directly relate to key labour relations issues, and I list five sections of the bill that I think are of paramount importance to our members. They answer questions to our members regarding their employment, their wages, their rights to their pension plan and their bargaining unit membership.

The sale of Winnipeg Hydro represents the largest civic provincial labour adjustment challenge since the creation of Unicity some three decades ago. Unlike the 1998-99 transfer of city social services to the province, where in that case one-half of our members chose to stay with the City, they did not follow their work to the Province, I am pleased to report today that 100 percent of Winnipeg Hydro's employees have opted to accept employment with Manitoba Hydro.

In the social services scenario, there was no pension or income security, and many staff exercised their right to remain with the City. In this case, all human resource issues have been addressed and all staff will move to Manitoba and contribute to the provision of first-class electrical services to the citizens whom we serve.

Restructuring and reorganization amongst governments is a fundamental fact of Canada's public service. It need not include massive layoffs or wage and benefit rollbacks for public

sector workers. Bill 49 meets the needs of Winnipeg Hydro staff, and it is indicative of the party's commitment to continue to build Manitoba Hydro to serve the public interest now and for future generations.

Those are my comments, Mr. Chairman. If there are any questions, we will be pleased to try and answer them.

**Mr. Chairperson:** Thank you, Mr. Moist. Questions from the committee?

**Mr. John Loewen (Fort Whyte):** Well, thank you for your presentation, Mr. Moist. I know that you are representing the City of Winnipeg employees in this case. I have heard from a number of employees at Manitoba Hydro who are concerned that the same type of options have not been given to them in terms of severance vis-à-vis whether they want to stay with the new corporation or not. I am just wondering if, in any of your discussions that you indicate the union has had in co-operation with the Hydro unions, whether that was a point that was raised and how that was dealt with in those discussions, if it was raised.

**Mr. Moist:** Well, through the Chair, we have worked very hard with all Manitoba Hydro bargaining units to make this thing work. We think we are marrying together two very strong organizations, both bring strength to the table.

Before I directly get to your question, I want to give you an example of that strength. One measure of an electrical utility is days lost, power outages, hours lost. Winnipeg Hydro has one of the best records in Canada, better than Manitoba Hydro's. Manitoba Hydro runs a Power Smart program, far more extensive than Winnipeg Hydro. Marrying together the strength of Winnipeg Hydro's record of small power outages, Manitoba Hydro's record of energy conservation, is going to make a better Manitoba Hydro. All Hydro employees, Winnipeg and Manitoba, agree with that.

On the labour relations issue you ask about, we dealt directly with Manitoba Hydro on behalf of civic employees. There are other labour relations issues that arise out of this merger that Manitoba Hydro is dealing with its own unions

on. All of those issues are resolvable, and the one you mention, I believe, is being resolved by those bargaining units with their employer. We do not directly represent those members at Manitoba Hydro, but I know they have raised those issues with the corporation.

The corporation, from my vantage point, has a pretty good track record with its employees, and I think those issues you mentioned will be resolved.

**Mr. Stuart Murray (Leader of the Official Opposition):** Thank you very much, Mr. Moist, for your presentation. Much appreciated. You have perhaps heard a couple of other presentations at this table during this committee hearing from other groups that would like to see this process go to the Public Utilities Board. I just wondered if you could state your position on that position.

**Mr. Moist:** Through the Chair, we have not engaged in the debate about the merit, or lack of merit, of the Public Utilities Board. I think the Public Utilities Board serves a role in Manitoba. I also think sovereign elected governments at the civic level and at the provincial level have the jurisdiction and the authority to make transactions such as they are making here.

We have analyzed this deal with the assistance of our external legal counsel and our external accounting resources and have not entered the debate on if much would be served at the Public Utilities Board, from our vantage point, representing employees. We have dealt directly with the Government and Manitoba Hydro and I think lived up to our statutory responsibility to represent these employees. So I respect fully the right of sovereign elected governments to act through the Legislative process that may or may not include the Public Utilities Board.

In terms of the labour relations issues I spoke of, we have had satisfaction through dealing directly with government and the Crown corporation.

**Mr. Chairperson:** No further questions? I thank you for your presentation on that, Mr. Moist.

**Bill 27—The Safer Workplaces Act  
(Workplace Safety and Health Act Amended)**

**Mr. Chairperson:** Do you have a brief to circulate to the committee on Bill 27?

**Mr. Paul Moist (Canadian Union of Public Employees, Local 500):** I do.

**Mr. Chairperson:** Proceed when you are ready, sir.

**Mr. Moist:** Mr. Chairman, members of the committee, I am pleased to speak on behalf of CUPE Manitoba. We represent 24 000 Manitobans working in the public sector throughout the province. Generally speaking, we are very pleased with the amendments that this act brings forward and the Government's efforts to update this legislation which has not been reviewed this extensively for 20 years. We are confident that the amendments to the act are good for government, good for business, good for labour and our community as a whole.

A key feature of the act that we think will have a significant benefit for Manitoba's workers is the provision for creating workplace safety and health programs, jointly determined programs in workplaces with more than 20 workers. We think that is going to help prevent accidents. We believe the current draft of the amendments, though, requires some improvement, and I will speak to those in a moment.

In terms of the strengths in this act, on page 3 of our presentation, I will just highlight a couple. The setting of a 30-day response requirement for employers to act on recommendations made by joint safety and health committees is a very effective amendment. The end result, we think, will be to speed up the process of dealing with health and safety issues and to ultimately correct minor situations before they become serious problems. We agree completely with the provision that there be a review every five years. We ought not to go another two decades without looking at this act in a comprehensive way.

Finally, in terms of very positive things, we think the provision clarifying supervisor responsibilities for safety and health is very important. It was very vague in the current act, and the

improvement is a good one, as is, on page 4 of our submission, the inclusion of the workers' right to refuse work they feel is going to put them at a health or safety risk and that they not be penalized for exercising that right of refusal. Our experience with the current act has been that workers have been reluctant to expose workplace risks out of fear of reprisals and/or dismissal.

In terms of some improvements that we might well have wanted to see in this act that are not there, we would like to have seen an ergonomic provision or regulation. They are not sufficiently acknowledged in the act. At present there is no legislative response to an issue that affects so many workers, the ergonomic work stations that we work around.

\* (11:30)

Secondly, we are alarmed to see that stress in the workplace did not really make it into the new act at all, and it is a significant issue, not just here in Manitoba but throughout Canada. I give you some Stats Canada information on stress related illnesses and injuries among Canadian workers.

Another key feature of the act, at the top of page 5 of our presentation, deals with the importance of training of new employees. We are glad to see the inclusion of training in section 4. A more definitive time requirement associated with training, we think, would help ensure the proper training was conducted prior to new workers going out onto the work site.

Finally, we have a concern about section 21, Exemption from Regulation. There needs to be a more clearly defined process as to how and when an exemption to regulations would be granted to an employer.

Overall, we think the act fails to address serious workplace safety and health issues because of inadequate attention being paid to enforcement of the legislation. Specifically, at the bottom of page 5, we submit there should be larger penalties for known infractions.

Bill 27 should be amended to increase the fines, thereby making complying with the act much more inviting for employers. We

recommend a penalty of \$50,000 be levied against employers who fail to comply with the act.

Increased committee involvement in investigations. CUPE would like to see safety and health committee members have a more defined role in accident investigation. We want to see these committees have the authority to enforce the act and its regulations.

Finally, mandatory inquests. There should be, in CUPE's submission, mandatory inquests for all workplace deaths that occur in Manitoba. This would enable the health and safety division to make clearer comparisons and reports to ensure hazards that contributed to the fatality are identified and eradicated to prevent another death.

Mr. Chairman, having said all of that, we support this bill currently before the committee. We think it will allow for collaboration between government, business and labour and will improve health and safety conditions to the benefit of all three parties involved. We remain committed to working with government on making workplaces safe and productive so that Manitoba workers can contribute to the economic and cultural life of our province.

Thank you, Mr. Chairman. We will try to answer any questions, if there are any.

**Mr. Chairperson:** Thank you, Mr. Moist. Questions from the committee?

**Hon. Becky Barrett (Minister of Labour):** Thank you for your brief, Mr. Moist. As you have acknowledged it has been 20 years or more since the last full review of the legislation. I appreciate your support of the five-year mandatory review. Some of the issues you did raise can be addressed then or as we work through the regulatory process.

We have stated publicly that there will be an ergonomics regulation, the details to be worked out as we talk over the next months with various stakeholders and agree with all of that.

Thank you for your concerns. We will be working jointly with all parties to ensure there is a culture, as an earlier presenter stated, the need

to identify and strengthen a culture of workplace safety and health.

Thank you for your presentation today and for your work in making presentations to the public hearing process. We look forward to continual review as our workplaces change as well.

**Mr. Moist:** I have no comments to that. We can move on, unless there are any other questions.

**Mr. Ron Schuler (Springfield):** Paul, thank you very much for your report. I appreciate the various things you brought forward, some of the areas you think could also be improved on.

There was a report that came forward. I believe it was worked on by business and labour. Part of the report spoke to a strong focus on education. Do you think Bill 27 covers that off? In your opinion, does Bill 27 cover off that aspect of education which the consensus report had spoken to?

**Mr. Moist:** Well, through the Chair, I think Bill 27 deals with it, but as we say in our brief we would have liked to have seen a bit more clarity regarding time lines for training employees before they enter active service in the workforce.

I also am mindful in our submission to the public hearing process, the minister referred to CUPE's submission which spoke about other acts of this Legislature that have a role to play in health and safety, not just this piece of legislation. The Public Schools Act and the curriculum our children experience in their formative years ought to, in CUPE's submission, include compulsory training in health and safety.

We are very supportive of the MFL's Workers of Tomorrow project, funded in part by the Workers Compensation Board. I believe we have touched over 10 000 children in the last school year with presentations on the importance of health and safety. That is a phenomenal record. We still do not have this implanted in the curriculum of our secondary school system. So this act has room for training and there is some mention of it. We ask for more clarity in that one area. There are other acts of this Legislature that can contribute to health and safety and we are going to continue to lobby with those ministers.

**Mr. Chairperson:** Thank you for your presentation on Bill 27, Mr. Moist.

**Bill 39—The City of Winnipeg Charter Act**

**Mr. Chairperson:** Now we will move on to Bill 39. Do you have a written copy of your presentation?

**Mr. Paul Moist (Canadian Union of Public Employees, Local 500):** I do.

**Mr. Chairperson:** Okay, sir. We will circulate that to the committee. Proceed when you are ready.

**Mr. Moist:** Mr. Chairman and members of the committee, it is my privilege to speak to Bill 39, The City of Winnipeg Charter Act. I make this submission on behalf of CUPE Local 500. We represent about half of the city's workforce.

We are well aware of the city's long-standing desire to have a less prescriptive City of Winnipeg Act and to have more independent control over their own affairs. We are also aware of the City's desire to have revenue-generating options beyond property taxes and those other powers they currently hold.

In general, we understand these objectives on the part of the City, and we support many but not all of them. Having said this, the Province of Manitoba must find the proper balance between the City's wants and your responsibility as legislators to enable and ensure good civic governance on behalf of almost 60 percent of our province's population.

We have three very specific areas of the proposed act we wish to speak to. Your proposed section 152(1) and 152(2), under the heading Buildings, Equipment and Materials, you are proposing, under the Inspection of plans: "The city must cause all plans relating to any construction to be inspected to determine whether the construction will comply with the applicable by-laws."

Related to that, the next clause in the proposed bill: "The city must establish a procedure for approving plans under this section, and no permit or approval respecting the

construction shall be issued by the city until the plans have been approved in accordance with that procedure."

I would ask you to turn the page. Here is the current provision of the act in that area. Plan examination, section 475(1): "The city shall cause the plans for any construction or demolition to be examined by the designated employee to determine whether the plans are in accordance with by-laws; and a permit shall not be issued for construction or demolition unless the plans for it are approved by the designated employee."

The companion piece to that in the current act: "The examination required under subsection (1) shall relate to the materials and methods to be used, and the work to be done, in the construction or demolition."

The proposed amendment removes the requirement for a civic employee to approve plans. The proposal will allow for approval of such plans by a professional, for example, an architect hired by an applicant, which has been the rumoured change within the City's Planning, Property and Development Department for over a year, in anticipation of this statute I guess.

On July 17 of this year, Winnipeg City Council adopted what they call an integrated planning model to reorganize and streamline a number of planning-related functions. Included in this plan is the following provision. This relates directly to the enabling provision 152 that I just quoted. Here is what City Council adopted in July: "A consultation process should be launched with the construction industry to develop a strategy by which responsibility for plan examination will be diminished over time in order to have plan examination focus on the life safety issues while minimizing the responsibility to review plans stamped by professional engineers, (ie electrical, mechanical or structural)."

\* (11:40)

This new procedure amounts to the contracting out of the plan examination function. It also places the plan approval process in the hands of professionals engaged by private commercial interests. In our view, this is not in the public interest and there are few municipal

jurisdictions in Canada that hand this over. The requirements for plan examination and approval in the current act were put in there for a reason and we are opposed to their removal.

Our second area of concern, Mr. Chairman, is in the area headed up: Waste. The current act, under the heading of Drainage and wastewater, 161(3)(e) of the current City of Winnipeg Act says the following: "standards and specifications of design for, and maintenance of, connections with wastewater systems, including requiring measures to be taken or devices to be to cut off or control the connection between property and the wastewater system and the persons authorized to make the connections." That is what you are proposing.

Here is what exists now. Section 562: "When a person having pipes connected with the city water mains has at the same time an independent source of water supply connecting therewith, the employee designated by council may, in case of danger from contamination of the water in the city mains through the connection, cut off or stop the supply of water from the city's mains to the person, and there shall be no liability for damages or other compensation in respect thereof."

Here again, the current act for over 30 years is prescriptive and has required a civic employee to perform turn-ons and turn-offs to City water mains. The proposed provision will allow City Council to utilize private-sector forces for this water connection related work. We are opposed to this proposed amendment.

The final area, Mr. Chairman, we wish to congratulate the authors of the legislation on your proposed section 210(3) free use of libraries by residents. You are suggesting language that says: Despite any other provision of this act, the City must permit residents of the city to have free use of the circulating and reference books of every public library and branch that it maintains. The whole thrust of The Charter Act is to give the City more devices to make its own way, to be less prescriptive, but you have chosen in some areas to not give the City that flexibility, and for the most part we agree with what you are suggesting.

We have over the years, by nature of the work we do, followed The City of Winnipeg Act which is over two feet thick, and it is far too prescriptive. There are certain fundamental areas relating to construction, relating to the operation of our water system, which require prescription, just as you have done in the case of libraries. We fully support the library provision that you are putting in place on behalf of our members who work in the system, and on behalf of our union we urge you to consider the two amendments that we have suggested to you. We will be pleased to answer any questions if you have any.

**Mr. Chairperson:** Thank you for your presentation, sir. Questions from the committee.

**Hon. Jean Friesen (Minister of Intergovernmental Affairs):** Mr. Chairman, I do not have any comments at this point. I want to thank CUPE 500 for its presentation and to assure them that we will look at the suggestions they are making. We will be debating this bill again in third reading with opportunities for amendments, and I want to listen to the discussion of the committee, as well. We will have a number of other presentations, I believe, on this bill, and I want to hear the full discussion before we look at the suggestions arising from it. My anticipation is there will be suggestions from other presenters, as well, so we will look at all of those at one point. Thanks.

**Mr. Chairperson:** Thank you, Minister Friesen. Comment, Mr. Moist.

**Mr. Moist:** No, that is fine.

**Mr. Chairperson:** No. Further questions? No more questions. Thank you, sir.

Before I move on to the next presenter, I just want to make it known to the committee that Mr. Douglas Forbes, who was going to present on Bill 39, has submitted a written presentation instead. Is there leave from the committee to include his written presentation? *[Agreed]*

#### **Bill 49—The Purchase of Winnipeg Hydro Act**

**Mr. Chairperson:** The next presenter on Bill 49 is Patrick English, Winnipeg Association of

Public Service Officers. Good morning, Mr. English. Do you have a written copy of your presentation.

**Mr. Patrick English (Winnipeg Association of Public Service Officers (WAPSO)):** Yes, I do.

**Mr. Chairperson:** Would you pass it to the Clerk, and you may proceed when you are ready.

**Mr. English:** Thank you. I am here today to speak on behalf of WAPSO, the Winnipeg Association of Public Service Officers. WAPSO represents 600 City of Winnipeg professional, administrative and supervisory employees, including 60 Winnipeg Hydro staff.

In early February, we were surprised to learn that Manitoba Hydro had made an offer to purchase Winnipeg Hydro. Although there had been many rumours over the years, this announcement caught us by surprise and threw our members into turmoil. Fear of the unknown was the order of the day and for some time following this announcement. Since February, many hours have been spent with our members, representatives from the City, CUPE 500, Manitoba Hydro and the Manitoba Hydro unions to address the welfare of all employees.

The parties have worked together cooperatively and have come to agreements to enable the sale, while at the same time giving protection to the employees. To the credit of all the parties, this process was accomplished quickly and relatively bloodlessly and culminated in the employees feeling comfortable in choosing to work for Manitoba Hydro.

As a representative of WAPSO, I am here today to speak in favour of Bill 49 which enables the sale of Winnipeg Hydro to Manitoba Hydro. Bill 49 has provided the assurances that employees will maintain their benefits. In return, employees are committed to work diligently for Manitoba Hydro as they did for Winnipeg Hydro.

Thank you.

**Mr. Chairperson:** Thank you for your presentation, sir. Are there questions from members of the Committee? No questions. Thank you very much, sir.

### **Bill 27—The Safer Workplaces Act (Workplace Safety and Health Act Amended)**

**Mr. Chairperson:** We will now move on to Bill 27 again. The Safer Workplaces Act. I call on Mr. John Doyle of the Manitoba Federation of Labour who will be speaking in place of Mr. Rob Hilliard.

**Ms. Becky Barrett (Minister of Labour):** Excuse me, but because we had agreed earlier to sit until noon and it is 12 minutes to, I am wondering if, with the committee's leave, we can conclude this presentation and Q and A before we rise.

**Mr. Chairperson:** Leave has been granted to go through your presentation entirely, sir. Do you have a written brief? Okay. You may proceed when you are ready.

**Mr. John Doyle (Manitoba Federation of Labour):** Before I address the contents of the Manitoba Federation of Labour brief, I would like to point out to members of the committee and to the public present that it was on this date two years ago an explosion ripped through the smelter at the HBM&S plant in Flin Flon, killing 31-year-old Steve Ewing, a father of five, and severely injuring 12 more workers in that smelter. Since then, only 8 have been able to return to work on a part-time or full-time basis. Four injured workers remain seriously impaired to the point that they cannot work. I think it is appropriate that this committee is hearing presentations on this particular bill on this particular day.

The Manitoba Federation of Labour is pleased to be in a position to make a contribution to this committee's deliberations on Bill 27. As many of you are aware, safety in the workplace has been a core issue for the labour movement since its earliest days. Many people assume that the majority of the most dangerous conditions no longer exist in the modern workplace. This is not so. More than 2 million working men, women and children die on the job or because of it around the world every year. In Canada last year, 882 working Canadians lost their lives as a result of their employment; 800 000 more workers reported being injured at work. That is an injury every nine seconds. At that rate, while I have

been talking to you, 5 more workers in Canada have been injured.

\* (11:50)

In Manitoba, the Workers Compensation Board provides this overview in its 2001 Annual Report: 28 of the 42 reported work-related fatality claims were accepted by the Board. More than 44 000 workplace injuries were reported. Nearly 37 000 of these claims were accepted. It is important to note that practitioners believe the majority of claims are submitted by unionized workers who have both knowledge of their rights and representatives acting on their behalf. It is our belief that many more injuries go unreported by workers who are not aware of their rights or who are unable to step forward and exercise them.

Of great concern are the number of young and first-time workers who are killed and injured on the job. Because of their lack of experience and adequate training, they are extremely vulnerable to being injured. One indication of this is the high number of hand injuries that these workers suffer. Hand injuries often indicate a lack of awareness about imminent danger. More than 42 percent of the injuries suffered by workers between the ages of 15 and 19 are hand injuries.

Another fact of life is that these workers are often reluctant to refuse dangerous work that exists in their workplace or question the safety of work practices. In fact, one out of three injuries that result in benefits from the Workers Compensation Board involve workers in the 15 to 29 year age group.

Workplace safety and health is such a high priority for organized labour that we campaigned to establish April 28 as the Day of Mourning to commemorate those killed and injured on the job. In 1991, an act of federal Parliament gave official recognition to this day. Today, many countries have followed the Canadian labour movement's lead and have adopted April 28 as the Day of Mourning for their workers.

So far, we have not used the word "accident" to describe workplace events that have led to deaths and injuries. That is because they are not accidents. Oxford describes an

accident as "an event that is without apparent cause or unexpected." We, along with most business groups, believe that the vast majority of deaths and injuries that occur in the workplace are both predictable and preventable and, therefore, do not meet the definition of the word accident.

In our view, Bill 27 provides an important part of the remedy for improving workplace safety and health in Manitoba. These measures, taken together with better employer and worker focussed education and training and greater internal responsibility and accountability, will help reduce workplace injuries and deaths.

We would like to talk about some of those measures. The bill expands the duties of employers to ensure that a supervisor is designated and identified to be responsible for the activity in the workplace. It requires that this supervisor be both competent and knowledgeable to ensure that work done by employees is carried out in a safe manner and in a way that conforms to the provisions of the act and its regulations.

The bill clarifies and expands the duties of joint workplace safety and health committees. Committees will have the duty to make recommendations, to conduct safety inspections at regular intervals, to investigate accidents and dangerous occurrences, and it allows them to carry out their duties without loss of pay.

The bill expands duties for supervisors and requires that they protect workers by ensuring that workers are performing work according to safe procedures and in compliance with the act, that workers use safety devices and personal protective equipment, and by advising workers of the risks related to the work being done.

The bill stipulates that there be training for workers before they begin working and when they change jobs or work areas within the workplace. The act also provides that employees can work while they are being trained if they are supervised or working with a person who is fully trained and experienced. Another aspect of the bill stipulates that full wages will be paid during the training period so that workers are neither penalized for taking safety training nor rushed to finish the training to gain the full rate of pay.

The bill requires that in workplaces where there are 20 or more employees, a written workplace safety and health program will be put in place. The bill also establishes the contents of the program to include the identification of risks and controls, a regular inspection schedule, a plan to control chemicals and biological agents, procedures for subcontractors and non-employees on the work site, training for workers and supervisors, workplace injuries—dangerous occurrences—and work refusal investigations, worker participation and program reviews.

