

**Fourth Session - Thirty-Eighth Legislature**  
**of the**  
**Legislative Assembly of Manitoba**  
**Standing Committee**  
**on**  
**Social and Economic Development**

*Chairperson*  
*Ms. Marilyn Brick*  
*Constituency of St. Norbert*

**Vol. LVII No. 1 – 6 p.m., Monday, November 21, 2005**

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**MANITOBA LEGISLATIVE ASSEMBLY**  
**Thirty-Eighth Legislature**

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**LEGISLATIVE ASSEMBLY OF MANITOBA**  
**THE STANDING COMMITTEE ON SOCIAL AND ECONOMIC DEVELOPMENT**  
**Monday, November 21, 2005**

**TIME – 6 p.m.**

**LOCATION – Winnipeg, Manitoba**

**CHAIRPERSON – Ms. Marilyn Brick (St. Norbert)**

**VICE-CHAIRPERSON – Mr. Doug Martindale (Burrows)**

**ATTENDANCE – 11 QUORUM – 6**

*Members of the Committee present:*

Hon. Ms. Allan

Mr. Altemeyer, Ms. Brick, Messrs. Cullen, Eichler, Ms. Irvin-Ross, Messrs. Maloway, Martindale, Rocan, Santos, Schuler

**APPEARING:**

Hon. Jon Gerrard, MLA for River Heights

**WITNESSES:**

Mr. Kevin Steckley, Private Citizen  
 Mr. Andrew Skelton, Private Citizen  
 Mr. Jon Hobbs, Royal Architectural Institute of Canada  
 Mr. Garry Stasynek, Private Citizen  
 Mr. Garland Laliberte, Dean Emeritus, Faculty of Engineering, University of Manitoba  
 Mr. Myles Kubinec, Private Citizen  
 Mr. Robert Hamlin, Private Citizen  
 Mr. Myron Britton, Private Citizen  
 Mr. Lawrence Homenko, Private Citizen  
 Mr. David Derksen, Private Citizen  
 Ms. Aynslee Hurdal, Private Citizen  
 Mr. Don Oliver, Private Citizen  
 Mr. Vince Kwiatkowski, Private Citizen  
 Mr. Robert Eastwood, Private Citizen  
 Mr. Tom Monteyne, Private Citizen  
 Mr. Terry Danelley, Private Citizen  
 Mr. Jim Orlikow, Private Citizen  
 Mr. Dave Lalama, Private Citizen  
 Mr. David Kressock, Private Citizen  
 Ms. Gerri Stemler, Private Citizen  
 Mr. Michael Farion, Private Citizen  
 Mr. Victor Sven, Private Citizen

Mr. Scott Stirton, Chief Executive Officer, Smith Carter Architects and Engineers Inc.  
 Mr. Ken Hildebrand, Private Citizen  
 Mr. Glen Gross, Private Citizen  
 Mr. Greg Hasiuk, Private Citizen  
 Mr. Spencer Court, Private Citizen  
 Mr. David Penner, Private Citizen  
 Ms. Rina Ricci, Private Citizen  
 Mr. Robert Winslow, Private Citizen  
 Mr. Les Stechesen, Private Citizen  
 Mr. Kent Woloschuk, Private Citizen  
 Mr. John Woods, Private Citizen  
 Mr. Peter DeSmedt, Councillor, City of Winnipeg  
 Mr. Guy Préfontaine, Private Citizen  
 Mr. Gareth Simons, Private Citizen  
 Mr. Harold Funk, Private Citizen  
 Mr. Bruce Pauls, Private Citizen  
 Mr. Ed Calnitsky, Private Citizen

**WRITTEN SUBMISSIONS:**

Bill 7–The Architects and Engineers Scope of Practice Dispute Settlement Act (Various Acts Amended)  
 Mr. Philip Kienholz, Private Citizen  
 Mr. Ron Bell, President, Association of Manitoba Municipalities  
 Mr. Kevin Humeniuk, Private Citizen  
 Mr. Jim Yamashita, Chair, Partners Program  
 Mr. Ryan Fidler, Private Citizen  
 Mr. James Weselake, Private Citizen  
 Ms. Jennifer Reynolds, Private Citizen  
 Mr. John White, Private Citizen  
 Ms. Maiya Uprety, Private Citizen

**MATTERS UNDER CONSIDERATION:**

Bill 7–The Architects and Engineers Scope of Practice Dispute Settlement Act (Various Acts Amended)

\* \* \*

**Madam Chairperson:** Good evening. Will the Standing Committee on Social and Economic Development please come to order.