The bill streamlines regulations and makes them more comprehensive by making them easier to read and applying them to any person in the workplace and not just workers. The bill also creates regulations covering the establishment of safety and health programs, providing alternative employment to pregnant or nursing workers and workers at risk from exposure to chemical or biological substances, the prevention of workplace violence and harassment, and administrative penalties.

The bill provides that when workers exercise the right to refuse work that could injure them or others in the workplace, the employer will assign them to other work, or if other work is not available, pay in lieu of, until the work is made safe. This provision brings Manitoba into step with many other jurisdictions in Canada. Until now, many workers were reluctant to refuse unsafe work since it could result in loss of pay under the "no work, no pay" principle.

The bill requires employers to act on recommendations made by the joint committee, or to provide reasons in writing.

The bill establishes the principle of administrative penalties to apply when an employer fails to comply with a workplace improvement order. This is an important inducement for people to comply with the provisions and regulations of the Workplace Safety and Health Act and will reduce the unacceptably high rate of order non-compliance in Manitoba.

While establishing the principle of administrative penalties in the Workplace Safety and Health Act is a positive move forward, the MFL is concerned that the very low ceiling for the

finer may reduce its effectiveness. At a maximum level of \$5,000, the threat of penalty is significantly reduced. The insignificance of the fine is even more apparent when it is realized that \$5,000 is the maximum that would only be reached in the most severe cases involving very serious risk or multiple repeat offences. In the vast majority of cases the level of administrative penalty will actually be a much lower amount, reducing significantly the incentive to deal with hazards that have been identified by the government inspector.

For a large employer or corporation a fine as insignificant as this can be paid out of petty cash. We urge that the bill be amended to increase the administrative penalty ceiling and the fine levels that lead to it to at least \$50,000 so that they become true disincentives to ignoring improvement orders.

We also recommend that administrative fines be applied by the inspector who issued the improvement order and who will be the first to detect non-compliance. Leaving the levying of the fine up to the deputy minister makes it too discretionary and subject to political pressures. We have one additional concern about the system of administrative penalties, and that is the large number of appeals that are possible. An appeal is possible over the substance of the improvement order, over the compliance date on the improvement order, over the inspector's decision that the employer has failed to comply with the improvement order, over the deputy minister's decision to issue administrative penalties, and over the amount of the administrative penalty.

While we fully support a process whereby an inspector's decisions are subject to appeal, there needs to be a sensible balance between an employer's right to a second opinion and an employee's right not to be hurt. The system of appeals listed above has the potential to last 70 days, during which the identified hazards are not addressed and the workers in that workplace remain at risk. It would appear that employers would be the main beneficiaries of the appeal system laid out in this bill.

Workers Compensation Board statistics show that on average 850 workers are injured

every month due to work station ergonomic deficiencies. Since 1985 more than 50 percent of all lost-time injuries are attributable to poor ergonomic design. This bill would be immeasurably improved if it were amended to provide for the implementation of an ergonomics regulation that has already been researched and drafted by the minister's advisory council. This regulation has been available since last June but has still not been implemented. Since then nearly 11 000 working people have suffered injuries related to poor ergonomic design. Delaying this much needed regulation will only mean more working Manitobans will be injured.

We suggest to this committee that an amendment be made to Bill 27 to provide for director liability for negligence as a further inducement to companies and employers to make a serious effort to address workplace health and safety issues. The liability should prevail even if bankruptcy has occurred and even if no prosecution has taken place. Directors have legal, fiduciary responsibilities to their shareholders which they take seriously. They should ensure that the health of their employees has the same degree of dedication.

\* (12:00)

It is interesting to note that an all-party parliamentary committee has recommended to the Liberal government in Ottawa that it enact federal legislation to make members of boards of directors liable if employer negligence is responsible for serious workplace injuries or deaths. This is an idea whose time has come. We urge the provincial government to follow the federal government's lead on this important issue.

Another amendment we would like to see implemented is the requirement to hold an inquest into every workplace fatality. Almost without fail, conditions that lead to a fatality are similar to conditions in like industries. It is important that mandatory inquests be part of this bill to ensure these hazards are identified and eradicated elsewhere in order to avoid more deaths. Even though the previous government amended the act in 1997-

**Mr. Chairperson:** Mr. Doyle, you have two minutes left.

**Mr. Doyle:** -to increase the level of prosecution fines in Manitoba, they remain too low. At a maximum of \$150,000 for the first offence and \$300,000 for the second offence they compare poorly with other jurisdictions. This brief contains a comparison of those jurisdictions.

We recommend to this committee that the bill be amended to increase the fine structure to provide greater encouragement for compliance.

Another amendment that we propose deals with the issue of mandatory rest periods. Workers who are on duty for extended periods of time, often because of staff cuts and layoffs, are at greater risk for injury and stress leading to injury. The act should provide for sufficient time between the end of one work period and the beginning of the next to allow worker's bodies to recover and mental alertness to return. In an increasing number of workplaces, work is being done by one person when the job really requires it to be done by two people, especially when lifting heavy weight is required. Health care workers are particularly vulnerable to injuries incurred while attempting to move patients by themselves. Workers working alone are often vulnerable to violence from clients, members of the public or criminals. We recommend that amendments be made to the bill to address these issues.

The need for employers to provide information on health and safety issues is addressed in the bill. What is not addressed is a suitable timeframe for the provision of that information. In a workplace where co-operation is low, foot dragging becomes a problem. It is our recommendation that there be a reasonable timeframe included in the duty clauses to ensure the transfer occurs in an appropriate period of time.

In Manitoba, it is not a legal requirement for all employers to report workplace injuries. This means that the official statistics are suspect and they very likely under represent the true extent of the problem. It also means that potentially there are workplaces in Manitoba that are high risk to working Manitobans, but government inspectors are unaware of them and, therefore, unable to take corrective action. We can see no reason why a legal requirement to report all

workplace injuries should not be a provision of The Workplace Safety and Health Act.

Overall, the MFL is very pleased by the contents of Bill 27 and commends the Government for drafting legislation that will no doubt have a positive effect on workplace safety and health in Manitoba. Working people, both now and when our children are in the workforce, will be able to pursue a career with less likelihood of being injured, permanently disabled or even killed.

Just to recap our views of Bill 27, we believe the bill will make workplaces safer, injure and kill fewer of our young people when they enter the workforce, injure fewer Manitobans every year and that fewer Manitobans will die every year as a result of this bill.

**Mr. Chairperson:** Thank you for your presentation, Mr. Doyle. Are there questions from members of the committee?

**Ms. Barrett:** Thank you for your presentation. As I have stated before, we look forward to continuing to work with the MFL and the suggestions that are raised for your concerns with the current level, recognizing that we will continue to monitor the bill and there is a five-year mandatory review period.

I did want to say that I appreciated, in particular, one of the statements that you made earlier where you said that these measures in Bill 27, taken together with other measures, a recognition I believe that is critical for people to acknowledge, that this is one piece of a very much broader set of proposals that came from the recommendations that came from the committee and that also we are working on with other government departments and other stakeholders. So I think that it is critical to recognize that this is one piece of the puzzle.

So thank you for your whole presentation, but that in particular.

**Mr. Doyle:** Thank you for your comments, Ms. Barrett.

**Mr. Chairperson:** Further questions. Thank you for your presentation, Mr. Doyle.

The hour is now 12:04 p.m.

**Mr. Daryl Reid (Transcona):** Mr. Chairperson, seeing that the previous presenter did not have the opportunity to enter the entire text of his presentation, I wonder if there is a will of the committee to allow the text to be entered into the record.

**Mr. Chairperson:** Is there leave? [*Agreed*]

**Mr. Ron Schuler (Springfield):** Unfortunately, I was not in the room, I had just stepped out for a moment, when we started on Bill 27 and there are some presenters at the top of the list, I take it, that we have passed. I was wondering if the committee, when we start again at about three o'clock, if we can start again with presenter No. 3 and call the names from the top because a lot of individuals left thinking that they were not going to get up until after three o'clock on Bill 27?

**Mr. Chairperson:** Mr. Schuler, yes, we will be beginning with Mr. Pete Walker. All right? Okay, that has been clarified.

It is lunch time. The committee recesses until 3 p.m.

*The committee recessed at 12:06 p.m.*

*The committee resumed at 3:05 p.m.*

**Mr. Chairperson:** Good afternoon. Will the Standing Committee on Municipal Affairs please come to order. As you may or may not have heard by now, consideration of Bill 27 has been transferred to the Standing Committee on Industrial Relations, meeting now in Room 254 just down the hallway. This committee will continue with consideration of Bills 39, 41 and 49, beginning with the remaining presentations on Bill 39. The Page is distributing a revised presentation list for that bill.

Before we get started with the presentations, I would note for the committee that there are four presenters registered to speak to both Bill 39 and Bill 27 down the hall. Those are Mr. Dave Angus, No. 6 on our new list; Mr. Jim Baker, No. 9 on our new list; Mr. George Fraser,

No. 12 on our new list; and Ms. Shelly Wiseman, No. 18 on our new list.

The Clerks of our committees will be in contact with each other during the meetings, and if the committee is agreeable, I may interrupt proceedings to notify one of these presenters that they are being called to present in the other room. Is that agreeable to the committee?  
[Agreed]

I understand there are some changes to the committees.

### Committee Substitutions

**Mr. Cris Aglugub (The Maples):** Mr. Chairman, with leave of the committee, I would like to make the following membership substitution, effective immediately for the Standing Committee on Municipal Affairs: Swan River (Ms. Wowchuk) for Inkster (Ms. Barrett), Brandon West (Mr. Smith) for Transcona (Mr. Reid).

**Mr. Chairperson:** Is that agreeable to the committee? [Agreed]

**Mrs. Bonnie Mitchelson (River East):** Mr. Chairperson, with leave of the committee I would like to make the following membership substitutions, effective immediately for the Standing Committee on Municipal Affairs: Ste. Rose (Mr. Cummings) for Springfield (Mr. Schuler).

**Mr. Chairperson:** Is that agreeable to the committee? [Agreed]

### Bill 39—The City of Winnipeg Charter Act

**Mr. Chairperson:** We will now turn to our presentations, and I would begin by asking leave of the committee to have Mr. Ken Simpson and Mr. Peter McDougall of Concerned Condominium Owners of Winnipeg present first, given that there are special circumstances. Is that agreeable? [Agreed]

I call upon Mr. Ken Simpson and Mr. Peter McDougall of the CCOW to make their presentation. Mr. Simpson, if you are having difficulty standing, would you prefer sitting at the table and we will move the microphone?

\* (15:10)

**Mr. Ken Simpson (Concerned Condominium Owners of Winnipeg):** No, I will try standing and if I fall, there are a lot of people to help me up.

**Mr. Chairperson:** Okay. Sir, do you have a written copy of your brief for the committee?

**Mr. Simpson:** Yes.

**Mr. Chairperson:** Okay, the Clerk Assistant will distribute it. You may begin when you are ready.

**Mr. Simpson:** My name is Ken Simpson, chairperson of the Concerned Condominium Owners of Winnipeg. I am going to refer it as CCOW to save some time. CCOW has been lobbying the NDP and PC governments over the past 4 years. We had a petition signed with approximately 5000 signatures from condo owners covering the following issues.

We wanted all properties assessed at a fair and equitable level, as an example, life lease not-for-profit on apartment buildings; remove the provincial support levy from all properties; and, the last one, limit the funding that school trustees can raise from property taxes.

In Bill 39, on recommendation 331, "Regulations re varying portions," we are saying that this should be removed from the bill, mainly because we do not have enough information as to what the ranges are going to be and when they are going to be established. Also, we heard from the grapevine that our fight was no longer with the Government, that our fight would be with the City of Winnipeg from now on. Our feeling right now is that we have been fighting this for over 4 years. I will just continue on.

I have some questions here in the handout. No. 1: Why do we need ranges when we already have 10 classifications? Reference, see attachment A. Attachment A is the portion percentages for 10 classifications within the city of Winnipeg.

No. 2: What will section 331 do to solve the disparity in taxes being paid by multi-unit

properties? Reference, see attachment B. Attachment B is a table showing multi-family dwellings, apartments—

**Mr. Chairperson:** One second, sir. I just want to make an announcement to the people in the audience.

Shelly Wiseman will be called in the committee in the other room momentarily, so if she is here, I would advise she move in that direction. She is far down on our list, so I just want to make that known. You may continue, sir. Sorry for the interruption.

**Mr. Simpson:** No. 2, we were saying what will section 331 do to solve the disparity in taxes being paid by multi-unit properties? Reference, see attachment B. In attachment B we show a comparison for apartments, life leases with the exemption from school taxes and the life lease and condominiums. This points out the huge disparity in taxes that are being paid in these multi-family dwellings.

No. 3: What is the benefit to the Government by giving this power to the City?

No. 4: Why would the Government want to treat the City of Winnipeg differently than the rest of the province?

Our concerns also are: If you go to attachment A and if you look at all of the apportionments from 1990, 1991 right through to 2001, condominiums were the only group that increased rapidly. They went from 32.7 percent to 45 percent. Apartment buildings and life-leases dropped from 73.2 percent to 45 percent. By looking at these portions and the way they increased and decreased in this period of time, this is why in attachment B there is such a disparity in the taxes being paid and condominiums are carrying the brunt of the load here.

Over the years, even with the apportionments being increased, condominiums have increased far greater than the other multifamily dwellings, mainly because of the reduction in the apportionment for them and ours increasing. For those who did not pay or are exempt from paying school tax, they benefited in the past three years from the City of Winnipeg reduction in

property taxes of 2 percent, where we did not benefit. Our taxes went up mainly because our school divisions put through large increases. The spread in the difference is increasing from year to year and we do not feel that this is fair.

In conclusion, I would mention that we feel that the Manitoba government has an unconditional responsibility to resolve the disparities in multi-unit property taxation. We also go on to say that this can easily be accomplished by reducing the apportionment on condominiums from the current level of 45 percent to the 1992 level of 33 percent by putting through an Order-in-Council. We feel this has been going on now for approximately 10 years. The spread is continually increasing and it is not fair to condominium owners.

**Mr. Chairperson:** Are you finished, sir?

**Mr. Simpson:** Yes, I am. Thank you.

**Mr. Chairperson:** Thank you for your presentation. I will open the floor to questions.

\* (15:20)

**Hon. Jon Gerrard (River Heights):** What I would ask, following your excellent presentation, would be that your argument here would be based in part on the fact that multi-units, like condominiums, actually need less per unit in city services. So to have them on a 45% portion is too high based on not only the historic level that condominium units were taxed at, but, in fact, on the extent to which they demand or need city services. Is that right?

**Mr. Simpson:** Yes, that is part of it. The other part of it is that the other multifamily dwellings have reduced their apportionment by too great an amount. It has brought their taxes right down to almost rock bottom and ours have been going up steadily. Schedule B points out the difference in taxes being paid.

Just an example, in that Schedule B all the comparisons we made are in the St. Vital area. With the apartment their taxes are low. It is a life-lease and this one happens to have an exemption from school taxes. They are paying only \$64,770 for 96 units compared to Riverside

Estates, a tiny six units, which is \$264,446. Now we feel that this is just too much of a differential.

We also have note D at the bottom of that sheet. If the apportionment was reduced to 33 percent, total taxes for the 2001 year would be still \$194,878.08 for a condominium.

**Mrs. Bonnie Mitchelson (River East):** Thanks very much, Ken, for your presentation. I guess, one of the basic issues here is sort of moving away from a standard assessment and portioning right across the province that we have seen put in place. By changing things in the city of Winnipeg, we are seeing, again, us moving away from market-based assessment and into a system where the City of Winnipeg can, within ranges, increase or decrease the portioning within certain classifications.

Would one of your concerns be that the Province might set a range that goes somewhat below and somewhat above what condominiums are paying today, that the City could make a decision within that and, in fact, the provincial government then is moving away from its responsibility for dealing with assessment and taxation?

**Mr. Simpson:** Yes. One of our problems right now is that we do not know what the ranges are. Our understanding is this is going to be written up in the regulations. If we wanted to just take a look at this sheet, attachment A. With apportionments, in 2001 the lowest apportionment is 10 and the highest one is up at 65. Does this mean that the range is going to be below 10, say from 5 to 70? We do not know.

Also, in the bill itself, it says: "(b) prescribed the class or classes of assessable property that the variation may apply to." Now, we have to assume from that statement that it is not going to apply to all classes that are on attachment A. Or is it going to apply to all of them?

**Mrs. Mitchelson:** Have you sought clarification of that from the Government as yet, or have you had any indication?

**Mr. Simpson:** No, we have not had any indication.

**Mr. Chairperson:** Any further questions?

**Hon. Jean Friesen (Minister of Intergovernmental Affairs):** I just want to thank you for your presentation. As you said, you have made representations to both the previous government and to this Government about your concerns about the inequities that you perceive in condominium issues.

The purpose of this legislation, I wanted to let you know, was to deal with some of the issues that you had raised with us. I want to say that it does not deal with all of them. I am quite well aware of that and some of them you have raised today as you look at the different taxation levels for some of the institutional properties and some of the life leases. But what this does is enable the City to deal with some of the issues, if it so chooses, that you did raise.

I do not remember whether it was you specifically, but certainly condo owners have raised the issue of what they feel to be double taxation on property. They believe that condo owners pay additionally for their own garbage removal, their own snow removal in some cases, not in all cases. They saw a perceived inequity there.

What this will enable the City to do, because it is in the city of Winnipeg where the majority of condos are. Admittedly, there are condos in Souris, there is one condo block in Neepawa, there is one in Gimli and there are also some in Brandon, but the great majority are in Winnipeg. The perception that you brought to us and the issues that you raised there, particularly about garbage and particularly some of the other services specifically to property, this will enable the City to deal with some of those and to look at local arrangements very specific to particular localities.

It seemed to me that there was an opportunity there. I recognize that it does not deal with all of the issues you raised. In The City of Winnipeg Act, I am not sure we could do that. The issues you have raised I think do go across other areas. We are proposing to allow some variation, some local autonomies, local direction from the City to deal with some of the issues you brought to us. Also, we will be putting in

regulation, the range within which the City can act, so we do not have the large differences I think perhaps you were concerned about. I think maybe that sort of answers many of your questions.

You asked, why Winnipeg. That was our attempt to begin to address some of the issues you have raised with us. It is in the larger context of a bill for the City of Winnipeg which does enhance the powers of the City of Winnipeg generally, Manitoba's largest city where the majority of citizens of Manitoba live and where we are looking at new kinds of municipal government and new ways of trying to deal with issues citizens have and trying to deal with them at the local level. That is the broad scale intent here.

**Mr. Chairperson:** Would you like to respond to that, sir? Time has expired for questions, but—

**Mr. Simpson:** I would just like to ask the minister how soon the regulation showing the variation in the ranges will be published.

**Ms. Friesen:** If you look at the act in full, the act does not come into force until January of 2003, so we have some time to develop that between now and then.

**Mr. Chairperson:** Thank you for your presentation, sir.

**Mr. Simpson:** Thank you for listening to me.

\* (15:30)

**Mr. Chairperson:** Before we move on to the next presenter, just for information to the committee, we have circulated the revised list of the new committee.

I call upon Mayor Glen Murray of the City of Winnipeg. Mr. Murray, do you have a written copy of your presentation?

**Mr. Glen Murray (Mayor, City of Winnipeg):** Sure, I can give you my notes. Is that useful? I do not have copies, but I can leave a text with you if you like.

**Mr. Chairperson:** Okay. You can leave a text with us and we will circulate it to the committee

when it becomes available. Proceed, sir, when you are ready.

**Mr. Glen Murray:** Thanks very much, Mr. Chairperson. I will start by saying City Council is unanimously in favour of this legislation and has taken a position that this is a very, very important step forward in the development of the ability of the City of Winnipeg to deal with many of the challenges it faces.

The reason the City is supportive of it is really twofold: One, this deals with a lot of long-standing issues that have been before public hearings of the City for 10 years, 15 years now, of requests to streamline and to facilitate some of the things the City needs to do that it currently does not have the ability to do. The second reason we are supportive of it is because there is a commitment from the Government of Manitoba to a second phase as well to address some of the other issues that are not addressed in this legislation that really need a wider canvassing, if I could say, or consultation with the public, because many of those things impact quite directly on the public.

I think most Winnipeggers will be quite pleased with this legislation for a number of reasons. It has a number of things that have been pretty critically missing. One, it is half the size. If you have looked at the old City of Winnipeg Act, I know when the new legislation came out and we circulated it at City Hall everyone, who had not looked at the act for a number of years, said, oh, my God, it is huge. Then we pulled out the old one that was twice the size. That may sound flippant or funny but we had almost incomprehensible legislation. It took us a great deal of time trying to actually figure out what it meant.

It was a great make-work project for the City law department to try to actually understand and rationalize it. This rationalizes it. It eliminates the contradictions in it and it makes it very, very easy to use. So we are very appreciative of that because, in effect, this is the constitution of the City of Winnipeg.

Two, it streamlines a lot of the processes we currently go through. Third, it standardizes and streamlines the process in the City. It gives us

control over areas in which we have significant responsibility but have not a lot of authority. A lot of the changes we have been wanting to make to create a better, more efficient government and have not been able to do, we now will be able to do. As a matter of fact, we are spending the next six months rewriting almost every City by-law to comply with the act. It was our revenge on our law department.

There are a few principles that city governments across the country and I think around the world are trying to establish. One is city governments are a real order of government—in fact, the oldest order of government—and should have the same rights, responsibilities and accountability of any order of government, that they are not a subservient or lesser order of government.

Second is that there are really two models of municipal government in the world right now and Canada, probably as a country, has the most backward municipal legislation of any of the major industrialized countries. The basic divide is this. If you go to the United States, 48 states in the last 30 years have passed what is called home rule legislation. They have the same constitutional relationships as Canada does. States determine the powers of the cities.

Minneapolis authorities are determined by the State of Minnesota, and so on with Illinois and Chicago. They adopted a principle in the United States that was imported from Europe which is called permissive versus prescriptive legislation. Home rule is permissive. It identifies, as this legislation does in the first instance, what is the area of responsibility the city government governs in, what are the services we provide, and what are the responsibilities of the other order of government in Canada and the provinces.