This evening the committee will be considering the following bill: Bill 7, The Architects and Engineers Scope of Practice Dispute Settlement Act.

We do have presenters registered to speak to the bill. It is the custom to hear public presentations before consideration of bills. Is it the will of the committee to hear public presentations on this bill? *[Agreed]*

Is it the will of the committee that I read out the names of the presenters?

**Some Honourable Members:** No.

**Madam Chairperson:** No. Thank you very much.

For the information of the committee, there are currently 206 presenters registered to speak to the bill—204, excuse me.

I just wanted to also mention, if there is anyone else in the audience who would like to register and has not done so, if you would please register at the back of the room. As a reminder, 20 copies of your presentation are required. If you require assistance with photocopying, please see the Clerk of the committee.

In what order does the committee wish to hear the presenters this evening?

**Mr. Doug Martindale (Burrows):** The usual procedure would be to hear out-of-town presenters first.

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

The Clerk received a request from Mr. Jon Hobbs, listed as No. 69 in your presenters' list. Mr. Hobbs has flown in from Ottawa and is catching an early morning flight back to Ottawa in the morning. Is there consent of the committee to allow Mr. Hobbs to speak early in the speaking order, and, if yes, what number do you wish him to be heard at?

**An Honourable Member:** There are only three ahead of him.

**Madam Chairperson:** There are three ahead of him, so—

**An Honourable Member:** Out-of-town presenters.

**Madam Chairperson:** —we will continue then with our out-of-town presenters first.

Just for the information of the committee, the other request we have is that we do have an individual here who is accompanied by his spouse,

Mr. Kevin Steckley, and his spouse is visually impaired and has brought two seeing eye dogs along. The concern is that this individual's dogs may not last for the entire term, so would it be the will of—

**An Honourable Member:** First.

**Madam Chairperson:** First? Is it the will of the committee to allow Mr. Steckley to come and speak first? *[Agreed]* Thank you.

I would like to inform presenters that, in accordance with our rules, a time limit of 10 minutes has been allotted for presentations and five minutes for questions from committee members. As well, in accordance with our rules, if a presenter is not in attendance their name will be dropped to the bottom of the presenters' list. If the presenter is not in attendance when their name is called a second time their name will be removed from the presenters' list.

I would also like to inform the committee that written submissions have been received from the following private citizens and organizations: Philip Kienholz, private citizen; Ron Bell, Association of Manitoba Municipalities; Kevin Humeniuk, private citizen; Jim Yamashita, Partners Program; Ryan Fidler, private citizen; Jim Weselake, private citizen. Copies of these briefs were made for committee members and were distributed at the start of the meeting.

Does the committee grant its consent to have these written submissions appear in the committee transcript for this meeting? *[Agreed]*

For the information of the committee members, Jim Weselake is listed as 165 on this list. You may strike his name off.

I would also like to advise presenters that Room 254, which is just directly down the hallway from this committee room, has been set up as an overflow room. Staff will ensure that Room 254 is canvassed if a name is called here and no one comes forward.

Just prior to proceeding with public presentations, I would like to inform members of the public of the process when it comes time for questions from committee members on your presentation. The proceedings of our committee meetings are recorded in order to provide a verbatim transcript. Each time someone wishes to speak, whether it be a member of the committee or a presenter, I have to first say the MLA or presenter's name. This is the signal for the Hansard recorder to turn your mike on and off.

I would also like to advise that because there are more than 20 presenters registered to speak, the committee can only sit past midnight if there is unanimous consent to do so.