This starts that discussion. It does not finish it but it is a huge step forward and I think an unprecedented step forward in the history of Manitoba in starting to define the relationship between what is ours as the City and what is yours as the Province. That is extremely important. We have seen progress on that. Public health and social services are now with the Province. Hydro is now with the Province. We

have seen some separation over the years as the governments here have moved in those directions.

Two is what we have is the laundry list. We still have a bit of that, though this gets us out of that, which is the City can only do the following things. We can hire a police force. We can do this, we can do that. If you went to the United States or went to Europe, that is the prescriptive, the laundry list legislation. They basically give the city government a list of what you can do, and you cannot do anything that is not on this list. You cannot raise any taxes that are not on this list. You cannot change the way committee structures work because that is on the list. You cannot do anything. That is a very *in loco parentis*, very, some would say patronizing form of legislation.

Permissive is: these are our responsibilities and authorities and you cannot legislate in the area that the Province of Manitoba legislates in. This is the Province. You may do anything we say you cannot do. You can be, as Jane Jacobs calls it, a creative government. She has sort of been the major advocate in Canada, which is the American and European model. The States say: this is ours, these are your responsibilities, you solve your problems, you get elected, you face the electorate, you are transparent.

If that relationship seems familiar to you, it should be because it is the relationship you have with the Government of Canada. It does not mean you always get the funding relationships you want or that, but it does mean the Province of Manitoba and the Legislature representing the people of Manitoba can act on behalf of the people of Manitoba in any area in which the Province of Manitoba has sovereignty.

Imperfect as that is, imagine a situation where Ottawa gave you a laundry list and said, here is your tax, do all of these things and you have no autonomy at all. That is the divide in a competitive environment where cities are driven to compete, as we have to compete head to head with Minneapolis, Chicago, Phoenix. We have become very aware of what those cities are able to do, what they are able to create, about the way taxation is weighted on property versus other sources of taxes, their capacity to build things

like convention centers and entertainment complexes and airports and those kinds of things, and the leveraging that they do.

I will spend a little bit of time on that later, but the abilities and flexibilities of a city are absolutely critical to our ability to maintain our quality of life, enhance it and to be economically competitive. That is one of the areas on the flexibility and competitive side where this legislation is particularly important.

I will just go through some of the things, the specifics in it that we would like to highlight that we think are particularly important. One is the tax increment financing program. As you know, many cities in the States have this. This is a program whereby we collect taxes but we re-invest them back in the property. We are doing some demonstration projects because we can cancel taxes now. We can carry this as a program. We think this will be a tremendous tool in the economic renewal of the city. We can do this with industrial properties. We have been doing that on an ad hoc basis with some of the bus manufacturers and aerospace companies.

It is a tremendously powerful tool in neighbourhood renewal. I toured sites in Chicago and Minneapolis, very, very positive. It is our money. Some people have said we should put a sunset clause on it, and I would argue strongly against that. It is our taxes. We have to raise them. You would not want the Government of Canada putting sunset clauses on different authorities that you have. I think you have to trust that we are going to handle this as a democratic elected government in a responsible manner, and that we will be accountable to the citizens that elect us for the results of those decisions.

We do not know yet how we are going to structure this because what you are doing is really giving us a constitutional power that we have to look at. To the extent to which we can use that and over what time and over what experiences is really hard to sort of prejudice. We would rather be able to learn how to do it well and then set our own rules and regulations on this and be accountable for that. This is one of those litmus tests about: Are you going to treat us like a mature government and give us

authorities commensurate with the responsibilities, or are you going to try to be *in loco parentis* and then when there is an engaged interest in the province, in municipal issues or the city, then we get attention? And if it is not at that particular time, then we are strapped.

\* (15:40)

Take ownership of vacant and derelict buildings. Again, I am sure you will hear opposition to this. What you are doing is giving us the authority to do it. I took the El train once through Chicago with the chair of their executive committee of council, and there was a sea of vacant properties there. What happens is they had a by-law where you seize and demolish but you could not replace. The property value was so low that you basically saw the entire neighbourhood disappear and you had all these open fields and very little ability to turn it around.

This is again something we will use extremely judiciously. We do not want to take properties. Our intention is to keep property in the private hands. As a matter of fact, downtown we have a development corporation that sold off almost all of the property that the City has owned to get it back into the private sector. But in cases where as a last result—we have drug houses; we have blocks where you have three or four senior citizens whose house has gone from \$75,000 to \$25,000 in value; and you have absentee recalcitrant landlords that, after notice after notice after notice, leave a boarded up building that becomes part of our arson problem that we have to send fire trucks and raise everyone else's taxes to solve that problem, at one point, your right to own property comes to an end if you cannot maintain minimal safety standards.

Again, I think you have to trust that the City Council will put in place the appropriate by-laws to ensure that process. We cannot take it in less than 18 months. There has to be a huge process around it. The property owner has for an extended period of time the chance to redeem it, to demolish and take out a building permit. There are lots of opportunities to do that.

This puts us in a context that is ahead of other Canadian cities but really is a power found

commonly in other parts of the world. We think it is going to be a very significant tool in returning to residents of older neighbourhoods that have dealt with high levels of crime abandoned properties, a very powerful tool to start to fix up those neighbourhoods. All you have to do is go to West Broadway or Spence or William Whyte to see the power of those kinds of tools.

We are unlikely going to be doing this in Lindenwoods, but something like tax increment financing is part of a city-wide housing strategy. We know people in St. Vital, we know people in Charleswood, in St. James and North Kildonan who retire and want to live in their neighbourhoods. They sometimes cannot manage a large suburban home anymore, but they do not want to leave North Kildonan or St. James. They want to stay there.

So one of the tools in which the tax increment financing has been used is not in just an older neighbourhood context but very much allows multiple family housing and allows the ability for seniors to retire for us to work with those organizations in a constructive way to provide tax rebates in the early stages of development to make the economics of seniors housing work and allow neighbourhoods to maintain intact and not ghettoize people.

I could go on because most of what has been offered here, and that is why I do not want to get too hung up in the details, is not so much about the Province prescriptively telling us what to do but the Province saying to the City, this is authority that you ought to have and we are trusting you to exercise it in a judicious way, and you can always take it back in about five seconds if we do not.

Establishing a planning commission: One of the things that we have and it is acute across the city, is right now we actually have a municipal act that tells us which committee, how many days, how many committees we have to go through. We have one of the slowest, most cumbersome development application processes in the country. It has been a burr in our saddle for a long time because developers come to us and yell at us, it is 18 months, and I go to this committee of public works, I have to get a private approach and that does not get approved,

and it is going to take six months, but my zoning gets approved over here.

We have been talking about one-stop shop here for a long time. This actually gives it to us. So we are not going out to do this in a radical fashion. We are going to do this very prudently. For example, in the downtown did you know the average development has to go through seven committees? If you wondered one of the reasons why downtown was in such tough shape, you have to go through seven different committees and for residents, it is a nightmare. Can you imagine being Sally Jones over on Edmonton and someone wants to put in a 7-11 on the corner right under her window—

**Mr. Chairperson:** Mr. Murray, two minutes.

**Mr. Glen Murray:** It is two minutes. I am sorry. Okay. I apologize. I hope you ask me some questions. I will get into these things a little bit.

She does not know which committee to go to. Is it the community committee? Is it the standing committee on planning, property and development? Is it the downtown design board? I mean, what we are trying to do is, and we now have the ability to condense those into one so residents have the ability to know, that is where I have to go, that is the night I have to go, and all of the issues that I am trying to get dealt with will be dealt with there. It allows the applicant and the developer to do that. I cannot tell you what a relief that is going to be.

We were the only City with an Ombudsman and if you have seen the reports, you would know how few we have had. We are glad to see that go. We are thankful the Province is taking that back. We are the only municipality in Manitoba, as a matter of fact, the only municipality in Canada that had that cost.

Frontage levies is something we have had. It gives us flexibility. As you know, we have some of that right now. It will allow us to do things like fix sidewalks and streets, as well as sewer and water which are things that people are demanding. People want more transparency and accountability with their taxes, and more dedicated.

I will not go into much more detail of the act unless people have questions about it, but simply suffice to say that in the second phase we are looking to actually try to move to some of the stuff that we have seen happen in Alberta and B.C. I will give you just one example. We only collect about 48 percent of the property taxes, 52 percent go to other authorities. We pay \$7.2 billion in taxes in Winnipeg every year. That is a huge amount that our citizens and our businesses pay. The City gets 6.7 percent of that. Only Toronto is worse. In Alberta, cities keep between 12 percent and higher of that. In the United States it is 15 percent to 20 percent. The average U.S. city outspends us two to one, and the federal government in the United States puts \$5 into public transit and housing for every dollar the Canadian government puts in.

The fiscal inequity of the small piece of the tax pie, when I became mayor it was 8 percent. By the time I leave office next year it will be about 6 percent. We have a shrinking footprint, and we are still the most property-taxed-dependent city in the country. By the way, I will just give you the numbers about trust and fiscal prudence. Right now we spend on the same packages of public services 32 percent less per year than Edmonton on a per capita basis; 16 percent less than Calgary.

We have about the lowest per capita spending of almost any major municipal government in the country but we still have amongst the highest property taxes. I will just give you one number. If we had the same variable mill rate, the same user fees, utility charges, gasoline tax and stuff that Calgary and Alberta have, the average property tax bill in Winnipeg would drop from—I will just make sure I get the number right—approximately, this is on the standard national test of a standard three-bedroom bungalow, would drop from about \$1,300 to about \$458—

**Mr. Chairperson:** Mr. Murray—

**Mr. Glen Murray:** I will just close by saying this, Mr. Chairman, I am going to be 15 seconds. The average tax bill right now is about \$1,300 in Winnipeg. That is the average three-bedroom bungalow with a two-car garage. If we had the same revenue base that Calgary has, the gasoline

tax and the utility fees, the average property tax bill in Winnipeg would be less than \$500. So we spend much less. Our efficiency, we are a much more efficient government than Calgary or Edmonton, but you are talking about a difference between about a \$1,300 tax bill and a \$500 tax bill.

The next phase of this, we hope all parties here at the Legislature will look at that equation because we are running out of how much more we can cut in municipal government. We actually cannot continue to compete globally as a city being basically the sole source of property tax. We hope you will take that to heart and work with us in the next year to start to solve the tax problem we face and bring us in line with other cities.

Mr. Chairman, I appreciate your patience. I hope there will be some questions.

**Mr. Chairperson:** Thank you, Mr. Mayor. At the beginning when I asked you if you had a written presentation, you are not obliged to give us a written presentation if you do not want to. I did not want you to misunderstand that.

The floor is open for questions.

\* (15:50)

**Mrs. Mitchelson:** Thanks, Your Worship, for your presentation. As always, I find your ability to articulate your pride and your vision very enlightening.

Can I ask a question? The last presenter from the condo owners talked about the part of the bill that sets ranges for portioning within certain classes, that the Province will set ranges. Right now we have one standard rate. The Province will set ranges by Order-in-Council, and the City then will be able to pass a by-law determining what the portion will be within that range. Did you ask for this as something the City wanted from the Province?

**Mr. Glen Murray:** We have been asking for flexibility to be able to do variable mill rates for a long time. We wanted what many other cities in the world have, which is full variable mill rates, because that has a huge impact on taxes,

the ability to do things like absorb business tax and to make changes to deal with density issues.

Commonly in most U.S. cities they will look at rates set on density. We cannot even have that discussion because we do not have that range of power. The Province will decide and has changed from time to time over whether there is a standard residential rate, which is what we have right now, or variable.

What is given in the act was important to us because it allows a small amount of room to do that, but it is not significant. This is not going to have a major impact on anyone's taxes. It is a variable rate. I think the people who argued for it would have argued that there are some inequities and most cities can set tax rates.

Is this a big thing we are living and dying on? No. I think what was important to us though was that it was a statement by the provincial government that, in the same way you can set income tax and corporate tax rates, the City should start to move in a direction of actually being able to set a range of taxation rates. That should not be done in the Legislature.

One of the things that, as you know, annoys the City of Winnipeg is that we have been an exporter of taxes. A lot of the property taxes raised in Winnipeg are spent outside of—we do not think property taxes should be a redistributive tax between municipalities. I think that is something else that is being recognized by the provincial legislature, that we should not be collecting property taxes from Winnipeggers and spending it somewhere else, nor should we from one municipality to another.

There are a whole lot of issues with property taxes, but we saw this as an important symbolic step of at least an implicit statement, I hope, by the provincial legislature that the City could at least have some marginal ability to set different rates. If you look at the mill rate structure right now in other provinces and in the United States you will see they violate it. Most cities who have got rid of business tax, have got rid of it by cutting part of it and absorbing it into a variable mill rate. There are some problems with that, but

right now we do not get to make any of those policy choices.

The things Council could consider if condominium owners and apartment owners said: Look, we are a higher density area and we use less land and less services. We have to provide some of our services ourselves. We should at least get, I think it is up to about 10 percent that we can get. We should at least get recognized for that with at least that kind of flexibility. At least Council would have, I think, the ability to say yes or no to that.

There is some substance here but it is quite symbolic. What we would like to see is a city government that could set its own mill rate and have the same control over its taxes that U.S. cities do and the same control over our tax rates that you have over yours.

**Mr. Gerrard:** Yes, the bill, although it is condensed, is still quite a long bill. It seems to me, although there has been some progress, there is still quite a ways to go, that this bill could probably be considerably shortened and yet give you increased flexibility and room to bring things closer into line with some of the cities in Alberta and in the United States. Is that correct?

**Mr. Glen Murray:** Yes, it is. There is actually a charter that the mayors of the 17 largest cities together have agreed on. We are asking each of the provincial legislatures to pass that charter. That would standardize the authorities and responsibilities of large urban governments, the 17 largest cities in the country. It is very flexible. It is about 20 pages long. It is basically almost constitutional language. It would read like the Manitoba Act and the legislation which created this province. It simplifies it and it really allows a range of that.

I think when Madam Mitchelson asked about that, our biggest concern is not so much variable tax rates. We so overuse property taxes. We are trying to pay for too many things with property taxes. I do not think you could find a jurisdiction in North America right now in which property taxes are used to pay so many things, education. We are basically a sole source municipal government and we are one of the last

dinosaurs in that. What we would like to see is some flexibility.

If I could just have some latitude to give you an example here: When I go to Phoenix, I get off the plane, I spend \$50 renting a car that goes to the local government. I have a hotel room tax. I take out a meal. I pay a sales tax to the city. By the time I left Phoenix I was about \$350 Canadian lighter in my pocket. When I come back here, all of those same services in Winnipeg that I paid for as a visitor are paid for by the property taxpayers as part of their fixed property taxes. I was paying for their convention centre. I was paying for the new home for the former Winnipeg Jets with some of the taxes I was paying. They gave \$750 million in sales tax incentives to build that.

We could not do that here. We just do not have that flexibility. If we did that with property taxes, we would all be run out of office and it would be till our great-great-grandchildren. We do not have any revenues attached to growth revenues and all of our taxation is derived from our residents.

One of the things we would like to see in future discussions is: How do we reduce our dependency on property taxes? How do we look at European and U.S. models, so when the City does something like build a convention centre it sees some of the revenue come back so we are rewarded. Right now we are penalized. We cannot afford to build a convention centre on property taxes, but, you know, they are tearing one down in Grand Rapids and in Minneapolis and they are expanding one on Phoenix to be four or five times the size of the one we have, because the City gets a percentage of the revenue, so it is rewarded for making smart decisions that build its hotel business and sees new hotels built.

When you only have property taxes you basically cannot raise them and they are a declining source of revenue. They have declined by about 15 percent since 1995, so we have no ability, that when we do something it is all on the cost side. We put 100 percent of the cost of developing the city on property tax owners.

I do not think you can find many cities in the world today that do that. Almost every other city

pays for things like its convention centre, its roads with gasoline taxes, its convention centres with a percentage of a sales tax-sharing arrangement. We are one of the only cities that does not do that and we consequently have not been able to make some of the investments we want to make.

This legislation, on the tax incentive side, in allowing us to call in financial tools, allowing us to do tax increment financing, is giving us the first 50 percent of that solution. That is why we are supportive of it.

The second 50 percent is obviously the more sensitive one which you do not do without significant public consent and involvement which is, how do you want to pay for these things and do you really want to start paying for those things on property taxes or we are just simply not going to do them? So we would like to have a discussion with the provincial Legislature and all parties about what do you believe, what do you want for your city? How should we do it? Should we build a new convention centre? If so, how do we pay for it?

We should be spending \$27 million more on roads a year. We cannot raise property taxes to do that so we do not fix the streets, or do we work with you to find the solutions that Americans, Europeans, Albertans and the people in British Columbia have found? We think we have the first step in that direction. We built the partnership, and I think to be fair, all members at this table deserve some credit for working towards that relationship. I think we have very good relationships with you. We think this piece of legislation though is unprecedented in the history of Manitoba in being groundbreaking in building that relationship.

We are confident in what we have seen in this document, that we now have the foundation to move on to the second. I am talking very long. I am sorry, I will just shut up now.

**Mr. Chairperson:** Okay. Yes, we are out of time, sir.

**Mr. Glen Murray:** I appreciate your patience.

**Mr. Chairperson:** Well, thank you very much for your presentation.

**Mr. Glen Murray:** I encourage you to vote for this all around. I think it is a very positive piece of legislation, and I think it is a very good foundation for the future. I think it builds on some very important things this Legislature has done over the last several years.

**Mr. Chairperson:** Thank you very much, sir.

The next presenter is Jae Eadie, Councillor, City of Winnipeg, St. James Ward.

**Floor Comment:** He is not here.

\* (16:00)

**Mr. Chairperson:** He is not here. Okay, Mr. Eadie's name will be dropped to the bottom of the list.

The next person is Julia Van De Spiegle, private citizen. Is Ms. Van De Spiegle present? Is that the correct pronunciation of your surname?

**Ms. Julia Van De Spiegle (Private Citizen):** Van De Spiegle. S-P.

**Mr. Chairperson:** Van De Spiegle.

**Ms. Van De Spiegle:** As you are getting these, there was just one little job I still had to do. On the second page, you will come to the word "h"—second page, third last paragraph. I originally had helpers but I have totally drawn from the dictionary's help list. H-a-p—I still have to put the a in.

**Mr. Chairperson:** Okay, Ms. Van De Spiegle, your brief will be circulated amongst the committee. You may begin when ready.

**Ms. Van De Spiegle:** Good afternoon members of the committee for Bill 39, The City of Winnipeg Charter Act.

Let me start by saying I am dismayed that a piece of legislation that will fundamentally change how the largest city in Manitoba, and one of the largest cities in Canada, will be turned into what seems to be like a city state, without public debate because the people at the top do not care. They do not care that three-quarters of

a million people will not have had an opportunity of at least one academic session to orient themselves with Bill 39 and then do the necessary study so that an informed response could be made to you today. In an obscure manner, the information came out June 21 that Bill 39 was tabled the previous day.

The people at the top do not care that families were in the midst of preparing for holidays with school and spring activities winding down in less than a week, that families had homecomings, gatherings of nations, tourist commitments, Murray's bash, the Indigenous Games—I am not sure if I am pronouncing that right—Folklorama, personal commitments and more on their calendars. But the same people who volunteer for the aforementioned are also the people who would want to round table during an academic period to better inform themselves about the drastic changes to The City of Winnipeg Charter Act. While better than the 12 hours received on a previous occasion, the people at the top do not care that presenters are summoned with barely 36 hours notice. This kind of selfish self-serving behaviour on the part of the Manitoba Government needs to be done away with by making the necessary changes, either in legislation, regulation or the will to do so.

I am cynical enough to believe that the proposed changes to Bill—not proposed changes to Bill 39, but the proposed changes, yes, in Bill 39, to The City of Winnipeg Act, were driven by someone who will benefit. If there are merits to Bill 39 they have not been made available to the public in a timely manner. I do know that our civic leaders to date have not always been up front and honest with the existing Charter of the City of Winnipeg. They have tried to bend rules to suit their own whims. While there are assertions that a new Charter will make our civic leaders more accountable, I have not seen the text of the proposed legislation, so I do not know that the new provisions are adequate.

Citizens of Winnipeg will not be on a level playing field with the rest of Manitoba because we will now be thrust into a category, much in the same way as Aboriginal people have split services guaranteed by the federal government but mostly delivered by the provincial

government. No one knows if they are coming or going and therefore fall through the cracks. Falling through the cracks is the biggest excuse for denying citizens what is rightfully theirs. In addition to the zillion buck-passing calls a person makes to get information on any government service or obligation, there will now be two zillion. Before getting an answer or proper service, the person will die, falling through the cracks.

If the City, through this act, operates in the 14 published broad areas: public convenience; health; safety and well-being; activities in public places; streets; activities of businesses; buildings; equipment and materials; floodway and flood-fringe areas; waterways and water waste; public transportation; ambulance services; fire protection and police; I understand special constables, as was published on page 14 of the *Free Press* June 22, 2002, edition, and the City also has, or this charter is going to give them new freedom to tax for whatever fixes the fancy of the mayor or City Council, then it is imperative that our provincial taxes be significantly modified. As mentioned in the previous paragraph, what will more than likely happen is that we will be taxed for the same services from both jurisdictions but there will be lots of buck passing.

Council should not have the power to expand the size of themselves, direct tax revenue in a willy-nilly fashion, seize properties or enter properties without a court order, monkey around in any way they wish with property assessments or taxes, which are things that certainly need a lot more consideration and due diligence. Under the proposed changes I do not know if due diligence is going to be exercised by our City Council.

The City compounds its problems by having expensive long-term futuristic planning documents as in *Plan Winnipeg* and then on impulse contravenes the provisions of *Plan Winnipeg* and ends up with uncontrolled developments such as the recent big-box-explosion type buildings. We all have heard of the traffic problems they are having over in the St. James area where the big boxes are. How do we fix that? How do we fix that? Well, if there had been proper development and plans to begin with, we would not be asking now five and six years later how do we fix that.

Then building projects crammed into areas too small for them, and in some cases the developers or owners beg to assimilate into their projects our traffic routes from the surrounding streets. They take a valuable public route that belongs to us citizens and then they suddenly want to turn it into an extension of a project. The first we saw of that was the convention centre. I have never really been able to live with that. It was there for 25 years, now we are seeing more and more of it.

City Council has failed in its mandate to provide the policies, or if they do, to stick to them, to see that the public areas are protected, that development is appropriate. Now they want more powers to reduce the red tape in development applications? They have messed up what they are doing with their stuff now. How much worse will it get?