I would like to thank you all very much for your patience, and we will now proceed with public presentations.

The first presenter as per our previous agreement will be Mr. Kevin Steckley. For committee members, Mr. Steckley is listed as 130.

**Mr. Kevin Steckley (Private Citizen):** Good evening, Minister Allan, honourable members, ladies and gentlemen. My name is Kevin Bruce Steckley and I am a professional engineer. I graduated with a Bachelor of Applied Science, Civil Engineering in 1980 and became a registered professional engineer in 1982. In 1985, I moved to Manitoba from Ontario to work for an engineering firm in Winkler.

Engineers in rural Manitoba, like other professionals serving the public such as financial advisors, doctors, et cetera, are typically generalists who bring in expertise as required and/or desired by their clients. Steckley Consulting Engineers Inc. was formed in 1989 and, since that time, has been providing engineering services to rural Manitoba. These services consist of municipal, structural and building engineering for what in the proposed bill is referred to as architecture.

Our firm has met the needs of clients from Virden to Piney and Emerson to Bloodvein First Nation. We have provided building engineering services under all building classifications in the Manitoba Building Code: group A, churches, restaurants, community centres; group B, day cares with infants; group C, apartments, row housing; group D, pharmacies, offices; group E, stores; and group F, industrial buildings. Building sizes have been with plan areas up to 1700 square metres and gross areas up to 5200 square metres.

\*(18:10)

The definition of area in the current design environment is not clear and in some circles has been interpreted as gross building area and not in a manner which is consistent with the Manitoba Building Code, the legal document which governs buildings in Manitoba. The Building Code definition is "Building area means the greatest horizontal area of a building above grade within the outside surface of the exterior walls or within the outside surface of exterior walls and the centre line of firewalls," clause

1.1.3.2(1) of the Manitoba Building Code. This needs to be used to determine building area. It is essential that the definition be consistent as building area will determine when a certain profession is required.

Our projects typically begin with a client working with someone in the community or a lumber yard to create a floor plan and elevations or to look for a building. They then bring the plans to us, and we review it for compliance to Part 3 of the Manitoba Building Code, life safety, i.e., fire separations, exit paths, numbers of exits, et cetera, and refine the drawing with the client to make it conform to the Manitoba Building Code.

The rural Manitobans we have worked with know what they want in the look and layout of the building. Once the floor plan is established, structural engineering, mechanical engineering, plumbing, heating, ventilation, air conditioning and electrical engineering are completed to provide engineering drawings and specifications from which to build. Engineers are needed to design buildings. The following diagram illustrates our typical design team. You have the owner surrounded by a mechanical engineer, electrical engineer, structural engineer, building engineering or architecture.

Given the current conditions, the injunction places architects above the entire design team and the interests of the people of Manitoba. Once the engineering drawing and specifications are completed, they are reviewed by the authority having jurisdiction, AHJ building inspector, and a permit is issued. During construction, site observations are carried out by the individual engineers to confirm that the building is being built in general conformance to the approved drawings and specifications.

When the building owner, like some of you with your homes, requires a structural site observation, such as after a flood, an engineer as well as an architect would be required under the current injunction. A structural engineer is the one who can determine the structural adequacy and required repairs, yet Manitobans would be faced unnecessarily with additional professional fees. Bill 7 corrects this.

Based upon our typical project and excluding building engineering, over 75 percent of the design is done by engineers. It clearly makes sense that an engineer should have the opportunity to be prime consultant as provided for in Bill 7. On projects, prime consultants generally choose the design team.

Winnipeg firms typically do not choose rural sub-consultants. If the prime consultant is rural, he will have the option to keep work in rural Manitoba. The AHJ building inspector should have the power to determine where the services of a specific engineering discipline are needed and do not require an architect to look over their shoulder and collect a fee for no added value.

I have gained experience in building engineering by using the codes for over 25 years, taking courses to upgrade my skills, and as recently as the fall of 2004, by taking three courses at Red River College on Part 3 of the Building Code. These courses are the same courses taken by AHJ building inspectors to certify them to review Part 3 building submissions for permit. Each of the three courses is five days in duration with a written exam and a minimum percentage required to pass. I successfully completed all three courses with marks above 90 percent.