This type of mandate, not properly exercised, opens the door even wider for developers such as True North, who have completely buffaloeed. According to *Living Encyclopedia Dictionary of the English Language*, buffaloeed means "to render completely hapless as by sudden and disconcerting action." I will tell you, over the past 15 months we have seen a lot of hapless and disconcerting action, and this from a seemingly artless City Council.

The provincial government is an accomplice to this type of undesirable growth because of lack of policy development just beyond the city, if developers choose not to adhere to policies or by-laws of the City of Winnipeg. There is a fine line of balance between the aspirations of developers and what is realistic that our City and Province have missed, not in all but certainly some, crucial development.

I urge you to delay further readings and implementation of Bill 39 until scholars, interested parties and the public have had appropriate opportunity to look more closely at the provisions, along with public debate and input, and a chance to forward recommendations for improvement or amendments to the proposed act that are more palatable to the citizens of Winnipeg.

\* (16:10)

**Mr. Chairperson:** Thank you, Ms. Van De Spiegle. Questions from the committee?

**Mrs. Mitchelson:** Thanks very much, Ms. Van De Spiegle, for your presentation. It certainly looks like you have been following and have a good understanding of where some of the problems have been in the City of Winnipeg. I, too, tend to agree that, in the hot months of the summer, a piece of legislation as significant as this should not be introduced and expected to be passed before the end of a session without due diligence.

I just wanted to indicate, as the critic responsible for urban relations, that I e-mailed out to a great number of individuals and organizations throughout the city and the province, information on the new legislation. Many of the responses I got back did indicate that very often organizations do not meet formally during the summer months, it is a time when they take a bit of a hiatus or a break. They were struggling in getting their members together to try to deal with a bill and a piece of legislation that, I admit, has come a long way and there are certainly a lot of good things in changes. There was a need for the act to be rewritten so we do applaud the initiative.

I think it is the timing and the lack of opportunity for Winnipeggers and Manitobans to have meaningful input. I suppose what we will have to do is live with the legislation and there may have to be amendments made. But it is unfortunate that it was left until so late in the year.

**Floor Comment:** There is no need for this legislation to begin with.

**Mr. Chairperson:** Ms. Van De Spiegle, I have to recognize you in order for your comments to be recorded. Mrs. Mitchelson, were you finished?

**Mrs. Mitchelson:** Anyway, I just wanted, with those comments, I think you have made it fairly clear that you would like to see this legislation delayed until Winnipeggers specifically, and Manitobans have a chance to look it over and provide some meaningful input.

**Ms. Van De Spiegle:** Thank you, Mrs. Mitchelson. I am glad that she recognizes the fact that summertime is not an appropriate time for people to meet and round table on this kind of legislation. Thank you very much.

**Ms. Friesen:** I wanted to thank you for your presentation, and you did say in the presentation that you had not yet seen a copy of the bill. I just wanted to let you know there is a copy here. Although it is still very large and we would certainly still like to reduce it, I did want to draw your attention to the first couple of pages of the bill which do indicate—it is an explanatory note, and what it tries to do is to put into plain language—we have done our best to work with plain language in the bill itself. It is not always as easy as it sounds, but we have tried that, to make it more accessible to citizens so that the kind of discussion that you are looking for could take place.

But with each bill, what we have done as a new Government is we have put explanatory notes at the beginning which indicate the direction of the bill and which are done in plain language.

So I have a copy of the bill here for you, and any further copies that you need are available from the Journals office which is just across the hallway from us, and that is always the case in any legislative session or for any bills that are before the House.

I also wanted to draw your attention to two elements. The bill, if it is passed, and I do not want to presume that, does not come into force immediately. It comes into force next year in January. Even then, what it will require is a great deal of work on the part of the City Council, because a great deal of what has to happen next is that the City Council will have to prepare by-laws in many areas to enable it to act in the areas that we have given it the powers to act in.

In so doing, of course, every by-law must go through City Council and must have public discussion. It must go to a committee and is available for presentation, just as this committee is, this parallel process at the City.

So at the local level where local discussions can take place, perhaps in larger groups than

this, sometimes in smaller groups than this, there will be the continued opportunity for public presentation and public input as the City moves to make clearer and to tailor its own procedures to the desires of citizens.

Thirdly, I did want to draw to your attention that this bill does not include any new revenue sources for the City. It is certainly something that the City has from time to time talked about, but this particular bill does not do that. There are no new revenue sources. There are no new taxes. It does have a section on portioning which enables or proposes to enable the City to vary portioning, but it does not include any new taxes.

So, I will leave with that, and perhaps Minister Smith could pass you the copy of the bill.

**Ms. Van De Spiegle:** Thank you very much, minister, for that information. It is very helpful.

**Mr. Chairperson:** Any further questions? We thank you for your presentation.

The next person I will call to the mike is Nick Ternette, private citizen. Mr. Ternette, do you have a written copy of your presentation? The Clerk will take it from you and you may begin whenever you are ready.

**Mr. Nick Ternette (Private Citizen):** Just as a preamble, Mr. Chairperson, for those who may want to know for so-called citizen participation and input, this report, by the way, costs an individual citizen \$38 to acquire. So, quite bluntly, I wonder how many average citizens of Winnipeg are able to even get a copy of this particular report to be able to make any studies. That is just a preamble. I would suggest that if you want citizen participation, you do not charge \$38 for government reports.

Mr. Chairperson, while the *Winnipeg Free Press* and the *Real Estate News* have considered Bill 39, the revamping of The City of Winnipeg Act, as supposedly the first substantive change to the act since 1971, when provincial legislation created Unicity, I tend to beg to differ on this.

The George Cuff report which led to the revamping of The City of Winnipeg Act approx-

imately six years ago by fundamentally changing the political structure of City Hall and by giving more power to the mayor was I think equally as important as Bill 39 is going to be in my own interpretation. It seems to me and the minister just confirmed that, that the Province is planning to fundamentally alter the act in two phases. One being an immediate consolidation of The City of Winnipeg Act and the second phase being the introduction of broader powers for the City that will give the City of Winnipeg significant new powers, greater autonomy and financial flexibility.

Again, I would hope that, as the changes to The City of Winnipeg Act are enacted, there will be a consultation process where the citizens of Winnipeg will be consulted about what changes they would like to see happen. I appreciate the minister's comments that the City will have all these various by-laws coming forward where the citizens will have some input. I do not think that is the process to go through. The best process I have ever seen happen in terms of citizens' input, in terms of changing The City of Winnipeg Act, was the Cherniack commission report that was established in 1986 when it was requested to have a complete review of The City of Winnipeg Act.

As this is a review of The City of Winnipeg Act and it is major fundamental changes in The City of Winnipeg Act, I think a commission established by the Government and holding public hearings throughout the communities in various neighbourhoods, as the Cherniack report did, where hundreds of people made submissions to the kinds of changes that they wanted to see in the City of Winnipeg Charter was the most effective way.

If the City is going to carry on by by-laws, you will have two or three citizens coming out to each of the by-laws because they hold meetings during the day when most citizens are not available to make presentations and they do not publicize and promote it, and, quite bluntly, there is no such things as citizens' participation at City Hall these days. I would urge you, if you are going to follow a process of public consultation, that you try to structure it differently.

**Mr. Chairperson:** Order. Forgive me for interrupting but the other committee room is looking

for Mr. Dave Angus, right now. So, if he is in the room, I suggest that he go to the next room. Sorry for the interruption. Please continue.

\* (16:20)

**Mr. Ternette:** Bill 39, on the one hand, if you read the *Winnipeg Free Press* editorial, "A longer leash," it is extremely timid in its attempt to make city councils more accountable to the Winnipeg public. But, on the other hand, it is a significant improvement in recognizing the changing nature of the relationship between the Province and the City and, hopefully, with the federal government, also, because the federal government is starting to talk about changes too.

Rather than relying solely on already high property taxes for the City's operations, as you know, mayors across Canada have been calling for tax sharing plans with the provinces for the last couple of years, including but not limited to consumption taxes such as a tax on gasoline. In fact, as we all know, cities are artificial creations of the provinces. There is nothing in the Constitution allowing cities to exist independent of the province. Governance is exclusively under the control of the Province; and, therefore, any legislation that provides the City with more autonomy, broader powers and greater financial flexibility ought to be welcomed.

As Jack Layton, former president of the Canadian Federation of Municipalities and now, as you know, going to be a candidate for the federal NDP, has indicated there is a strong need for the recognition of cities within the Canadian Constitution. Cities need to be viewed as independent, organic entities. That is, a city state as a counterbalance to the transnational, new world order. I would like to have seen something in the legislation stating that this Government takes a position that the City should be enshrined within the Canadian Constitution. Asking the federal government that cities ought to be enshrined as part of the Canadian Constitution and recognized as independent entities would be a very useful step to take as part of this legislation.

If you read, and I am sure the mayor has quoted very often, Jane Jacob's books, *The Death and Life of Great American Cities* in 1961, *The Economy of Cities* in 1969 and *The Wealth of Nations* in 1984, she has suggested

that cities are made up of people and social relationships, not bricks and mortar; that cities are generators, not merely recipients of economic activity, that cities not nations are our fundamental economic units. Thus we can argue that the city is the arena in which people can reclaim active citizenship and exert their own power in functional economics and in the political, social and economic spheres.

As provinces slough off fiscal responsibilities offloading onto the cities, cities will require state-like authority, that is, the ability to create its own form of taxation and revenue sharing for cities in the 21st century will be the primary geopolitical and economic units of our post-modern lives. I will get back to that in the end of my presentation.

Unfortunately, Bill 39 does very little, if anything, to ensure that the mayor and councillors are more accountable to the public. Since the approval of the Cuff report, the mayor and Executive Policy Committee have more power. So what have they accomplished? They fired an ombudsman, and I know the Provincial Ombudsman is now going to take over the responsibilities; however they fired the ombudsman. They approved increases in office expenditures, rammed through a downtown arena deal, and sold Winnipeg Hydro with little or no public input. What I am stressing here is it is not the decisions, they have the right to make those decisions. The question is how do they make these decisions with no public input?

There is little in Bill 39 to expand democracy, and I think that is my major concern of it, diminished as it is presently with the fact that at present Executive Policy Committee meets secretly every week to hash out behind closed doors what they will or will not support in public. The agenda items are determined by the EPC Secretariat headed up by Ernie Gilroy who is not elected nor accountable to anybody except the Mayor, because what we have at City Hall at the present time, and this bill does not address it, is Cabinet-style government. Seven people dominate all the agendas. The rest of the councillors are not part of it.

Cabinet-style government, operating at a city hall where there is no party politics.

Cabinet-style government, as at the provincial level where you have political parties that are elected on political accountability and on their platform perfectly validly lead cabinet-style government. You cannot have Cabinet-style government at City Hall where you have 15 people elected on their own individual platforms because there are no political parties at City Hall level. It has never been able to be established to the degree that you have a slate running that clearly shows what they stand for. So therefore what you have created is a dictatorship, a little dictatorship at City Hall, and unfortunately this bill does not even touch the problems of what is going on.

However, I do support Bill 39 in its attempt to give Council more control insofar as Council may increase its size. The legislation says that if there is need for more representation, you ought to be able to do that. There is a great deal of need for representation of inner-city neighbourhoods at City Council because suburbia dominates the inner-city law.

The problem is that we have put the cart before the horse because we just had the Ward Boundaries Commission hearings and every citizen that appeared at the Ward Boundaries Commission hearings argued that we needed more representation when the ward changes occurred, that we need minimally 16 to 18 instead of 15 seats. You know what we heard? We have not got the authority, we can only agree on the size and the shapes based on population within the wards, but we cannot increase the size of wards because we do not have the legislative authority.

Now in this legislation, after the wards have been changed, now you are saying the City can decide to increase the wards. I mean, why could we not have waited for the Ward Boundaries Commission after this legislation would have been passed? Then we could have had the Ward Boundaries Commission recommending, which I think they would have if they had the authority, that we will increase the size of wards. Everybody knows we need more wards to serve the people of Winnipeg, especially the inner city which is not well served at the present time by City Council.

I do support the notion that if there are in some cases bigger issues, that more than 50

percent might be required to pass certain matters, and I very strongly support, of course, the Council being able to appoint citizen members to various boards which they are not able to do. However, again, it would have been more helpful if this Bill 39 would also talk about electoral reforms in terms of potential, like term limits on City councillors, because we have councillors there at City Hall that have been there for 30 years or so; binding referendums on major issues; and all money by laws where the public could vote on major expenditures. That could have been incorporated as part of what I call electoral reforms.

While Bill 39 does allow distribution of property taxes, and I am supportive of it, between classes of ratepayers, it does not address, as you yourself have said, the issue of financing cities through property taxes. For all of us recognize, and if you talk to American cities and if you talk to European cities, property taxes is one of the most regressive forms of taxation that there is in this country.

While I understand that in this legislation, the Province seems to be prepared to recognize the changing nature of its relationship with the City of Winnipeg, it does not at present recognize the changing nature of its relationship with the City of Winnipeg, it does not at present recognize the fact that cities need to finance themselves in other ways than just through property taxes.

In several cities in Europe, if you travel through Finland and certain German cities and whatever else, the legislation allows cities to finance themselves through income tax. That is they get a certain form of their income tax assigned for city services. That is the fairest way of taxing people because income tax is based on if you make more money you pay more taxes. Property taxes, you have senior citizens and fixed-income people, all of them have to pay the same amount of property taxes or more if the value of their homes goes up, regardless of what their actual income is. Everybody knows we cannot continue to finance cities through property taxes.

We need certain other forms of taxes. I am not talking about user fees, because that is the

other side of the coin. The American cities, our mayor eloquently exemplified Phoenix and Indianapolis where user fees are the big thing, but the point is a hotel tax and a tax on gasoline, which is more of a friendly user fee tax in terms of encouraging people not to use cars or whatever else is a different form of taxation that could also be able to be given to the City to be more flexible.

The ultimate solution, I believe—this is my personal belief but it is also based on some facts and some study—that income tax is the way to finance cities in the future. That way the City will be able to raise additional revenues. That does not mean they cut all property taxes off. That is not what we are talking about. We are saying income tax has become a way of alleviating that significant 50 or 48 to 49 percent which is now being financed, all city services are being financed. If you can cut that down to 20 or 25 percent based on property taxes and 20, 25 percent based on income tax, you are going to have a much fairer system.

I think that would cut property taxes in the long term, which is what everybody wants, and increase services. We would then be able to live in what I call a healthy city, a healthy economically sustainable city. That is one of the things I push in my own personal ecological belief is that we need to have a city that is a healthy city, that is a sustainable city, that we do not continue to allow ourselves to be financed by one level, property taxes, and that we need to look at other forms of sharing that makes it a viable city. Then everybody can participate.

In conclusion, I support elements of this bill which relate to a fundamental understanding that there has to be a new relationship between cities and the province in terms of the future. I would hope that reforms—

**Mr. Chairperson:** Two minutes, Mr. Ternette.

**Mr. Ternette:** Sorry. If I could just finish. A citizen participation will be more apparent, more transparent than what has been indicated to me in terms of how we achieve those changes. Hopefully democracy, which is the real issue I wanted to address in my major presentation here, is maintained because we are losing democracy

at City Hall presently. Thank you very, very much.

**Mr. Chairperson:** Thank you for your presentation, sir. Are there questions from members of the committee?

\* (16:30)

**Mr. Jack Reimer (Southdale):** I was just going to point out to the presenter—I thank you very much for your presentation—the name Nick Ternette is known in Winnipeg for various areas of concern and expression of opinion. I only mention that in regard to the bill you referred to and the fact that you had to pay for it, I guess if you had come to us we would have given it to you for free.

**Mr. Ternette:** Mr. Chairperson, all I wanted to relate it to is that Julia Van De Spiegle did not have a copy. I am thankful you gave her a copy, but I am saying if an average citizen goes.

I complained about this over five years ago of other legislation, that the costs of these things are increasing. If you want public participation, public input, out of all the committee members here making presentations there are only four private citizens. The rest represent specific interest groups, which perfectly validly pay a lot of attention and spend their time observing.

I am one of the few who observe City Hall because that is my personal interest, but there are only three other private citizens who are making presentations. I do not consider that to be a very good representation of citizen participation.

**Ms. Friesen:** Thank you for the correction on the bill. The Clerk had already drawn my attention to it, and I was out of date. It used to be the case; it is no longer. Bills are now all available on the Web, although I recognize there are limitations to people's access to that as well. They are available through MLAs as well.

**Mr. Ternette:** I appreciate that.

**Ms. Friesen:** It is still a pretty heavy piece.

I thank you for your presentation. I did want to draw your attention to the issue of property

tax and other taxes. It perhaps is not widely known, although I am sure you may well be aware of it, that all communities in Manitoba do share in income tax and in business tax. There is an act in Manitoba. It is, I understand, unique to Manitoba. It is called PMTS, Provincial Municipal Tax Sharing agreement. Every community in Manitoba, including the City of Winnipeg, gets a portion, albeit a very small proportion, of income tax and business tax.

What it does do, actually, for the City of Winnipeg it is substantial. It is in the region of over \$40 million a year, which is substantial for any community, even one the size of Winnipeg. It is one that has been there for a long time. Other provinces actually are interested in it for some of the same reasons that we are looking at this kind of act, but it is a growing pot of revenue, normally, and it does enable the communities to have a share in that.

**Mr. Ternette:** Yes, I am somewhat aware of that and, yes, I do appreciate the fact.

I am trying to lay out a philosophical overall direction to recognition. If you talk to politicians, even the federal government, Mr. Martin has indicated he is prepared to look at the whole notion of cities being financed, giving more money from the federal government. It is the first time in about 20 years that, all of a sudden, municipalities in urban cities are becoming the topic of conversation. That does not mean it is going to happen and I am not taking his word for it, but there is a debate and a discussion now in terms of how we look at financing municipalities.

I think every politician—it does not matter what their political stripe, left, right, centre—at the municipal level is going to argue with you, is going to say to you, property tax is a regressive form of taxation and we have to be able to rely less on property taxes and have more revenue diversification. That is an argument you will not hear anybody dispute, as far as I am concerned.

**Mr. Chairperson:** Further questions? Seeing none, I thank you for your presentation, sir.

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

**Mr. Chairperson:** Next on the list is Mr. David Sanders of Colliers Pratt McGarry. Mr. Sanders,

do you have a written copy of your presentation? Thank you, you may begin when you are ready.

**Mr. David Sanders (Colliers Pratt McGarry):** Mr. Chairperson, honourable ministers, members of the committee, my presentation today is based on more than seven years of experience in conducting property and business assessment appeals on behalf of commercial, institutional and even government taxpayers in Manitoba. I am director of Real Estate Advisory Services for Colliers Pratt McGarry, which is one of Winnipeg's largest commercial real estate firms. Our tax consulting group handles about 1000 appeals every year and I appear before the Board of Revision or the Municipal Board almost every day.

I am appearing today for the specific and limited purpose of seeking an amendment to section 316(1) of Bill 39, which will otherwise enable the City of Winnipeg to maintain business assessments which are grossly unfair, now and in the future. Since the City presently requires the 12 500 businesses in Winnipeg to pay business taxes amounting to some \$60 million annually, I trust you will agree this is an important matter.

I am asking the minister and this committee to make the following amendment to the bill. This is in Part 8, Assessment, Taxation and Other Levies on Property, Division 1, Assessment, the heading is Business assessment, and I would ask that you amend subsection 316(1).

It presently reads:

**"Municipal Assessment Act applies**

**316(1)** The provisions of The Municipal Assessment Act, except those in section 3 and subsections 17(15) and (16) of that Act, apply to business assessment in the city."

I would ask that you amend it by removing the words "and subsections 17(15) and (16)" to read as follows: "The provisions of The Municipal Assessment Act, except those in section 3 of that act, apply to business assessment in the city." A small change but a very significant one.

For your information, these two subsections, 17(15) and (16) of The Municipal Assessment

Act currently do apply to business assessment in the city of Winnipeg and they do provide as follows, in the case of section of 17(15): "An assessor shall make business assessments on the basis of an annual rental value in the reference year."

Secondly, 17(16) states that: "In determining an annual rental value for the purposes of a business assessment, an assessor shall determine the annual rental value by such method or in such manner that the annual rental value determined by the assessor is fair and just in relation to annual rental values assigned to other assessable property."

I am enclosing copies of my correspondence with the City earlier this year in which I sought an explanation of the method which has been used by the business assessors to produce the new 2002 business assessment roll in Winnipeg, and now that I have read Bill 39, I cannot understand why back in May the City had already deleted reference to subsections 17(15) and (16) in its published summary of applicable legislation governing business assessment.

I do not know what reasons the City may have given to the provincial government to justify the deletion of the application of these two subsections 17(15) and (16) to business assessment in Winnipeg; however, I can tell you what the real reason is. The City Assessor has completely failed to discharge his statutory duty under the present law to produce a new business assessment roll for 2002 to 2005 based on market net rents in the new 1999 reference year.

It is apparent that the City Assessor failed to make proper arrangements to prepare a new 2002 business assessment roll based on 1999 values because the City thought that business assessment and taxes might be eliminated. When it became obvious that a new 2002 business assessment would be required this spring after all, the City Assessor then found that the new '99 market net rents used to produce the 2002 realty assessments last year simply could not be downloaded into the business assessment computer program.

In the end, as confirmed in the attached correspondence and by the business assessor at

Board of Revision hearings, the City Assessor produced a new 2002 business assessment roll in Winnipeg by simply increasing the old assessments based on the previous 1995 market net rents by an amount equal to 4 percent of the old net rent plus an adjustment of 20 cents per square foot for heating costs.

As the result, the new 2002 business assessments have not been prepared on the basis of an annual rental value in the reference year, which is now 1999 and which is required by subsection 17(15) of The Municipal Assessment Act. Furthermore, the City Assessor has not determined the new 2002 annual rental values, quote: by such method or in such manner that the annual rental value determined by the assessor is fair and just in relation to annual rental values assigned to other assessable property, as is required by section 17(16).

It may be that the new 2002 business assessments may bear a somewhat fair relationship to each other in terms of the old 1995 market net rents, but maintaining that seven-year-old relationship now is hardly fair, and continuing it through to the end of our present archaic four-year assessment cycle in 2005, which is a full 10 years later, will be outrageously unfair, and the unfairness of the new 2002, 2005 business assessment roll has been compounded by the City Assessor's attempts to cover up his failure.

\* (16:40)

The City Assessor's brochure sent out to all businesses with their new 2002 business tax bills—and I have a copy attached—stated that business assessments had been updated to reflect 1999 market rental values as specified in the legislation. So when business taxpayers compared their new assessments with the generally higher rents they were paying in 1999, most concluded that they were under-assessed and did not appeal.