Our clients have had the opportunity to use architects, yet they choose us. When asked why, clients indicate they know what they want and do not want additional cost. Under the current conditions created by the injunction, it is dictated to rural Manitobans that they have to retain an architect on all buildings over 400 square metres. Manitobans lose the right to choose an engineer for building engineering. Currently, delays are experienced as projects incur added costs while an architect is retained. While there are engineers throughout Manitoba, there are only two architects in rural Manitoba. Should the architect be from Winnipeg, there will be additional costs to Manitobans for travel time. Additional costs will also be incurred during construction as the architect must perform their own site observations to certify the building for occupancy.

In rural Manitoba, the cost of site observations can be the greater portion of these professional fees. Under Bill 7, engineers meeting the requirements of a joint board may be grandfathered by obtaining a recognition certificate. This is essential to provide Manitobans with an economical choice for building engineering in the short term and provide a smooth transition. In the long term, when I cease to practise engineering, my firm will require an architect under Bill 7. This bill provides a transition period to develop new partnerships with architects and enables our firm to hire an architect as an employee.

I have had the opportunity to work with Jeff Penner of Road Architecture Inc. on a project and

applaud him for setting up a rural practice. I look forward to working with him on future projects and am pleased that Bill 7 gives rural Manitobans options outside of the Perimeter. Where a client desires the services of an architect, that service should be available. It should not be forced upon them or force them to pay additional fees for no added value.

We must continue to keep Manitoba's economy strong. The current injunction is slowing Manitoba's economy and causing Manitobans to pay additional unnecessary costs. This affects each Manitoban, particularly those in rural Manitoba suffering from two poor crop years and the BSE crisis. They need their money for their families and increased energy costs.

The mechanism of the joint board is a concern as, on past negotiations, consensus, although achieved at the joint board level, has not been approved at the member level. This obstacle will be eliminated as Bill 7 gives the joint board power and, should they fail to establish criteria and conditions, this responsibility falls to the Chair. The Chair of this board must be free from bias and fair in his decision.

In conclusion, I would like to thank the committee for their work in creating a bill which provides (1) a framework which continues to give Manitobans the ability to choose and minimize costs; (2) a choice as to prime consultant; (3) a mechanism to resolve disputes; (4) a process to keep the courts free from unnecessary lawsuits; and (5) a timeline for companies to develop new partnerships. With the timely passage of Bill 7, I thank you for allowing design professionals to get back to building a better Manitoba. Thank you.

**Madam Chairperson:** Thank you, Mr. Steckley.

Are there any questions for Mr. Steckley?

**Hon. Jon Gerrard (River Heights):** Now, my question deals with the issue of backlog. I mean, people have been concerned that after the injunction there has been a big backlog of buildings which are not being built because they have not had access to architects or whatever reason. Can you tell us what the backlog is in rural Manitoba?

**Mr. Steckley:** In rural Manitoba, I find that clients are delaying. They are waiting for the current climate to clear.

**Mr. Gerrard:** Another point I had was that you raised a concern about the difference between gross

area and building area, and the specifics are actually in the regulations. Is that correct?

**Mr. Steckley:** There is a definition in the Building Code but there has been a different definition being brought forward, it is my understanding, in The Architects Act.

**Mr. Gerrard:** Okay. What are you suggesting should be the situation?

**Mr. Steckley:** The Building Code is the document governing buildings in Manitoba, so the definition should come from the Building Code.

**Mr. Denis Rocan (Carman):** The federal government, the provincial government and, I believe, the Asper family, when they were doing a search for a particular individual to build their Human Rights Museum, can you tell me whether they were looking for an engineer or were they looking for an architect?

**Mr. Steckley:** Based on the design team that I would put together, 75 percent of that design team is engineers. Currently, I have the expertise on certain buildings to provide the building engineering as well, so in my opinion, engineering services are required.

**Madam Chairperson:** Thank you very much for your presentation.

We will now return to the out-of-town list of presenters. The next presenter up is on page 3, Andrew Skelton, private citizen. Mr. Skelton, you can proceed.

\* (18:20)

**Mr. Andrew Skelton (Private Citizen):** Minister Allan, Madam Chairperson and members of the committee, my name is Andrew Skelton. I am a registered member of the Manitoba Association of Architects. I support the position of my colleague Don Oliver, whom you will hear from soon, and I call upon the minister and this committee to delay Bill 7 from proceeding to third reading.

My comments are based primarily on two types of experience, one of three and a half years as a chief building official in a rural area that included one small city of 10 000 people, and two years as an architect, working primarily with an engineering firm, also mostly in rural areas, on commercial and light industrial projects, mostly large enough to require professional design but small enough to not require sprinklers.

There seems to be a concern that enforcing the present architects act might cause unreasonable cost and delays in the process. Based on my experience, my opinion is that more rather than less professional design involvement is needed in the construction industry. Secondly, this is only going to occur by increased attention to regulations.

Now, increased participation by professionals may cause some increase in the professional costs, but the level of this increase would be minimal. Presently in the market with which I am familiar the fees for design and site supervision for a building are typically less than the real estate agent's fees would be just to sell the building.

The participation of design professionals in the process is currently unreasonably underfunded. This reduced level of design fees is a product of business courses and competition. It has been identified in at least one Commission of Inquiry report—that is about the collapse of a food store in Burnaby—as a factor contributing to an unacceptably low level of professional involvement. This trend toward minimum levels of professional involvement was cited as one of the factors contributing to the building's collapse.

So an increase in design expenditures is warranted. It is my opinion that the costs can be absorbed by the process without difficulty and that the benefits of increased services will far outweigh the costs.

In order to sell a used vehicle, the vehicle must pass inspection by a qualified mechanic. The cost of this inspection may have been a concern to the used car business when the requirement was first introduced. However, vehicle certification has reduced the risk of accidents. This expense is now simply accepted as worthwhile even if for enforcement purposes it has to be applied to all cars, some of which are still in good condition.

In the same way, increased expenditures for design and site inspections in buildings can be well worthwhile for health and safety benefits. It can be shown that proper design inspection can sometimes beat out the process and reduce other costs. I am going to give you two examples.

A very typical situation is a design-built addition to a commercial or industrial building for which management of the project is by the owner directly rather than by a hired professional. The owner makes an agreement with a contractor to put up the addition for a fixed price, and that fixed price includes

professional design. His financing is secured on the basis of this price.

The contractor, in order to calculate his bid, has asked an engineer for a price to design just the foundations and a floor plan. The contractor includes no other design costs because the design of the various components can be included in the subtrade prices for them, like the building shell, the heating systems and so on.

So all the parties get committed to the project and pass the point of no return by the time the drawings are submitted for permit review. These drawings are basically a foundation plan, a floor plan and a promise of erecting joints soon to come from the building supplier. Then the building permit review identifies unforeseen problems, such as inadequate water supply for firefighting, the need for wheelchair access or the need for fire protection on the outside walls due to the proximity of these to the lot line.

By now the budget is already set. There is no money available for changes in design or changes in construction. If architectural services had been a requirement of the process, they would have been hired at the beginning and the planning and the budget of the project would have included these elements. The scramble for design changes which must now take place is expensive and cumbersome for everybody involved, including the building official, and causes delay at a very inconvenient time. So a regulation requiring architectural services reduces the risk of such situations developing.

The second example, the Building Code requires that the construction of pressure treated wood foundations be inspected and certified by an engineer. The certification now typically submitted is inadequate, because while it implies total compliance, the wording really specifically certifies structural compliance only. Structural compliance is not much of a concern. The concern is durability under damp surface conditions. Even if the components are properly sized, which is structural compliance, they will deteriorate quickly if not installed with proper fasteners and adequate provision for waterproofing and drainage.