The truth is that many may, in fact, be over-assessed relative to the 1995 values which have actually been used to create the roll. Therefore the relatively small number of business assessment appeals filed this year is no tribute to the fairness and accuracy of the new 2002

assessments. It is simply a consequence of producing assessments which are perceived by taxpayers to be under-assessed relative to the published but now clearly an incorrect statement of how the new assessments were determined.

Furthermore, notwithstanding their admission that the new assessments are based on the old 1995 rental values, the business assessors have been directed to defend business assessments in appeal using evidence of 1999 market net rents, and based on decisions this summer, it appears the Board of Revision is generally upholding assessments based on evidence of '99 market net rents for premises since that is what the present legislation indicates should have been used.

Unless and until something is done about this inexcusable situation, we intend to argue on behalf of our clients that a fair and equitable 2002 Winnipeg business assessment should be based on '95, not 1999, market net rents for their premises in order that they may bear a fair share of the total business taxes required by the City of Winnipeg. To do so, we have to rely particularly on subsection 17(16) of The Municipal Assessment Act.

You all may think that the present subsection 177(3) of The City of Winnipeg Act, which is preserved in Bill 39 before you as subsection 318(3) would ensure that the business assessment of an individual taxpayer must be fair and just in relation to other business assessments.

It does not.

When these matters were argued at the Court of Appeal, reference was made to the specific wording of subsection 177(3), now preserved as 318(3), which requires the City Assessor to fix that rental value in any reasonable manner "that is fair and just to all other owners or occupants of premises." As Mr. Justice Kroft pointed out, if a particular taxpayer's assessment is too high, how can it be said that it is unfair or unjust to all other taxpayers? Because they all benefit in that circumstance.

So the wording of subsection 17(16) of The Municipal Assessment Act which is distinctly

different, requires that the annual rental value determined by the assessor be fair and just in relation to annual rental values assigned to other assessable property.

Subsection 17(16) is the only legislation which clearly prevents the City Assessor from overassessing a particular taxpayer with impunity or a class of taxpayers such as the retail tenants of regional shopping centres who are now the only businesses to have a portion of their operating costs included in the annual rental values on top of their net rents and standard occupancy costs.

Counsel for the City of Winnipeg is acutely aware of the Court's distinction between these provisions, and undoubtedly that is why the City has requested the deletion of subsection 17(16) in order to help preserve the otherwise unfair and indefensible 2002 roll.

It would be bad enough if Bill 39 contained amendments simply to validate the 2002-2005 business assessment role despite the City Assessor's failure to prepare it in accordance with the present legislation.

However, if subsection 316(1) of Bill 39 is not amended as I am requesting, then the City Assessor will never again have to prepare a business roll which is equitable in relation to the economic conditions of a particular reference year, as required specifically and only by subsection 17(15) of The Municipal Assessment Act.

And if 316(1) of Bill 39 is not amended as I am requesting, the City Assessor will indeed be free to overassess individual business taxpayers and classes of taxpayers in an arbitrary and discriminatory manner, because those taxpayers no longer have any legal authority to demand that their assessments be fair to them, as required specifically and only by subsection 17(16) of The Municipal Assessment Act.

I cannot believe that the Provincial Government or this Legislature would intentionally approve legislation which has such an effect, and therefore I trust that subsection 316(1) of Bill 39 will be amended as I am requesting, to keep the City of Winnipeg in line

with the law which ensures the fairness of business assessments in the rest of Manitoba.

I point out here, if and only if, the Legislature chooses not to make the above amendment as I am requesting, then I would ask that you at least amend the transitional clause 519 to ensure that all business assessment appeals commenced before the end of 2002 are at least dealt with in the same fashion under the former act. I provided a draft of subsection 519(10) which I would suggest adding in that case in order to ensure fairness in treatment of all business taxpayers in the city of Winnipeg with respect to their 2002 roll.

I am pleased—turning to page 7—that I have an opportunity on the positive side to place two other matters on the record here today.

First, I would like to thank the Minister and especially the acting Provincial Municipal Assessor, Mark Boreskie, for whatever they did to intervene and dissuade the City Assessor from attempting to request a large increase in the 2002 realty assessment of a Winnipeg property in appeal at the Municipal Board, using the new power given to the assessors on appeals commenced after January 1, 2002. The prompt Provincial intervention avoided the necessity of arguing the legality of the City's request at the Municipal Board and at the Court of Appeal, for that property and many others still to come. On behalf of all those who would have been affected, I do want to thank you.

Although further to the presentation I made last year in opposition to the granting of that new power to the assessors, I cannot resist pointing out that in the case in question, the City Assessor's purpose must surely have been to intimidate the taxpayer into withdrawing his 2002 appeal. Otherwise, how do you explain the fact that subsequently the City Assessor failed to file an appeal seeking an increase in the 2003 assessment of that property, as he has always been able to do?

Secondly, I would like to express my strong support for the change which is effected by subsection 341(3) of Bill 39 before you, which will bring the City of Winnipeg into line with the rest of the province with respect to the ability of

the municipality to impose supplementary taxes retroactively. The present City of Winnipeg Act allows the City to impose supplementary taxes retroactively for up to two taxation years prior to the year in which the revised tax bill is issued, while the similar provision in The Municipal Act goes back only one year. Before a recent court decision on the matter, city business assessors had actually issued business tax bills retroactive for as much as three years prior to the current year.

In conclusion, I would like to say that there is much, there is a great deal that is fair and efficient about Manitoba's assessment legislation, and we should be proud of much of it, and there are a few things which are terribly wrong. I do hope that consideration will be given to fixing certain serious problems with The Municipal Assessment Act, and particularly its interpretation in the very near future. Thank you very much. I would be happy to answer any questions the committee may have.

**Mr. Chairperson:** Thank you, Mr. Sanders, for your presentation. Questions from the committee.

**Mr. Gerrard:** You have provided a lot of detail and input, and in your last sentence you urge us to fix those things which are terribly wrong. In many circumstances you have provided some amendments that would do that. It would be my estimate that this committee should be able to look at amendments, although there seems to be a bit of a rush in the last day or so of the session.

Your assessment would be that most of those amendments could be looked at in this setting. We do not need to wait for next year to reconsider many of these issues.

**Mr. Sanders:** Mr. Gerrard, you may recall that last year I made a presentation in committee, in fact, I have copies here.

**Mr. Chairperson:** Mr. Sanders, sorry, I need to recognize you.

**Mr. Sanders:** I apologize. In response to Mr. Gerrard's question, I did make a presentation at committee last year and did, among other things, suggest a number of areas requiring correction,

the right of tenants to appeal realty assessment which they are now, by interpretation, prevented from doing.

There are serious problems with the operation of section 13(1) of The Municipal Assessment Act where, while the assessor may correct things retroactively, presently up to two years, the interpretation given to that section and not changed by the courts is effectively to nullify the ability of taxpayers to successfully request adjustments in their assessment through our four-year cycle on the basis of certain significant events that can occur during the time period. There is a serious consequence for all sorts of taxpayers, not the least of which is some 200 residents of the North End of Winnipeg on whose behalf I have arguing their case at the Municipal Board.

\* (16:50)

I have not suggested the changes under The City of Winnipeg Act at this hearing, which is all this before the committee, although there are consequential amendments to The Municipal Assessment Act. One thing which is preserved in this section is the matter of 20 days' notice being given to taxpayers. The 20 days is certainly too short, and there are countless, well, they are countable—taxpayers who lose their right of appeal because by the time they receive notices and understand what they are involved in, they have lost their right of appeal.

There are serious problems with respect to the legislation which addresses previous difficulties of the assessor in obtaining information from commercial clients, but the particular legislative solutions do not address the real problems and instead are causing a lot of havoc to the disadvantage of taxpayers in their fair assessment. I do not believe I should go into them here, because The City of Winnipeg Act, Bill 39, is not the proper place to change them. Far better to change The Municipal Assessment Act and, if necessary, to make consequential changes to The City of Winnipeg Act, hopefully next spring.

I will say that the amendment I supported today about bringing the City of Winnipeg into line with respect to retroactive tax adjustments, I requested that I guess two, three years ago and I see it here today. Perhaps what I requested last

year, I will see next year. The system does work, eventually.

**Mr. Chairperson:** Any further questions?

**Ms. Friesen:** I want to thank you for your presentation. You have proposed some very specific amendments, and what I have said to other presenters who have made specific amendments is that we will look at them and see what is possible before we move into clause-by-clause consideration.

But obviously, this is something for broader discussion, and it is not something that I am promising. It is just something that we will look at in each case.

**Mr. Sanders:** Thank you, Madam Minister. I will say that I have gone to considerable pains to review Bill 39, the existing City of Winnipeg Act and The Municipal Assessment Act to detect whether or not there were significant changes included within this bill that may not have been drawn to the attention of the Legislature or the minister, for that matter, and I am satisfied that at least there are no significant changes resulting from this redraft at least as they will affect the practice of assessing and appealing assessments in Winnipeg with the exception of the one that I have asked you to change and the one that I have endorsed.

**Mr. Chairperson:** Any further questions? Thank you for your presentation, Mr. Sanders.

**Mr. Sanders:** Thank you.

**Mr. Chairperson:** Before I call the next speaker to the microphone, I have a matter of committee business here. There is another committee that is meeting in this room at 6:30 this evening, so I need advice as to when we are going to recess this committee.

Looking at the list, I think we probably will be coming back this evening, so are there any suggestions in that regard?

**Mrs. Mitchelson:** I am not sure. I see there are still a significant number of presenters to go. Do

we have any idea whether they will all be here or are here to make presentation?

If there is another committee coming in at 6:30, might I recommend that we sit at least till 6:30 and hear as many presenters as we possibly can. It seems a shame that people have been called, have been told that they are going to be heard.

**Ms. Friesen:** Just to clarify, there will be another committee coming into this room, but this committee will be reconvening at 6:30 in another room, is my understanding. Is that the member's understanding too? Is it the Chair's understanding?

**Mr. Chairperson:** No. It is my understanding that we will be reconvening in the other committee room, but there are two committees called for that room after 6:30. We expect that their business will wrap up fairly quickly, at which point this committee will reconvene in that room at approximately 7:30, eight o'clock.

So we do have to vacate this room at 6:30, no later than that. The Clerk does need some time to get organized for the committee that will be coming in, which is why we are kind of hoping that we can recess this committee at roughly 6 p.m. That is the advice that I have been given, and I am seeking the advice of the committee in that respect.

**Mrs. Mitchelson:** I think let us just move along as quickly as we can. See how many presenters we can hear, and if we have to give leave to go a little beyond six o'clock to finish up a presentation or accommodate someone, maybe we could do it at that time.

**Mr. Chairperson:** Is that agreeable to the committee? [*Agreed*]

\* \* \*

**Mr. Chairperson:** I will call on Mr. Dave Angus of the Winnipeg Chamber of Commerce. Mr. Angus, do you have a written copy of your presentation?

**Mr. Dave Angus (Winnipeg Chamber of Commerce):** Absolutely.

**Mr. Chairperson:** Okay. The Clerk will distribute that and you may begin when you are ready.

**Mr. Angus:** Thank you very much, Mr. Chairman. Ministers, MLAs, ladies and gentlemen, if I look a little frazzled it is only because I am supposed to be in the other room making a presentation on a labour bill. My public affairs manager and I flipped a coin and apparently you lost, because I am here.

It is a pleasure to be here and we want to thank you for the opportunity to respond to this particular bill. Winnipeg Chamber represents over 1400 companies in Winnipeg, 2600 individual representatives representing a combined workforce of greater than 60 000 employees. You may ask yourselves why the Chamber is interested in this act. I asked myself the same thing as I read through the 250-some-odd pages. The reality is that how a city is defined really defines their ability to be creative and to change the way they do things in the new realities that they find themselves in.

We are in new realities. I think we need to recognize that, that we need legislation that would allow the City to respond to its citizens' needs, to respond to its business community's needs and to really in a democratic way represent the people of Winnipeg, so we are pleased to provide our input into Bill 39, The City of Winnipeg Charter Act.

The Chamber actually has been an active partner with the City. We have been involved in the C5 discussions. We have been to Vancouver, been to Montreal, talking about the future of cities in Canada, looking at some of the common challenges that centres across the country face. One of the challenges consistent across the country is the provincial legislation that they find themselves under. In every province they are really looking at this issue as it relates to the major centres to see what kinds of flexibilities can be garnered. We have been part of this process.

Certainly more and more we compete globally as a region with other regions around the world. The governance structure that the City of Winnipeg operates in must be one that allows

us to compete with those other centres. In many ways our governance structure and the environment our cities are placed in compete against other environments. We need to make sure we are assessing how we are placing our city government in relation to those centres we compete against.

The focus on metropolitan centres began in the U.S. many years ago, I think under the Reagan administration. They realized that the health, vibrancy and growth of their major centres had a tremendous impact on the health of the entire nation. They realized they would not succeed economically as a nation if they allowed their major centres to deteriorate.

Some 80 percent of all Canadians live in cities. It is in these major centres that the bulk of the economic activity, innovation, universities, colleges, skilled workers and investment capital is found.

Any city that aspires to greatness must be internationally competitive. We compete for business, for investment and for people, and must reside in an environment and operate in a framework that will allow them to compete and grow. Unless we update how cities function and change the very foundations upon which cities are based we will face some very serious challenges as a nation and as a province. The long-term performance of the Canadian economy, as much the Manitoba economy, as well as the standard of living will be linked strongly to the performance of our major metropolitan centres.

The questions we ask as a chamber are: Does The City of Winnipeg Act allow the kind of autonomy that is required of cities today? Does The City of Winnipeg Act allow the flexibility that is required for cities to adjust in an ever-changing environment? Does The City of Winnipeg Act allow the City to control its expenditures and taxation levels, direct its investments in areas that are priorities for the citizens of Winnipeg and leverage public investments to access private investment? Does The City of Winnipeg Act give Winnipeg an opportunity to become a world-class centre? These are the questions we evaluate. For many, many years we felt The City of Winnipeg Act

was far too prescriptive. We needed to take a look at it and we need change.

We do support the changes that have been made, as a chamber, as a very positive first step in terms of the fundamental changes that have been made, because really it changes the mindset of the provincial government and how they look upon the City. It is no longer related to the relationship between the Province and the City, as a creation of the Province, but more as a partner of the Province. We have moved from looking at the City as an entity to be controlled, managed and restricted, to one that recognizes authority and autonomy, from one of distrust to trust and respect.

\* (17:00)

Do not get me wrong; we have a long way to go. There is much more change that needs to be done in consultation with city government and with the citizens of Winnipeg, but this again is a very positive first step.

What I would like to do is go through the areas we support, the areas that are of concern to us and the areas yet to be addressed, possibly in a second phase of change.

We support and we recognize the changes really lead to the City of Winnipeg government, allowing it to be more accountable and responsible for their spheres of responsibility. It is difficult to look as a citizen, to look to our city government, which is responsible for a certain deliverable, with the inability to ensure it can deliver it without the flexibility to be able to adjust to make sure the end product is there. So we do support those changes that do allude to the accountability and responsibility of civic government.

We also support the fact that there is room for the municipal government to enter into bilateral agreements with the federal government. We know the federal government has been very vocal, at least parts of the federal government have been very vocal on their interest in a new deal for cities. We need to make sure Winnipeg is front and centre on those new deals so that we can have those kinds of investments in our City.

We do support the definition of the spheres of authority. We think that is a very positive step. We support the granting of natural person powers.

We do support the tax increment financing model. We think this is one example of a multitude of different tools that can be used to redevelop downtowns, to redevelop depressed areas of a city. It is those types of creative vehicles that we need to explore. We look forward to weighing in with the City as they look at that type of vehicle, whether it is appropriate for the City of Winnipeg or not.

We do support the handling of the derelict properties. I guess, overall the redraft serves to clean up the act and make it more comprehensive and representative. We certainly support the efforts around that. We have two areas of concern, however, as it relates to certain things in the act. They both relate to sort of the financial framework the City operates under.

We do have reservations concerning the addition of frontage levies, which is nothing new. We also have the reservations around the implementation of variable apportionment for property tax. We are not necessarily against those types of things but the reason why we are opposed to them is because those types of tools, those types of taxation methods, need to be put in the context of the overall financial framework.

To us that is the next phase, to look at the financial framework the City of Winnipeg finds itself in. We are supportive of looking for ways to reduce the reliance upon property tax. We rely upon property tax to deliver 50 percent of our revenues in the city. We compete against centres in the United States that rely upon property tax for 20 percent on average. They have a much more diversified revenue stream that is much more tied to economic growth. I think we need to take a look at those models.

I believe the changes as they relate to frontage levies and variable portioning should be brought into that discussion, into that kind of context, because the reality is if we are looking to get away from property tax frontage levies are a form of property tax. I think we need to defer those types of powers so we can discuss the

whole financial package. The reality is the chamber is adamantly opposed to the use of frontage levies and variable portions as a means to merely increase existing civic revenues.

We look at the changing of financial framework to give the City an opportunity actually to reduce taxes, to become more competitive, to be able to invest in their priorities in a greater way. That is what we support. Their application must ultimately be revenue neutral as the City continues its effort to reduce taxation and become cost competitive. Those are two areas certainly we have concerns about. We think they are more properly addressed in the next round when we took a look at the other financial parameters and tools the City has available to it.

Areas yet to be addressed I guess are brought into a couple of different ones. We do allude to we need to kind of figure out the City of Winnipeg's role in terms of development of a charter, if that is where we are headed. We need to define its role in terms of the amendment of that charter and that kind of process.

There is a whole piece around the delegation of service delivery, the downloading of services from the Province to the City, and we need to address that process. If a service is downloaded, there has to be some assurance that the City is given the financial capabilities to properly deliver it. That whole piece in terms of downloading of services and how that is handled fairly from government to government I think needs to be addressed.

Broad authority should be expanded to define the exceptions. We think there is still room to change some of the model to be still less prescriptive and look at giving authority for broad areas and identifying what they cannot do, as opposed to describing what they can do. It is just a much better way to operate governance.

Lastly, the flexibility to introduce and implement financial tools to attract additional private sector investment. When we look at some American cities and what they have done with their downtowns and depressed areas, there is a multitude of different tools they have used. We need our City Council and our city

government to be incented to be creative in its approach to these types of challenges to find solutions. We believe that is a big part of the next phase on the whole financial piece, certainly one that we will be actively involved in discussions on, because we want to ensure at the end of the day this will allow us to be more competitive and not just a way of adding new taxes.

In conclusion, we do support the fact that the City needs to make these kinds of decisions. What you are seeing here today in the changes alludes to what the City can do, not necessarily what they will do. We, when it comes to some of these changes, endorse the change because we think they are well placed at City Hall. We will certainly hold them accountable for their decisions. We may not agree with all the different directions that they will take, but we do believe that the decision should be made at City Council. We will debate these issues through their process.

So the Winnipeg Chamber of Commerce basically supports the majority of the changes put in Bill 39. We think it is a very positive process. We have been very actively involved in it. We will continue our involvement as we move forward to hopefully what will be a second phase of changes. We will also take a look and add input in terms of as we look at other centres, what they are doing around North America, because that truly is who we compete against.

We have an opportunity here really to provide a national model of how a province and a city partner together. Let us move quickly to the next phase, because there is a lot more to discuss when it comes to that relationship.

That concludes my presentation.

**Mr. Chairperson:** Thank you, Mr. Angus. Questions from the committee?

**Mrs. Mitchelson:** Thanks very much, Dave, for your presentation. I guess my one and only question would be, given that you have areas of concern around the whole financial package being brought in together, would you prefer to see the portioning piece removed from this legislation at this time and also at the changes in

the frontage levy until phase two comes in and have that a whole financial package rather than doing it in an ad hoc basis at this time?

**Mr. Angus:** That is our position.

**Mrs. Mitchelson:** Thank you.

**Mr. Chairperson:** Further questions?

**Ms. Friesen:** Thank you for your presentation and for your support of the general direction that we are going. I recognize that we do not agree on everything. I did want to point out that there is an upload in this bill. I am not aware of any downloads in this bill. I wondered in general, I know you were speaking outside the bill at that case, which particular areas you were concerned about?

\* (17:10)

**Mr. Angus:** I was not concerned about any particular area in these changes as being uploaded or downloaded. It is because we are talking about decades of process of services being uploaded and downloaded.

We need to understand how that is to be handled. There will be some changes in how services are delivered. There may be legitimate reasons why the City is in a better position to deliver a particular service or program that the province is currently doing.

We need to define in this act how that process is engaged. That was really the nature of our comment.

**Mr. Chairperson:** Any further questions? Seeing none, thank you for your presentation, sir.

**Mr. Angus:** Thank you.

**Mr. Chairperson:** I now call Mr. Chuck Chappell, private citizen. Do you have a written copy of your presentation?

**Mr. Chuck Chappell (Private Citizen):** Thankfully, no, and my presentation will be very brief, Mr. Chairperson.

**Mr. Chairperson:** Okay, you may proceed when you are ready then.

**Mr. Chappell:** Mr. Chairperson, I likewise stand in support of Bill 39 and commend the minister and her government for bringing forward the bill in this fashion. I have two comments. One is substantive and one is house-keeping.

The housekeeping item, Mr. Chairperson, is found in section 442(1). That section reads exactly the same as the precursor section 668(3) of The City of Winnipeg Act. It deals with: Council may pass a by-law providing for the imposition of a commodity tax of 2.5 percent for domestic purposes and 5 percent for non-domestic purposes. Then it says: (b) where for any year a consumer pays more than \$1,000 in tax in respect of electricity or gas consumed for purposes other than domestic purposes, the City may refund to the person such part of the excess as is specified in the by-law.

Mr. Chairperson, the City does not pass a by-law. Is it the intention of the Legislature to have that refund in place? Then I suggest the word "may" should be "shall". If it is the intention that they do not have to give a refund, then let us remove the requirement for the by-law. That is just a housekeeping issue. I do not advocate one position for or against.

The substantive issue I have, Mr. Chairman, relates to Division 4 of the bill, in particular derelict property and derelict buildings. The mayor spoke earlier. In substance I agree with the issues he addressed. I digress, however, with his ultimate position in this respect. The proposed legislation provides a bureaucratic report saying there exists a derelict building. It says what must be done to remedy that finding. There are hearings held before the committee. A certificate of dereliction is issued. If it is not complied with then it is registered as a caveat in the Land Titles office and the City is permitted at the end of 90 days to obtain title through an application under The Real Property Act.

With respect, Mr. Chairman, I believe this is expropriation without compensation. There may exist situations where there is no damage, there is no value, and that is fine. But we in the City of Winnipeg have a different situation. I am going to give the committee two examples. The first example relates to the archdiocese of Winnipeg

and Holy Rosary Parish. Holy Rosary Parish owns on River Avenue and Gerard two houses that were formerly rooming houses that were acquired by the parish with a view to expanding parking and residential uses.

In fact, there was subsequently a rezoning proposed subject to entering into the appropriate rezoning agreements. Those agreements have not been entered into, because the developer has not been able to proceed as yet. In the meantime, those buildings are boarded up and derelict. The reason they are boarded up and derelict is because the City of Winnipeg, under its demolition by-law, refuses to issue a demolition permit, notwithstanding the request of the parish. The rationale I believe from the City of Winnipeg Standing Committee and Council is until you have a redevelopment project we are not going to permit you to demolish.

It is now catch-22. Does the City Council now go and take, without paying any compensation, title to what is now called derelict property, because that building is derelict, from the church, without paying compensation? I do not think that is the intent of the mayor or the Legislature.

I will give you another example nearby, Mr. Chair. This may appeal to Mr. Gerrard. Canada Safeway, in attempting to enlarge its River and Osborne store, purchased approximately five years ago Campbell House and they purchased an adjoining apartment block. Both of these properties are boarded up. Both of these properties are derelict by any standard and have been for many years. The company has applied for a permit to demolish them. That has been refused by City Council because City Council in turn refused the rezoning request for the development. Now, Canada Safeway paid \$2.5 million for the land. They do not want the buildings, they never did, but we cannot remove them.

So I would suggest that there is a need to have legislation dealing with derelict buildings. I would suggest further that if this is the concept we are going to utilize, that is fine as well, but let us provide a clause providing for compensation or damages established by the court or the Land Value Appraisal Commission or whichever other entity may be necessary. I have not drafted

anything out, because there are people much more competent, Mr. Chairperson, than I, Mr. Harms and Ms. Flood who can put in the proper terminology. I have discussed this with Ms. Flood. She, I believe, understands completely the position.

So those would be the comments I would have in substance. I would like to thank you for the opportunity of appearing before you today. Thank you very much.

**Mr. Chairperson:** Thank you, sir. Questions from the committee.

**Mrs. Mitchelson:** Thanks very much for your presentation, Chuck. I guess I am just wanting to know for expediency, do you know what section of the act deals with derelict buildings or what page it is on?

**Mr. Chappell:** I believe it is Division 4, sections 190 through 201(2).

**Mrs. Mitchelson:** You are indicating then there needs to be another clause inserted somewhere that would protect the kinds of situations you have talked about. I know there are other issues around derelict buildings, but you have raised a couple of very legitimate issues. You would just like to see a clause inserted that would protect those who have purchased buildings for a purpose they have not been given authority to go ahead with.

**Mr. Chappell:** Mr. Chairperson, I would suggest a simple clause be inserted that, upon the City of Winnipeg obtaining title to the derelict property, the former owner might apply to either the courts or to the Land Value Appraisal Commission to determine what compensation or damage, if any—and I say if any—ought to be awarded and paid by the City of Winnipeg.

**Mr. Chairperson:** Further questions? Seeing none, sir, I thank you for your presentation.

**Mr. Chappell:** Thank you, Mr. Chairman.

**Mr. Chairperson:** I now call upon Brian Grant of West Broadway Development Corporation. Is Mr. Grant present? His name will be dropped to the bottom of the list.

I call upon Mr. Jim Baker of the Manitoba Hotel Association. I note that Mr. Baker is also scheduled to present in the other committee so we will check with them. If he is, we will call him as quickly as possible.

For now, I go to Mr. Harry Lehotsky, New Life Ministries Organizations and the West End Community Improvement Association. Mr. Lehotsky, do you have a written copy of your brief for the committee?

\* (17:20)

**Mr. Harry Lehotsky (New Life Ministries Organizations and the West End Community Improvement Association):** No, I do not. Sorry.

**Mr. Chairperson:** Okay, then you may proceed verbally when you are ready.

**Mr. Lehotsky:** I appreciated some of what was in the document. I, like some of the other presenters, have not had a chance to read through all of it. I am just glad I was able to come down to make a bit of a presentation here.

One of the things we often struggle with in the neighbourhood is when we have a concern about things the City tells us they do not have the power to do anything about it. We get tired of hearing that. We believe they have the power and I think sometimes they hear that from the Province as well and have heard that for a long time. You have the power to act on issues of licensing, on property issues as well.

The bottom line for me is if there is something in this that helps them to respond more to the concerns in a stressed community like ours I am happy that action is being taken. Anything to increase the likelihood of action is good. I am hoping you do not hold back just because you feel they already have power. Sometimes I feel like permission or blessing is withheld because you feel they already have the power to do certain things. If this is what they need to make them feel comfortable and actually help us out, great. Get them moving in the right direction.

I echo some of the concerns about things, but I wanted to focus on two of the parts I just

briefly took a look at: the activities of businesses in terms of how that impacts on our community and also the boarded building, derelict building section of this.

In terms of the activities of businesses, in section 148, it says: "Council may, in the interest of the health, safety, welfare and protection of persons, or in the interest of preventing or minimizing nuisances, pass by-laws . . . ."

I wish that was "must." In some sections there are certain things Council must do. I just get frustrated that they "may." In some cases, they do not have to worry about health, safety or nuisance? It is frustrating to me that there are some of those situations which we have come in contact with.

I like the fact that this Charter Act is more permissive than prescriptive. Again, it gives more leeway, but some things I think the City needs some clarity on in terms of its responsibility, not just in terms of granting licences. There are some things that are said here in terms of granting licences. I wish more was said, and maybe there is in a section I have not seen yet about revoking licences, where after they have granted it they seem very reticent to revoke the licence of a business that is plainly harmful to the safety, health, welfare and protection of the community around them. There are several like that in our community.

The other concern I have is, more and more, the rulings at City Hall that relate to this licensing stuff are being challenged in provincial courts. So we go through the hearings at the City Hall level, both the first hearing regarding a licence or zoning issue, and then also the appeal. We find that people are taking the decisions then to Court of Queen's Bench and it is being overturned, because I guess the court is not bound by the same concern for the health, safety, welfare and protection of persons, at least not reflecting it in the same way we are concerned.

Quite often citizens are not even notified that the City has been challenged. So the City makes a ruling in support of the community, the group that feels aggrieved takes it to the Court of Queen's Bench and we are never even notified that the City is being sued or taken to court on the decision that is of vital concern to us. We

never have an opportunity to even make representation at the court. I believe we ought to have that opportunity. Right now there is nothing that requires the City to continue to keep us involved in that process. It has been frustrating. There are a couple of instances in our community where this happened and it has not been a very good thing.

There are lots of examples and most of the stuff is civic stuff, but some of these things I wish the City was more proactive on. A lot of times this whole nature of what is really injurious to health, safety, welfare and protection of persons, quite often we come and our evidence is seen to be anecdotal. I wish there were some more objective measures of what—the cities in the States are far ahead of us actually in terms of measuring the impact of certain businesses and activities on property values and on safety, the concentration of certain uses on those factors of health, safety, welfare and protection of people. I wish, again, that more of that was happening, but I have to tell them about that.

I wish that also somehow—if there is a way you can address that I hope you do—these things were more objectively noted, instead of us always coming and then being accused of just coming with anecdotal evidence of murders and stabbings. I figure that is more than anecdotal, but it is frustrating to us to be referred to as just bringing anecdotal evidence.

A question on section 150 that somebody had, again, I am not sure, there are probably good reasons for it, but General authority, under Buildings, Equipment and Materials—moving on from licensing and businesses—under section (c) of that: "the installation and use of materials and equipment, other than equipment of Manitoba Hydro, in buildings;" there was a question asked by some of our community members at a meeting about does this mean Manitoba Hydro is exempt from any kind of City regulations or by-laws, and what happens when they purchase Winnipeg Hydro? Those were just some questions about that. Some of that is over my head but there might be implications there that are of concern to some people in the city or the community.

In section 151(c), I do not know if that is the right language, but anyway, the note there: "151

Without limiting the generality of clauses 150(a) and (b), council may pass by-laws (c) respecting standards relating to the design and appearance of buildings; that is scary to some people who may not be able to conform, even though they have a desire to conform, in terms of appearance of buildings.

I am assuming there are rational people that actually enforce these things, but there are fears some people raise: So, what, now they are going to tell me what colour I can paint my house or if I have to maintain my veranda or do not have to have the veranda?

These are some of the fears. I appreciate the concern about trying to put stuff in plain language but the language here, plain as it is, is scary to some people. How much power does City Council have to tell me what I have to do with my property? Under the derelict building stuff they have already, or the maintenance and occupancy by-law, I guess if more than 50 percent of the paint surface is gone, it has to be painted, but that is fair.

I think that is all right, but some of this other stuff is of concern. People said, well, how much control over the appearance of buildings? Relating to the derelict buildings 151(d) and the subsections under that, the manner in which dwellings or buildings must be secured by owners or default may be secured by the City, inspections by the City and also the length of time that buildings or dwellings may remain boarded up, I like that they have an interest in limiting some of the time.

I appreciate the concern about no expropriation without compensation, but, I mean, sometimes people use that argument to wait for and to try to lever some very unreasonable compensation. So they are asking way more than what their property is worth in compensation. They are saying that the principle is unfair. Well, if you are not really intending to do anything and you are just holding onto a hole and onto a dump for investment purposes and meanwhile it is degrading all the other investment and renovation that is going on in the community around us, we are really frustrated with the number of those spots in the community.

There are many ways to shield the identities of people who actually own the properties to prevent us from even gaining access to them. When we gain access to some of those people, they tell us, I want fifty grand for a burnt-out shell of a house. Come on, get real, it is not worth that. Well, they do not want to hear about it. So I am concerned that while we respect the thing about expropriation without compensation being a valid concern, we find a way to limit the compensation. If the City expropriates maybe they ought to reassess the property before expropriating it. They can do that pretty quickly if they want and just assess it as storage value. That is often what they do to reassess some of the buildings we are renovating before they are actually finished.

We ask for them to reassess so we have lower property taxes in the meantime. There are ways to get at that to address the concern, I think, without allowing that clause to provide an ability for some people, for some slummers, to duck us, basically. We are concerned about some of that.

\* (17:30)

The section F under that, as well, prescribing qualifications for individuals who are engaged in any work in construction, that is scary to some people who are working for us who have skills and abilities who already face questions about where the province is going in terms of certification and then wondering if now the City has the right to put on a whole new layer.

I assume that the City does not have the right to remove a layer of provincial regulation, but they now have the right to add a layer of regulation regarding the certification of trades. Is this another cash grab? That is what some of the contractors I am working with are saying. Now apart from whatever other certification we need, now the City has a right to put in a new licensing and certification structure on top of it all. That is going to hurt them as well. Some pretty good people have not gotten papers, but they are doing a good job, and somehow there ought to be a measure of competency. I am just wondering if it is all based on certification by somebody that

does not reflect competency, a side concern there.

Sections 152(1)(2) and (3), the inspection, approval and extent of plans and then also the extent of inspections, we want to just offer a word of thanks to both the provincial and the municipal governments for working with us on trying to—the building code is a dynamic document. It changes. Some of the buildings we are working with are not changing a whole lot. They are a hundred years old. To renovate them to the standards of a brand-new code is often quite frustrating. So we are proposing some alternatives. What I understand is that there have been some representatives from the Fire Commissioner's office, the Department of Labour. Mostly we have been spending our time with folks at the City of Winnipeg that are talking about this, some alternatives I guess to meeting the requirements in the spirit of the code.

Instead of amending the whole building code, you will probably be hearing more about or some of you will be hearing more about this document of alternatives, code alternatives. There will be a request to include a reference to our document in the appendix to the Manitoba building code, which the City has said would give them enough comfort to be able to grant some of the alternatives in terms of our construction techniques and how they are applied to older buildings, turn-of-the-century buildings, that make it a whole lot more affordable and feasible. We are happy with that

Looking at the rest of this, just in terms of the Winnipeg Building Commission, 157(1), there are just three words I thought would be helpful for us to have struck out of there. Maybe there is a good reason they are in there. Again, just for whatever it is worth. At the end of subsection (d) there, where it says that "the commission considers it advisable and expedient because of the proposed—"and then I am proposing the striking out of those next three words "use of new methods or materials in the construction." Sometimes the methods or materials—

**Floor Comment:** Can I just ask where that is again?

**Mr. Lehotsky:** That is 157(1)(d) and that it read instead "considers it advisable and expedient because of the proposed methods or materials—

**Mr. Chairperson:** Two minutes, Mr. Lehotsky.

**Mr. Lehotsky:** —in the construction." So it gives us a little bit more leeway. Not all of the methods we are talking about are new. Not all of the materials are new but sometimes they are just a lot more rational in terms of what needs to be done in a building. Especially some of the old buildings we are doing downtown. Thanks.

**Mr. Chairperson:** Thank you, sir, and before I move on to question and answers, I just want to announce that Mr. Jim Baker's name was called in the other committee room and he was not there, so his name will be dropped to the bottom of the list. Questions for Mr. Lehotsky?

**Ms. Friesen:** I wanted to thank Mr. Lehotsky for the presentation. You focussed on one particular area that I know is of great concern in your community and have offered a number of suggestions. We will look at each of those. I missed the first one. Which section were you talking about when you were talking about the "must" and "may"? Was it just in general or was there one particular section?

**Mr. Lehotsky:** That was section 148. The first sentence there: "Council may, in the interest of health, safety, and welfare". I have done too many funerals of people who have been hurt or killed outside one of the establishments in our community.

There is something wrong there. It does not happen inside, but they turn these people out in the parking lot. It has all the feeling of being commended or protected by the City of Winnipeg by-laws for having enough bouncers to turn the problems out into the parking lot. So it is like releasing the animals into the public and then just turning a blind eye. What we have heard from the City is it is not our responsibility to deal with what happens outside the premises of a licensed establishment. Well, I am sorry. It probably has implications also for The Manitoba Liquor Control Act in terms of overserving.

But we are just horribly frustrated. I do not know how many more funerals I have to do for people relating to that one establishment. Yet there is precious little interest, it seems, in terms of talking about revocation. Necessarily, I do not even want that. But I want them to talk more seriously with us about safeguards. But right now it can all be laughed off. Nobody feels like they really have to do this.

**Ms. Friesen:** Thank you for that. It may not be this act, it may be The Liquor Control Act, or it may be both that we have to look at. But we certainly will. I wanted to just mention briefly the concerns around Manitoba Hydro buildings. The concerns that were expressed may not be as, with the amalgamation of the two, if and when that occurs, some of those concerns may already be addressed. But I think, generally speaking, it is the issue of a municipality having jurisdiction over provincial buildings, et cetera.

On the issue of certification and the issue of trades and that sort of thing, I am advised that there is no difference and there is no additional powers in this compilation of the act than there were in the previous act. But we will certainly check on that. In general, what we have tried to do is to compile and bring together in a more, until you read out that sentence, I would have said more plain language, but maybe it is slightly more plain language than we had before.

On the question of the revoking of licences, the compelling of the revoking of licences, I will look at that.

What we are trying to do here is to establish a fine line between giving the City greater powers, getting the authority to the grassroots level to the community through the City of Winnipeg, but also obviously trying to deal with the issues that are raised out of all the communities that are represented in the City. So we will look at that.

It may well be an issue that could be dealt with at City Hall as the new bylaws are introduced, as I have with other presenters. What this bill will require is a tremendous amount of work and time on behalf of City Council and indeed of citizens as they make representations to these new bylaws and try to shape them so that they

can be of the greatest use to citizens. That will be at least over the next year for some of these. So that may be the place where those kinds of issues can be dealt with, but we will look at the range of ones that you have brought.

**Mr. Lehotsky:** Yes. It is good you said that. I am not as concerned about putting something in there about the actual revocation of licences as clarifying the extent of responsibility of the City for its bylaws as they relate to health, safety, those kinds of concerns, the injury to property values and concerns of people in the area. It just seems like they are sometimes fuzzy on the extent of their responsibility in that regard. I wish that they were clearer. If this would help them be clearer, that would be great.

**Mrs. Mitchelson:** Thanks, Harry, for your presentation. I know that the issues that you have raised, I have made note of many of them. I know the minister will look seriously at all of the issues that you have brought forward. It just shows that you have, indeed, a concern about the community that you live in and that you work in.

So I just want to thank you for taking the time to go through this portion of the bill, the piece that you had a chance to look at and examine and bring forward some suggestions, I think constructive suggestions on how we just might make things a little bit better.

\* (17:40)

**Mr. Chairperson:** Any comment, Mr. Lehotsky?

**Mr. Lehotsky:** Just thanks for giving me the opportunity to talk about it.

**Mr. Chairperson:** Thank you for your presentation.

The next person on my list is Mr. George Fraser, Urban Development Institute, Manitoba Division. Mr. Fraser is also scheduled to make a presentation in the other room, so we are checking up on that. For the time being I call Shannon Watson of Spence Neighbourhood Association. Ms. Watson, do you have a written copy of your brief?

**Ms. Shannon Watson (Spence Neighbourhood Association):** No. Just verbal.

**Mr. Chairperson:** No. Okay. Begin when you are ready.

**Ms. Watson:** Mr. Chairperson, I work for Spence Neighbourhood Association, which is a community development group working in one of the communities that has a lot of housing developments going on. I also live in that community.

I wanted to speak about a particular part of the act regarding the derelict buildings, boarded-up buildings, and how we support the City to be able to take over these properties after an amount of time. We have had so many frustrations with these buildings over the last few years that we are very strongly in support of this. We have seen fires in these buildings. We have seen people living in such substandard conditions that lead to these buildings becoming boarded up. We have felt the declining property values because of these buildings. We have seen breaks and just a lot of negative situations.

There are a few points that I want to make around why this is such an important part of the act that we want to see passed. For one, it supports ongoing changes that are happening in the neighbourhoods. These neighbourhoods are not the same places that they were a few years ago. There is a lot of development happening, really positive change. Yet, with a boarded-up house still sitting in the neighbourhood, several of them in our case, we still have that negativity that is there. It is hard when you are out renovating houses and doing development projects to sell a new house that is renovated, with a boarded-up house sitting next door. All three levels of government, particularly the provincial government, have put a lot of money into our communities, which we are very thankful for, but the money that is put in is devalued by the fact that boarded-up houses are still there.

Another reason is for increasing safety in our community. I think you are probably fully aware of the impacts of boarded-up houses on safety. It is coming from all corners of our community. It is not just the community groups, it is not just the active citizens. We have met with groups of youth who said to us, boarded-up houses used to be really fun, but they are not

anymore, now that our little brothers and sisters play in them. We know they are not safe.

Whatever we can do to help speed along the process of having something happen with these houses is very good.

Another point is just to prevent further decline in our neighbourhoods. We have owners that are holding onto these properties for investment purposes. They have been approached for a variety of reasons to try and do things to have these houses not be boarded up anymore, to have them be back on the market as a valuable place to rent. In a lot of places we cannot find them, or, if they are approached, they want crazy amounts of money. In one case somebody said their boarded-up house that had been boarded for 15 years was worth \$56,000. We cannot even sell a renovated house for that amount.

So there are just a lot of processes going on that have just done a lot of damage to the community through these houses. The owners have run them into the ground. They are not a decent place to live. If they are allowed to stay there, at best they might be turned over and turned into a completely substandard place for people to live. That is not what we want to see. We want to see some mechanism for these to be turned over into some way that they can either be used or removed from the community.

The last point that I wanted to make on that is that it is not something that communities are fighting for as a really harsh and rash mechanism for cleaning up the community. We spent a lot of time working with landlords and working with owners trying to make a difference in the properties. We recently just finished a process of working with an owner of a boarded-up house for three years. We explored all grant options, we explored community labour, we explored a lot of things for him to be able to still own the property and have it be a quality place to live. In the end he ended up selling the property. It will be renovated for a family.

So it is not something that we want to do, to eliminate all the private market of housing in the neighbourhood, because that is not what we are doing, but we really need to have a mechanism for having these properties be turned over into

something positive in a much quicker manner. Thank you.

**Mr. Chairperson:** Thank you for your presentation. Any questions from the committee? Thank you very much.

I understand Mr. Fraser was in the other room. I will call him forward now. Mr. Fraser, do you have a written copy of your presentation for the committee?

**Mr. George Fraser (Urban Development Institute, Manitoba Division):** I do.

**Mr. Chairperson:** Okay, the Clerk will take it. You may begin whenever you are ready.

**Mr. Fraser:** Mr. Chairman, I am making this presentation on behalf of the Urban Development Institute, the Manitoba Division, and the membership of the Urban Development Institute is pleased again to have this opportunity to address Bill 39. UDI represents the major private sector planning and land development companies in the province of Manitoba and their associated service providers.

In principle, UDI is supportive of the act as an enabling legislation for the City of Winnipeg. Future users will appreciate the reduction in the size of the document and the clarity of writing. We take this opportunity to commend those whose task it was to create the draft.

Unfortunately, Madam Minister, we must begin with one general criticism, which is a lack of consultation on the drafting of Bill 39. To our knowledge, no one outside of government had an opportunity to provide input to the changes outlined in the bill. Also, the plan to provide other legislation following approval of this bill, which will contain important detail supporting this act, makes a study of the changes and the response difficult. A more complete package would have been helpful. It is our observation that a comprehensive white paper process would have been more helpful for those who use the act on a daily basis and would have led to a greater level of understanding and support for the document prior to it being presented as legislation.

In the limited time available, the UDI would like to address the following. I do so hopefully in order that that may make sense.

Part 6, Division 1, Plans, and specifically secondary plans. Section 234(1) provides for the adoption of a secondary plan, which is an important plan approval process within the city of Winnipeg. The plan must be consistent with Plan Winnipeg and a hearing must be held after first reading of the by-law. However, 234(3) indicates that the City must give notice of a hearing by a committee of council respecting the proposed by-law, which in our opinion should be specifically designated to the Executive Policy Committee, for this committee is the hearing body designated for Plan Winnipeg under the new act, under the old act. Under this new act it therefore has the strongest relationship to area plans which will support the main planning document for the City. The committee has representation, as I think members know, from all standing committees with the mayor as chair.

History indicates that the public and the proponent for an area plan, CEPC is the appropriate body to which presentations can be made. EPC, in turn, plays a leadership role for council in presenting those types of plans. We would recommend this change. This act in 251(2) directs EPC, interestingly enough, to hear variance appeals of a lower level of priority, in my opinion, yet allows a wider latitude for secondary plans for the hearing process.

Division 2, Development Subdivision Approvals, the day-to-day work at City Hall. Section 256(1) subparagraph (a) indicates that by by-law council may authorize a committee of council or a designated employee to consider and make decisions of applications for approvals of plans of subdivision, and it goes on in 156(2) to indicate the City must give notice of a hearing by a committee of council respecting application. The UDI is concerned that the new act, with its introduction of a planning commission, does not permit such a commission by choice of the council to hear subdivision applications.

Section 258 makes reference to the planning commission playing a role in subdivision approvals in contradiction to 256, and this may be something informationally, but the reading of it

seems to indicate that. In addition, in Division 4, Planning Commission in section 278(2) permits the combining of hearings including the subdivision hearings. I think it is an important thing that needs to be addressed.

\* (17:50)

The UDI supports the planning commission having as one of its duties the hearing of subdivision applications. This is particularly important for the applicant and the public who have had longstanding concerns about improving the hearing process for subdivision approvals and for a consistent city-wide hearing process. The current use of community committees has led in the past to frustration and inconsistency in the plan approval process. The concept of a planning commission could go a long way to supporting an improved decision-making process.

Division 4, Planning Commission. Specific comments to that, this section permits the City to establish a planning commission and the UDI is supportive of this initiative. In fact, it would be appropriate perhaps to change "may" to "shall" to place emphasis on the importance of this change. The UDI recognizes the potential for such a commission to operate within the planning process and looks forward to providing input to the establishment and use of such a commission. We will have to do it after the fact as the legislation is intended to play itself out.

The UDI is confident this model has the potential to provide greater consistency to the proposal, hearing and approval process within the city. However, the full potential of such a commission may not be achieved if current approval processes are allowed to operate in tandem or geographically within the city. This is a danger and one which we recognize now rests with decision makers at City Hall.

Division 6, the Passing or Rejecting of By-Laws. Perhaps this is housekeeping. This section is unclear on whether the by-law may receive approval on all three readings at one meeting. This is very important in the approval process.

Other items, and because of time, Mr. Chairman, I would just make a brief comment on these. The UDI will reserve comment on tax

increment financing, the distribution of property taxes between property classes and broader authority for the use of frontage levies until more detail is available. In principle these proposals may be attractive, but could be and probably will be in some instances, problematic based on the history of the City of Winnipeg's involvement, particularly with the concepts of portioning that have placed the City in a difficult situation in the past.

In closing, despite our initial criticism, the UDI is prepared to participate in the transformation this bill provides for the City to what is a more streamlined civic government and development approval process. Again, Madam Minister, we emphasize, it would have been encouraging to have had an opportunity to have greater discussion with respect to what is a very significant change to the act, much of it of benefit.

**Mr. Chairperson:** Mr. Fraser, you have roughly seven minutes remaining if you want to speak further, but—

**Mr. Fraser:** No, there are gentlemen here—they may have left—who know a lot more about the impacts of the tax incremental side. I think that is an area that could be problematic.

**Mr. Chairperson:** Okay, thank you. Any questions from members of the committee? Seeing none, sir, I thank you for your presentation.

I will call Mr. Gordon McIntyre or Mary Williams on behalf of North End Housing Project. Okay, their names will drop to the bottom of the list. I call John Stefaniuk, AVON Canada Inc. I will call Iris Ingram, private citizen. Do you have a written copy of your presentation?

**Ms. Iris Ingram (Private Citizen):** No, I do not.

**Mr. Chairperson:** Okay, well, proceed when you are ready.

**Ms. Ingram:** Thank you, Mr. Chairman. I am here as a private citizen, specifically the boarded up and the derelict house part of this by-law. I am here because of my involvement over the last seven years as a property owner across from a

boarded up house that, at first I realized, gee it must be boarded up and it must be nobody looking after it because the grass was three feet tall. I had to start mowing it. Some of you heard this story, that that was a first introduction of mine to rodents, as in rats in the city of Winnipeg because as I was cutting the grass one of them scurried up from underneath my lawnmower.

That building stood there for six years before something was finally done to it. In the meantime, children were on the third floor. This is an old, hundred year old house, there were children playing in it. There were people using it as a booze can and drug dealing and so on. It was really something that affected me personally and since then I have spent quite a bit of my time volunteering in the Spence neighbourhood, where we have seen a lot of efforts made to improve the housing in that part of the city.

One of the ongoing problems is what do you do if you have to live beside a boarded up house. Maybe if you do not live up against one, it is not an issue, but they are like three feet apart in some cases and you are up against something that is boarded up and that nobody is in. I have yet to see somebody cut the grass on a boarded up house.

The issue is that we have tried everything and you have heard Mr. Lehotsky say so, and Shannon Watson. We as volunteers, and there are hundreds of us that spend time trying to deal with this problem, and it is at the point that really we need your assistance. This, I believe, will make some assistance in that if you can take over these properties—and we are asked exorbitant prices for things that are not worth it, that is definitely the truth. We cannot find owners. The story goes on and on, and it is a reality. We need your help, that if these things are left without anybody doing anything to it, we cannot have that in our city.

It is spreading. It is not just in the 100-year-old part of the city. It is spreading continually outwards into the other areas of the city where housing was built to a standard that is not meant to last for a long period of time, which could be just about anywhere except some of the modern-

day housing. We do need this assistance. I am here just to say that.

I hope as you pass this major act, which I do not know a lot about overall, but this particular part, I have to say in this part I do feel, as a citizen, I had the opportunity to watch it unfold and go through all the legalities. We did have input and there were many people who had input, so I do have to say that. I had heard people say some of the things you are hearing here today have been going through quickly. This particular thing has been well thought out and has been well legally thought out as well. I have had that opportunity.

I hope, to help in the City of Winnipeg to increase the safety, the image, the overall tax base of our city, that you will continue forward with this.

**Mr. Chairperson:** Thank you, Ms. Ingram. Are there any questions from committee members?

**Ms. Friesen:** Just, again, thank you for your presentation and for giving us a sense of what it means on one street to one family. So, thank you.

**Mr. Chairperson:** Thank you for your presentation.

I will now call Harvey Smith, Councillor, Daniel McIntyre Ward, City of Winnipeg. Not here. Mr. Smith's name will be dropped to the bottom of the list.

I call Shelly Wiseman, Canadian Federation of Independent Business. I understand that she may be in the other committee so we will check into that.

I call Michael J. Mercury, private citizen. Mr. Mercury is not here. His name—

**Some Honourable Members:** Yes, he is.

**Mr. Chairperson:** He is? I am sorry. *[interjection]* Okay. I do not mean to push you. Mr. Mercury, do you have a written copy of your presentation for the committee?

**Mr. Michael Mercury, Q.C. (Private Citizen):** I have just a summary of notes because I got

called last night. I was informed of this last night. My associate was going to make a presentation but in view of the fact that she had an appearance before the Municipal Board she could not make it, so I just summarized some notes here for you.

**Mr. Chairperson:** Okay, you may begin when you are ready.

\* (18:00)

**Mr. Mercury:** Mr. Chairman, Madam Minister, members of the panel, my name is Michael Mercury. I just want to introduce myself and tell you something about myself before I make my presentation. I am a native Manitoban, born in Manitoba, went to the schools in the west end of Winnipeg, graduated from the Manitoba university with a BA.

I was called to the bar in 1959. I was articled and still am with the law firm of Aikins, Macaulay and Thorvaldson in Winnipeg, and since 1967, '68 I focussed my specialty on municipal assessment and taxation. Pretty dull stuff.

You have been listening to many speakers this afternoon and the last thing you want to hear is a dull, boring lecture on municipal assessment and taxation. I am not going to do that. I am going to be very, very brief. I am going to focus my attention just on those sections in the act that deal with assessment and taxation. I am not dealing with the whole act. It is a huge piece of work to understand.

As a prelude to my submission, which I promise you is going to be very short on a subject which is very dull, I want to tell you that I am carrying no brief for any client, and I am speaking now from the heart. I am speaking simply because of my involvement in assessment matters for many, many years.

The assessment system in Manitoba is bad. We do not have a good assessment act, and we have problems in the whole assessment system in the City of Winnipeg. Now, do not take my word for it. We have been into this new reform assessment since 1990 after the Weir Commission report, and I have appended to my brief—you go to the very last page—a comment made by

a senior judge of Manitoba, the honourable Mr. Justice Kroft of the Court of Appeal in the case of Sandstone Developments and Winchester Development Ltd.—I am just going to read. I did not submit the whole decision. I am really addressing my remarks to you, but this is for the bureaucrats who draw this legislation, and, quite often, it is drawn without consultation with members of the Bar or persons who are experienced in technical matters.

Here is what the court said about the existing legislation that we have, and I quote: Here we have yet another application pursuant to section 63 of The Municipal Assessment Act for leave to appeal from an order of the Municipal Board. Once again, the problem arises because of the conspicuous ambiguities and inconsistencies between The Municipal Assessment Act and the assessment provisions of The City of Winnipeg Act. Citizens, lawyers, courts and municipalities would be well served if a comprehensive revision of the statutory provisions in Manitoba pertaining to real property assessment were undertaken.

Now, that sentiment has been echoed by the Manitoba Court of Appeal on several occasions and, yet, those sentiments have fallen on deaf ears. The Chief Justice on the case that I had before him said, if you have any influence with the people across the street, tell them to get this legislation intelligible and rational. Now, I am dealing with a lot of lay people here and it is difficult to get into the technicalities, but I am going to just deal with certain specific sections of the act. Before I say that, I want to preference my remarks as one who has been involved in this subject for many, many years and who has argued cases up to the Supreme Court of Canada and many times before the Manitoba Court of Appeal.

It is time we had another Weir Commission report. It is time. We are going into almost 25 years since Walter Weir was appointed to deal with the whole assessment problem in Manitoba, and we have problems. Do not kid yourself. When the City found itself with a \$54-million overrun several years ago, they almost panicked, and they have tried to change the legislation to correct the wrong, but they are going about it the wrong way. The problem in 1994-95-96 was not

the problem of the legislation, it was the problem with policies of the Board of Revision, the assessment department and political interference. That is my statement on that.

Now, I think it is time that we looked at the whole assessment picture, and, Madam Minister, I would be happy to volunteer on any committee that you would want to get involved in this and get certain people from the Bar and people who have extensive experience, not from the bureaucracy side, but from the practical side, people who represent taxpayers and know what the problem is.

Now, let me just deal with these few little points that I have made in my submission. First of all, you have section 325 of the bill, which, in effect, is a change from the former 187 of The City of Winnipeg Act. Let us look at what this section says, what you are doing now, section 325. Pardon me, this lectern is a little tight.

The section says: The assessment rolls for a year must be completed as early as the assessor considers practicable. Why is that there? The old section reads, and it is good law, that the realty assessment roll and the business assessment roll for any year shall be completed as early in the year as the assessor considers practicable.

We have now, the residents of the city of Winnipeg know that they are holding hearings on the 2003 realty assessment roll, when here we are in the year 2002. Why are we doing such stupid things as that? I will tell you why. Because the assessment department and the politicians of the City of Winnipeg said, look, we want to know what the assessment is in practical terms now so we can budget accordingly in 2003 and not face a \$54-million overrun. That is what the purpose was. But that is wrong. They can provide, as they have for many years, for contingencies, but they should let the system run without political interference and have an assessment department which was 25 years out of date get caught up.

Let me tell you that I am a member of the Canadian Property Tax Association, which represents property owners right across the country. I am a guest lecturer once a year in various places. This year it is in Québec city. I

am also a member of the International Association of Assessing Officers.

The province of British Columbia has annual assessments. We have assessments every four years. What happens in the province of B.C., they have 1 750 000 assessable properties, and they have 10 000 appeals. In the city of Winnipeg, we have approximately 300 000 assessable properties, and we have 15 000 to 18 000 to 20 000 appeals. One thing you should be doing, considering, as I say this to the people who understand the situation, get to an annual assessment roll. Be current.

\* (18:10)

The way you are proposing to amend the act now does not take into account a situation which has happened, for example, in the United States. What happened as a result of 9/11 in the United States? I will tell you. Airline companies almost went bankrupt, hotels suffered drastically, because weddings, conferences were cancelled and business went down. What is the law here in Manitoba today when you say we must have an assessment based on 1999 market values but which is supposed to distribute the tax load equitably as of today's situation.

You know, in 1999 we had the Pan Am Games, and all the hotels were full. Today if we had 9/11 in Manitoba, the hotels are suffering. They are suffering. We see the lawsuits that they are suffering from. By amending this particular legislation that says the assessor shall make his assessment earlier then deal with it in the year 2003, as the way the legislation presently reads, to deal with the equities as they exist in 2003, what, in effect, you are doing is you are ignoring the fact that the equity provisions of the act must reflect the equities as they exist in the year of taxation.

Houses are being built now, the assessor has assessed the land. He is going to go around maybe at the end of the year and assess the building. Well, that assessment roll should be fixed or should reflect the equities as of January 1, 2003. Your legislation is perfect the way it is now. What you are doing now is trying to make it convenient for the bureaucrat to go to the politician and say, we have an assessment roll

that makes—you know, there are not going to be many appeals. Well, let me tell you, it is not working because I get these notices, a lot of lawyers get these notices, and the Board of Revision says we have a no-adjourment policy. My mother or father could be dying. I am in another court. I am sorry you have to come down and ask for the adjourment right there.

So, you know what we do? They are getting a little upset with this. We make an appearance so we are not struck off. We ask the assessor's name. We get a decision. We file an appeal to the Municipal Board. Those appeals are coming on for hearing this year and next year and so forth down the line. So they have not solved the problem.

So these are matters that should be tackled. So I say you will leave section 187 as is and tell the assessor to do his job properly, as he has been. I do not know why we in Manitoba cannot have annual assessments, but we have to have an assessment reflecting values as in 1999, which is going to go for another three years or two more years, and they are seven years out of date. That is ridiculous. All right, I have said enough about that.

Section 325, the form of the rolls, now, this is what the court says, that the legislation is inconsistent. This section says that, well, the provincial act says that the Provincial Municipal Assessor decides what is going to go into a form. He has not done his job. The City Assessor decides right now what goes in forms. You know what? There is a great inconsistency. The Provincial Municipal Assessor today shows, on an assessment roll, if you come from Brandon, anywhere except the city of Winnipeg and you want to look at your assessment, you get a hard copy of the assessment, and you will see the land and the improvement value and the total.

Not so in the city of Winnipeg. This has to be kept a mystery for the taxpayers of the city of Winnipeg. In the city of Winnipeg, you do not get a copy of the roll. It is supposed to be stored electronically. That is fine. But, if I want to examine my assessments—

**Mr. Chairperson:** Two minutes, Mr. Mercury.

**Mr. Mercury:** I am sorry, and other people's assessments. To get a copy of an assessed value, I have to pay a dollar and a quarter, or thereabouts. To get a copy of the roll, you multiply that by 300 000, you get 425 000. The Provincial Assessor gives you that. So there should be some continuity there.

Section 330, mailing, you say send it by ordinary mail, these notices, send it by registered mail. This is too important a subject to get some sort of a notice, and it might be misplaced or so forth. You are dealing with property rights.

Portioning, it has been raised before. I am not going to get into the politics of this. These are political issues, but you are fiddling around, and you are getting around to tinkering. I am saying, if you are going to give that right to the City politician, then give that right to the people in Brandon, people in Thompson, people everywhere outside the province, outside the boundaries of the city of Winnipeg, because the whole thrust of the existing legislation was uniformity. These are patches here.

Information for the tax rolls, I have dealt with that.

Supplementary tax notices, again, I say this is on section 342, put in your supplementary tax notices, but mail it by registered mail.

Now, I see that in section 344(1), the Madam Minister dictates what is going to go on the tax roll for the City of Winnipeg, the information that has to go on there. I would ask that the minister amend the legislation to say what the City Assessor, or she will state what information is going to go on the assessment roll because there is a difference as to what goes on the assessment roll in the City of Winnipeg with every other jurisdiction in Manitoba. That is not right. We are playing games here in the City of Winnipeg Assessment Department, and it is not transparent—

**Mr. Chairperson:** Mr. Mercury.

**Mr. Mercury:** Yes.

**Mr. Chairperson:** Your time has expired. I have to ask you to wrap up.

**Mr. Mercury:** Okay. Tax certificates, as I say, you require them. You have taken them out, put them back there because lenders need that.

Interest on refunds, if I may have 30 seconds grace on this, if you pay your taxes and you pay them late, you pay a penalty rate. It used to be that if the City was wrong, you got your money back at the same rate as they charged you. What is wrong with that? You pay a penalty rate but you get your money back at prime rate. Why? Why are we assisting the assessment department or fostering a situation whereby there is no penalty to them in terms of cost?

They are using your money at penalty rates, but they give you back the prime rate. Is that fair? I do not think that is fair. I do not think anybody in this room would think that is fair. Well, that is all I have to say. I could have a lot more to say, but I will not. So I will answer your questions.

**Mr. Chairperson:** Thank you very much, sir. Before we go to question and answer, I just want to ask again if Mr. Jim Baker is in the audience? They are looking for him in the other committee. Questions?

**Mrs. Mitchelson:** I would just like to say thank you for your presentation. It sounds from your presentation, we do know that you certainly have a lot of experience dealing with assessment issues. I certainly value your opinions and your contributions. I just would like to indicate that a lot of what you have said appears to make a lot of sense. I think we would be prepared to work with you towards seeing that some amendments might be brought in that would make this legislation—[interjection]

**Mr. Chairperson:** Mr. Mercury, I have to recognize you. Mrs. Mitchelson, are you finished with your question?

**Mrs. Mitchelson:** Yes.

**Mr. Mercury:** I would be prepared to assist.

**Mr. Chairperson:** Okay.

**Mr. Larry Maguire (Arthur-Virden):** I just wanted to thank Mr. Mercury as well for his

presentation, very well thought out. A number of points here are very specific that we can look at. Perhaps a number of amendments can flow from this. I just wanted to be on record to thank you for your presentation and am very caught with some of the ideas that you have put forward.

**Mr. Mercury:** Thank you.

**Ms. Friesen:** We will also look at each of the proposals that you have made. Again, I do not want to guarantee anything that will be in this particular bill, but there will be a phase 2 and other legislation as well where we might be able to take account of some of these things.

I did want to clarify the first proposal that you made, section 325(1). I just wanted to clarify whether or not that was still before the courts.

**Mr. Mercury:** As a matter of fact, this is before the courts. I am familiar with it because I have a case pending now on behalf of the St. Boniface General Hospital. I have raised this issue. The matter is going before the court on August 21, and that is true. It is before the court.

**Ms. Friesen:** That puts some constraints around what politicians can say and do during that period. I just wanted to make sure that was the case.

**Mr. Mercury:** I do not think that has any constraint as to what you want to do with 325. The question that I had before the court is that section 187 of The City of Winnipeg Act, which is presently in effect, has meaning. What you are trying to do now is trying to by this provision legislate a practice which I think is wrong. I think it should not be legislated as wrong. I would like to have the court's decision on that.

I see that this bill is not coming into effect until perhaps January. By that time we would have the benefit of the decision of the Manitoba Court of Queen's Bench, and if need be by the Manitoba Court of Appeal on that.

**Mr. Chairperson:** Okay. Thank you for your presentation, sir. Okay. We are at six-twenty. We are going to try and finish this. We have possibly two presenters left, so I will call Shelly Wiseman. For people who are expecting another

committee at 6:30, as I said, we are going to try and finish this one off. We have two presenters left, so I ask you to bear with us.

Ms. Wiseman, Canadian Federation of Independent Business, do you have a written copy of your presentation for the committee?

\* (18:20)

**Ms. Shelly Wiseman (Canadian Federation of Independent Business):** I do.

**Mr. Chairperson:** Okay, the Clerk will take that. You may begin when ready.

**Ms. Wiseman:** My presentation is quite brief, so, hopefully, it will not take too much time.

Thank you for the opportunity to present today. As many of you know, CFIB, the Canadian Federation of Independent Business, represents the interests of small- and medium-size businesses throughout Canada. We have 102 000 members across the country, 4700 in Manitoba. So I am pleased to present our views regarding Bill 39, The City of Winnipeg Charter Act.

CFIB is particularly concerned with the proposed changes in section 432 with respect to frontage taxes, and section 331 regulations regarding varying portions, and that is what I will limit my comments to today. While we support government efforts to update and streamline legislation, we urge you to ensure that any changes to the legislation governing the city of Winnipeg or other municipalities do not allow for additional forms of taxation.

In a recent survey of CFIB members, our members viewed commercial property and business tax as the most harmful form of taxation in Winnipeg. In fact, concern over property taxes has steadily increased over the past 10 years, rising to an all-time high of 76 percent. This form of taxation is a major problem for small firms, as it is completely profit insensitive. The advent of an additional form of property-based tax would only serve to exacerbate this already serious problem. In addition, it is important to remember that businesses already pay property-based taxes on a higher portion of assessed value, 65 percent compared to 45 percent per

residential properties. CFIB has always viewed this difference in mill rates as very unfair and unjust.

Recognizing the City of Winnipeg's call for additional revenue sources, the City has access to funding not found in many other cities in Canada. In addition to municipal property tax, the City receives and generates revenue in the following areas: First, the City charges a levy on natural gas and electricity consumption. Similar to the Province, the City has a system where exemptions are made for natural gas and electricity consumed for space-heating purposes. The levy is applied to the full amount of the utility that is not the primary source of space heating. However, unlike the Province, the sales tax rates for residential properties and commercial properties are different. Residential properties pay an additional 2.5 percent. All commercial properties are charged an extra 5 percent. The City of Winnipeg is the only municipality in Manitoba, and likely Canada, that is allowed to charge an additional levy on natural gas and electricity consumption.

Second, the City of Winnipeg administers a business tax which is currently 9.75% of assessed rental value. Since 1990, Winnipeg's business tax collection has risen from \$36.6 million to \$60.1 million in 2001, representing a 64% increase. The revenue source is paid entirely by business.

Third, the Province shares a portion of provincial personal and corporate income taxes with the City of Winnipeg and all Manitoba municipalities. Again, this is a unique form of sharing and revenue to the City.

Fourth, Manitoba shares a portion of VLT revenue with Manitoba municipalities.

CFIB has always maintained that tax reductions help business remain competitive. Providing the City with additional taxing power will create more hardship for business. Also, we must remember that Winnipeg businesses are faced with the additional challenge of high provincial taxation. Many Winnipeg companies must pay the provincial payroll tax, which is not seen in other provinces, and high levels of education taxes, such as the education support levy. It is

also important to consider that Manitobans pay among the highest levels of personal income tax in Canada.

When evaluating the impact of taxation on businesses in the city of Winnipeg, government must consider the overall tax burden firms face and must take the lead role in ensuring business is able to compete with neighbouring jurisdictions. Therefore CFIB recommends the proposed changes in The City of Winnipeg Charter Act, which grants the City the authority to utilize frontage taxes.

In addition, CFIB is concerned with the potential impact on business of section 331, regulations regarding varying portions. As noted above, businesses already pay property tax on a higher portion of assessed rental value than residential properties. CFIB cautions the proposed amendments could increase the existing gap in taxation between these two types of properties. As businesses currently pay the City of Winnipeg business tax, and, often, business improvement zone levies, adding a larger portion of property tax to commercial properties would only serve to harm business in Winnipeg.

CFIB also fears this legislation could be abused by City officials who may fold the business tax in with the commercial property tax. In doing so, the City could claim it has eliminated the business tax, when, in fact, it could have simply passed the tax burden on through higher portioning on the property tax. Therefore, CFIB recommends government reject section 331 in The City of Winnipeg Charter Act.

Given that the proposed amendments are phase 1 of a new City of Winnipeg Charter, CFIB would like to take this opportunity to outline our members' concerns with further potential changes. As you know, some members of the Federation of Canadian Municipalities have placed pressure on their provincial governments to grant additional taxing authority. His Worship, Glen Murray, Mayor of Winnipeg, has spoken on numerous occasions on the need for new or additional revenue sources. As the burden of municipal taxes rests heavily on small firms, we strongly oppose the prospect of the

City of Winnipeg, or any municipality, having access to new taxing authority.

It is CFIB's understanding that, under the proposed charter, the City will be granted additional powers. However, discussions surrounding the authority to create new revenue sources through new or additional taxes have been limited to incremental tax financing and frontage taxes at this time. While CFIB recognizes the pressures facing many municipalities, we would strongly oppose expansion of taxing authority. In fact, in a survey conducted by CFIB in 2001, an overwhelming 95 percent of our Manitoba members opposed the idea of providing municipalities with the authority to levy additional direct taxes, like a sales tax or an income tax. It should be noted that very few of our surveys reveal this degree of unanimity among our membership.

Small business and other taxpayers are already struggling to deal with high levels of taxation in Manitoba. We urge you not to make this problem any worse by allowing the City of Winnipeg, or any local government, to add additional taxes to the mix. In addition to the impact of a potential tax increase, locally administered taxes would also add more complexity, compliance costs, and bureaucracy to an already burdened system.

In conclusion, CFIB recommends government remove all sections of The City of Winnipeg Charter Act which grant the City additional taxing authority or power to implement variable mill rates. We urge government to maintain this approach in future revisions of this legislation. Thank you.

**Mr. Chairperson:** Thank you, Ms. Wiseman. Are there any questions?

**Mrs. Mitchelson:** Thanks very much, Shelly, for your presentation. I do want to indicate that, in an earlier presentation from the Winnipeg Chamber, they were pleased with phase 1, and were looking forward to phase 2, which would look at a total financial package for the City of Winnipeg.

The question was asked of them because—two concerns, of course, that they had were the

frontage levies and the portioning changes, and they indicated that that was a bit of an ad hoc approach, and that those issues should be delayed until phase 2, and the total financial package was looked at, and the portioning issue, and the frontage levy issue be looked at in that context.

Would you agree with that approach?

**Ms. Wiseman:** From our perspective, I think it is irrelevant where that comes in. We would oppose it, whether it is in the first phase or the second phase. I think what the Chamber thought about is if you look at that issue all at once, it might be better to do that. We would certainly support delaying any changes in taxation at this time. But it does not change the real issue of whether that should be added or not, and we do oppose it.

**Mr. Chairperson:** Any further questions? Seeing none, I thank you for your presentation.

**Ms. Wiseman:** Thank you.

\* (18:30)

**Mr. Chairperson:** The last individual I have on my list to present to this bill is Danielle Davis, Private Citizen.

Hello, Ms. Davis. Do you have a written copy of your presentation?

**Ms. Danielle Davis (Spence Neighbourhood Association):** No.

**Mr. Chairperson:** No? You may proceed when ready.

**Ms. Davis:** I am from the Spence Neighbourhood Association.

**Mr. Chairperson:** Could you speak a little closer to the microphone, please?

**Ms. Davis:** I am a resident-volunteer. I do not know how many of you have come to my neighbourhood lately. I know Ms. Friesen has many times. I do not know if you have seen all the boarded-up houses. I do not know if many of your children would like to play next to a

boarded-up house. I do not know if you would like to hear the noise at three o'clock in the morning of somebody trying to break into boarded-up houses.

I would like to have a neighbour like all of you have, probably, where you live. I would like to have a neighbour that lives in that house. I would like to go borrow a cup of sugar from the neighbour, but I cannot in my neighbourhood, at first we had 46 boarded-up houses. We received money from the Government, the federal and provincial, which is very generous, but, on the other hand, you are not helping, because you do not help with the boarded-up houses.

There is no limit to what the owners, the landlords, how long they can leave those boarded-up houses. So you have a bunch of dedicated volunteers and staff with the Spence Neighbourhood Association and many other places, but mostly the volunteers and the new residents that we are trying to attract in our neighbourhood. You are helping us on one hand with the money, but, on the other hand, we are trying to attract people.

I know that none of you probably would like to move into one of those houses that when you look across the street, there is a boarded-up house that has been there for five or six years. You have a bunch of volunteers that have been working hard for the last five or six years to improve the neighbourhood. We do our work. We go do our spring cleanup. We go do many hours on different committees and that, and then we walk home.

What do we see on the way home? We see boarded-up houses. Like I said, I do not know how many of you would want your children to play beside boarded-up houses. You probably have nice neighbours. I would like to have nice neighbours also. Thank you.

**Mr. Chairperson:** Thank you, Ms. Davis. Questions?

**Mrs. Mitchelson:** Thank you, Ms. Davis, for your presentation. I do not think any of us would welcome boarded-up houses across the street. We know that your community has been working extremely hard to try to deal with the issue, a

lot of volunteer hours and commitment and a real concern. I want to thank you at the outset for that.

I understand that there has been a lot of discussion around the changes in the legislation that might help your community. Are you satisfied that the changes are there that will be able to help in the process?

**Ms. Davis:** Yes, as long as you guys vote real quick, because we need help. You know, like I said, we are getting lots of help from the right people, and we are doing our share. We do not mind doing our share. We do it because we want the community, and it is getting there, but we have to cut through the red tape and all the paperwork. We are not going to stop to try to improve, but you have to help us by passing that through real fast.

**Ms. Friesen:** I just wanted to say thank you for coming, particularly for again the very clear personal representation of what it means to live in communities that you are working so hard to improve and to change and yet not to have all the tools that you need. You know, gradually I think we are getting there.

I particularly wanted to thank you for mentioning the Spence Neighbourhood Association. Not all members will be familiar with the activities of that group and the way in which things have I think moved in the last few years to incorporate a really large number of volunteers and large public meetings and a real cross-section of that community, which is making tremendous changes. We all know it is never fast enough, never far enough. We are all working, I think, to get there. So thank you for coming.

**Mr. Chairperson:** Further questions? Seeing none, I thank you for your presentation. That completes the list of presenters. Now we will go to the people who were dropped to the bottom of the list.

First of all, with Bill 41, The Manitoba Hydro Amendment Act, I call, for the second time, Todd Scarth, Canadian Centre for Policy Alternatives. Mr. Scarth is dropped from the list. I call Chief Roy Redhead, Private Citizen. Chief Redhead is dropped from the list.

Now, back to Bill 39, The City of Winnipeg Charter Act. I call Jae Eadie, Councillor, City of Winnipeg, St. James Ward. Mr. Eadie is dropped from the list. I call Brian Grant, West Broadway Development Corporation. Mr. Grant is dropped from the list. I call Jim Baker, Manitoba Hotel Association. Mr. Baker is dropped from the list. I call Gordon McIntyre or Mary Williams, North End Housing Project. Their names are dropped from the list. I call John Stefaniuk, AVON Canada Inc. Mr. Stefaniuk is dropped from the list. Finally, I call Harvey Smith, Councillor, Daniel McIntyre Ward, City of Winnipeg. Mr. Smith is accordingly dropped from the list. That completes the list of presenters.

Is there anyone else in the audience who would like to present to either Bills 41, 49 or 39? That completes the list of presenters. This committee will now recess and reconvene in Room 254 later on this evening to deal with clause by clause of the three bills. Committee recess.

**COMMITTEE ROSE AT: 6:37 p.m.**

#### **WRITTEN SUBMISSIONS PRESENTED BUT NOT READ**

Re: Bill 27

Tobacco use is the most important preventable risk factor for respiratory disease. Exposure to tobacco smoke can either be direct as a result of cigarette smoking, or indirect as a result of maternal smoking in pregnancy or exposure to environmental tobacco smoke (ETS).

Eighty percent of exposure to ETS comes from the workplace. The amount of ETS in which individuals are exposed to varies according to the industry they work in and the size of their workplace. A report from Health Canada "Workplace Smoking: trends, issues and strategies" notes that workplaces with 100 employees or less have the highest percentage of smokers. This is a concern as 48 percent of workers are employed in firms with less than 100 employees.

ETS can have a significant impact on both the employee and employer in two ways: physically and economically. The health effects

of ETS have been well documented in recent years. Every year in Canada, it is estimated that ETS exposure causes over 330 deaths from lung cancer alone. In adults, ETS have been demonstrated to cause headaches, wheezing, persistent coughing, rhinitis, conjunctival irritation and exacerbation of chronic respiratory conditions. Long-term exposure can lead to the development of lung cancer and heart disease. These health problems contribute to the economic impact of smoking in the workplace. It is estimated that each smoker costs their respective employers between \$2,000 to \$5,000 per year in absenteeism, lost productivity, increased health care costs and fire insurance premiums. According to Labour Canada, over \$32 million could be saved from reduced smoke and related property damage, depreciation, maintenance and cleaning costs, as well as health care costs.

It is the position of the Manitoba Lung Association, with regard to ETS in the workplace, that:

1. ETS has been proven to lead to the development of a variety of illnesses, such as Chronic Obstructive Pulmonary Disease (COPD), cancer and heart disease and therefore poses a serious health risk to all individuals in any workplace.
2. Exposure to ETS in the workplace can have a negative economic impact for both employees and employers, in terms of workplace productivity, health care costs and employee absenteeism.
3. Employees have the right to a smoke-free workplace, regardless of their occupation, and should be legally protected from employer retaliation for exerting this right.
4. The Government must enact comprehensive workplace legislation that bans smoking in all workplaces.

The Manitoba Lung Association  
Arlene Draffin Jones, RN, BScN, MEd  
Director, Programs and Community Services

\* \* \*

Re: Bill 27

The Manitoba Nurses' Union (MNU), concerned with the health of nurses in this province, appreciates the opportunity to present our comments on Bill 27.

MNU represents 11 000 nurses who work in a variety of health care settings across Manitoba, which include acute care, community and long-term care. Our members represent the overwhelming majority (97 percent) of unionized nurses in the province. Membership includes registered nurses, licensed practical nurses and registered psychiatric nurses. Our members, the majority of whom are women, are concerned with workplace health and safety issues.

Time loss injury statistics in the health care sector are shocking. The average time lost in Manitoba across all occupations is an average of 15 days. In health care an average of 30 days are lost, with nurses filing 34 percent of all claims.<sup>1</sup>

#### **Positive Aspects Contained in Bill 27**

The proposed bill has many features that will positively impact the safety and health of nurses in Manitoba. The first improvement that we would like to commend the Government on is the:

Clarification and expansion of duties of the joint Workplace Safety and Health committees. Committee members will now be able to more effectively ensure the health and safety of co-workers. The duty to make recommendations, "inspections of the workplace at regular intervals and the participation in investigations of accidents and dangerous occurrences at the workplace" are provisions that are long overdue.<sup>2</sup>

Providing alternative employment to pregnant or nursing workers is an aspect of the bill that acknowledges the concerns and issues of female workers. Providing legislation to protect all workers from exposure to hazardous materials will ensure the safety of all health care providers. The MNU, understanding the chemical and biological hazards present in the health care setting, have supported our members when situations arise.

The final improvement that MNU would like to speak to is section 41.1 requiring the

employer to respond to recommendations made by the joint committee. Many Workplace Safety and Health Committee representatives from work sites across the province have expressed time and again the frustration of employer non-compliance. Bill 27 amendments force the employer to respond either through implementation of recommendations or in writing no later than 30 days of being cited, outlining the timetable for implementation of accepted recommendations and reasons why the employer disagrees with recommendations. The employer must now justify non-compliance.

As progressive as Bill 27 may be, there are aspects of the legislation that we feel need to be strengthened.

### **Musculoskeletal Injuries**

Studies across the country detail that health care providers are more likely to suffer musculoskeletal injuries than those in other industries.<sup>3</sup> Nurses are particularly at risk. Nurses' time loss claims of soft tissue sprains, muscle strains and back injuries are more costly than those of firefighters and police.<sup>4</sup> Manitoba nurses working on orthopedic, medicine, neurology, surgical and long-term care wards, are most likely to report the highest rate of back injuries. More surprising is the fact that this injury, in 60 percent of injuries reported, will have occurred in the first two hours of the shift.<sup>5</sup>

Why are these injuries so prevalent? Patient care involves the turning, lifting and transporting of patients at specific times during a shift. Research has suggested that a relationship may exist between the "peak periods" and musculoskeletal injuries. More attention needs to be paid to the organization of work in health care facilities and the risk factors such as time pressures, workload levels and control over work decisions.<sup>6</sup>

Compared to other workers, nurses are the sickest workers in the country.<sup>7</sup> Nurses tend to be absent from work more often due to illness, disability and absenteeism. Nurse sick time is 50 percent greater than any other occupation in the country. The average lost days per year for nurses is approximately 12, while all other occupations are just over 6 days.<sup>8</sup> Utilizing Statistics

Canada data, if absenteeism in the nursing field could be reduced there would be more than 5500 nurses back on the job across the country.

The MNU recommends that this Government follow the lead of Saskatchewan and provide and implement regulations in an effort to decrease and eventually eliminate musculoskeletal injuries.

### **Occupational Stress**

Conspicuously absent from Bill 27 is the issue of occupational stress. If stress or job strain is intense and continuous, workers' health may be detrimentally affected. Physical illness in the form of hypertension and psychological disorders such as depression may result. Numerous surveys confirm that the problem has progressively escalated everywhere. Job strain has become a major health and safety issue across all occupations in the public health and private sectors. Excessive workloads, increased patient acuity, a lack of equipment, fewer support staff and the nursing shortage have all contributed to workplace stress for nurses. Nurses are increasingly citing burnout, depression and anxiety as reasons for absenteeism. In 1996 the MNU released a report detailing evidence that nurses were increasingly at risk for occupation-related illness. Current statistics, both nationally and provincially, support our assertion.

The Canadian Mental Health Association reports workplace stress and related illnesses cost the Canadian economy an estimated \$5 billion a year. A report financed by Health Canada and released in January of 2002 reported workers in the health care sector to be among the unhealthiest because of widespread stress and uncertainty caused by a decade of cutting, layoffs and politically motivated restructuring. Nurses are being expected to put in overtime, work several days in a row without time off and are routinely being summoned back from vacation and scheduled days off. Working conditions, the report said, have deteriorated to such an extent that the sector will face massive labour shortages if the quality-of-work issues are not addressed.

The Canadian Nursing Association reported in June 2002 that within 15 years, 50 percent of

currently employed nurses would be of retirement age.<sup>10</sup> The report further states that over the next 10 years approximately 50 000 nurses, 5000 per year, would retire across Canada.<sup>11</sup> Coupled with this is the fact that many nurses are leaving the profession long before retirement. In a cross-cultural study of nurses, one in three Canadian nurses under the age of 30 currently working in a hospital intended to quit in the next year.<sup>12</sup> Nurses are leaving the profession due to the physical demands of the job and concerns about high workload. Work environments need to be structured to retain all nurses and to attract new nurses.<sup>13</sup>

Attempts have been made by employers to address job strain but the onus has been on the employee to adapt coping skills to deal with high-stress workloads. The MNU recommends that the focus must be on educating employers about the impact they are having on their workforce.

### Workplace Violence

The establishment of policies and procedures, as set out in section 18(1)(aa), to prevent and respond to potentially violent situations is applauded. However, with the increasing incidents of harassment/abuse in the health care workplace, MNU believes amendments to Bill 27 should include supporting a zero tolerance toward abuse in the workplace through the development of regulations to safeguard workers.

Patient care is often thought of as in-hospital or acute care; however, delivery of care also includes community. Community nurses, working alone, attend to the needs of patients in the comfort of their own homes. Although this sounds ideal, in many cases, community nurses are entering residences in which their own health and safety could be compromised. Hostile environments, working at night, and high-risk neighbourhoods are situations that are common in providing care in the community. Amendments to Bill 27 should be made to address these issues.

Progress is being made in occupational health and safety at the federal level as well. Amendments to part 2 of the Canada Labour

Code have been introduced for the development of ergonomic and violence regulations. The MNU recommends that Bill 27 be amended to contain provisions for the implementation of ergonomic and violence regulations.

### Conclusion

The Safer Workplaces Act is an important piece of legislation. The Review Committee on Improving Workplace Safety and Health should be commended for the numerous recommendations that were put forward. Through the public consultation process the committee was presented with issues and concerns of workers throughout the province sending a clear message to government that The Workplace Safety and Health Act was outdated and out of touch with the continually evolving workplace. The Government should be congratulated for accepting so many of the recommendations that will undoubtedly benefit workers throughout the province.

The MNU believes that the recommendations and comments we have put forward will, if implemented, make the legislation stronger and better able to protect nurses and the safety of patients. A safer work environment will begin to address the challenge the nursing profession faces in the recruitment and retention of nurses.

### End Notes

<sup>1</sup> "Injury Trends in the Health Care Sector", Dr. Ted Redekop, Chief Occupational Medical Officer, Workplace Safety and Health.

<sup>2</sup> Government of Manitoba, The Safer Workplace Act, Bill 27, section 40 (10)(h), (i).

<sup>3</sup> Canadian Institute for Health Information, *Health Care in Canada 2001*, p. 86.

<sup>4</sup> Canadian Institute for Health Information, *Canada's Health Care Providers*, p. 88.

<sup>5</sup> Canadian Institute for Health Information, *Canada's Health Care Providers, 2001*, p. 89.

<sup>6</sup> Institute for Work & Health, "Research Suggests Multiple Reasons for Health Care

Workers Injuries", *In Focus*, Issue 13a, 1999, p. 2.

<sup>7</sup> Office of Nursing Policy, Health Canada, *Healthy Nurses, Healthy Workplaces*, 2001, p. 6.

<sup>8</sup> Canadian Institute for Health Information, *Canada's Health Care Providers 2001*, p. 87.

<sup>9</sup>

<http://www.whsc.on.ca/Publications/hazardbulletins/winter01-02/jobstress.html>, July 24, 2002.

<sup>10</sup>

[http://www.cna-nurses.ca/\\_frames/welcome/frameindex.html](http://www.cna-nurses.ca/_frames/welcome/frameindex.html), July 30, 2002.

<sup>11</sup> Canadian Nursing Association, *Planning for the Future: Nursing Human Resource Projections*, June 2002, p. 53.

<sup>12</sup> Linda Aiken, et. al., "Nurses' reports on hospital care in five countries", *Health Affairs*, May-June 2001, v20 n. 3, p. 46.

<sup>13</sup>

[http://secure.cihi.ca/cihiweb/dispPage.jsp?cw\\_page=media\\_18jun2002\\_e](http://secure.cihi.ca/cihiweb/dispPage.jsp?cw_page=media_18jun2002_e), July 25, 2002.

\* \* \*

Re: Bill 39

The Canadian Condominium Institute (CCI) is an independent, non-profit organization formed in 1982. It is the only national association to serve as a central clearinghouse on condominium issues and activities across the country. CCI is represented provincially by local chapters, such as the Manitoba Chapter. We assist members in establishing and operating successful condominium corporations through education, information dissemination, workshops and technical assistance.

CCI, Manitoba Chapter, represents 8439 condominium units.

As you may or may not know, CCI has been actively trying to persuade the Government of Manitoba to reduce the portion assigned to condominiums. In that regard CCI, Manitoba Chapter, has reviewed Bill 39 and has identified two concerns.

## 1. No Established Tax Principles

Major revisions to tax methodologies should be subject to review by the public in advance; the revisions should be determined by an independent commission and the tax changes should be implemented to meet predetermined results or based on established principles of fairness.

As an example, the establishment of the current market value assessment system was a major revision to the previous tax methodology, was thoroughly investigated by the Weir commission, was subjected to public review in advance and had predetermined principles of fairness and established goals.

Because it was properly implemented, the market value assessment system is generally believed to be fair by most citizens in the Province of Manitoba.

For Condominium owners, however, the established principles of fairness which were applied to all properties by the implementation of the Weir commission recommendations were subsequently denied to condominium properties as a result of a change in the regulations (i.e.: the portion for condominium properties as established by the Weir Commission was revised and condominium owners received a 40% increase in taxes).

As a result, condominium owners know that tax fairness does not result from the back room politics decision-making process, which is proposed by Bill 39.

## 2. No Decision Maker

At the present time, the Provincial Government is responsible for determining the level of tax associated with each class of property and (except for condominium properties) the tax rate is based on the principles in the Weir report.

The proposed revision to the City of Winnipeg Act would result in two levels of decision making. First, the Province will establish a range and secondly, the City will

determine a rate in the range. Effecting change outside of that range will be very difficult as both the City and the Province would be required to agree to changes. We do not need to point out that the City and the Province have not always seen eye to eye on these matters.

Also, in the past, differences in opinions between the two levels of government have proved to be obstacles in reaching agreement on items where there may have otherwise been common ground.

If the Province wishes to give the City authority to set the tax rate, the Province should give up the authority. If the Province wishes to keep the authority, the Province should keep it. To do both may prove not to be workable.

Thank you for taking the time to consider CCI, Manitoba Chapter's position.

Mr. Doug Forbes  
Manitoba Chapter of the Canadian  
Condominium Institute