Therefore, an increase in the number and scope of inspections to specifically include these aspects is warranted, and since the cost of repair to a faulty foundation could be high, the cost of better inspections would be like a premium for good insurance. Having made that case, I would like to

give some consideration to the context in which The Architects Act, the engineers act and the Building Code are enforced.

**Enforcement:** Architects and engineers acts are enforced on a daily basis only indirectly as called for by the code, so changes to these two acts will not be effective unless they are reflected in the code or in some fashion brought into the scope of responsibility of the building officials who enforce the code. But the code should not define which professional must be involved. Rather, it should reflect the requirements for professional involvement that are prescribed by legislation of the two professions.

**Political climate:** The code is mostly enforced at the municipal level, not the provincial level. Even where code enforcement is by the provincial Office of the Fire Commissioner, the OFC is actually acting as an agent providing a service to the municipality. Therefore, municipal councillors can be and sometimes are easily brought under pressure from their constituents to help resolve disputes in code interpretation between an owner or a designer and the building official. If they try to help, they are vulnerable to accusations of political interference. If they leave the issue in the hands of the building official, they can be seen as unresponsive. So the requirements are needed to ensure health and safety, but both the requirements and the responsibilities must be clear in order to protect the individuals involved.

**Scope of services:** The benefit of good design service is not well understood. For a substantial portion of projects, professional design services are engaged only if they are required by the building official for the building permit. Also, the scope of these services that are hired is limited to the absolute minimum that is insisted upon by that official.

**Financing for services:** Design services are currently badly underfunded. Since the mechanism for cost control of design services is the free market, rather than fee schedule, services for both design and construction supervision are quoted in advance at a minimum level by designers who want to secure the work. So the lowest quote is often one that has been based on an underestimation of the scope of the project. So the budget for services and the services that subsequently are provided are less than adequate. As I said before, the fees for design and safety provision for a building are typically less than the real estate fees would be just to transfer ownership of the building.

Attitude: Lack of regard for health and safety issues permeates not only the building industry but its clientele as well, and not only in the private sector but also among our civic leaders as well. Even for public buildings such as schools and churches and arenas, it is often a struggle to force compliance, even with the basic permitting procedures. Legal action can be needed to force such obvious safety measures as a proper fence around a swimming pool.

Conclusion: That the recent court decision may increase the participation of architects in the industry is a positive change. There is little substance to the worry that this increased participation might slow the rate of economic growth, and although the intention behind some parts of Bill 7 may be worthwhile, there is no urgency to implement it quickly. So I concur with the objections you are going to hear by other architects with specific aspects of Bill 7, and I request that it not proceed to third reading at this time.

**Madam Chairperson:** Thank you very much. Are there questions for Mr. Skelton?

**Mr. Gerrard:** You were a chief building official in a community of about a thousand people—

**Mr. Skelton:** Ten thousand.

**Mr. Gerrard:** Ten thousand people. Which community was that?

**Mr. Skelton:** Selkirk.

**Mr. Gerrard:** Okay. Your recommendations are in part based on your experiences with problems as they were occurring in the Selkirk area?

**Mr. Skelton:** That is right.

**Mr. Gerrard:** So I am just trying to get clear. You would bring from that time, working in a municipality, concerns with what you saw on a day-to-day basis with how things were working. Is that correct?

**Mr. Skelton:** That is correct, but you see the same problems as a designer working anywhere in the province.

\* (18:30)

**Madam Chairperson:** Are there any other questions for the presenter? Seeing no other questions, we thank you very much for your presentation, Mr. Skelton.

For the information of the committee, I have just received a request from Jennifer Reynolds for the

presentation to be included as a written submission to Bill 7, and we are going to distribute copies to committee members.

Does the committee grant its consent to have this written submission appear in the committee transcripts for this meeting? *[Agreed]*

Our next out-of-town presenter is Jeff Penner, private citizen. I am going to call once again, Jeff Penner, private citizen, No. 38 on the list. One last time, and Mr. Penner's name then will be dropped to the bottom of the list. Jeff Penner, private citizen.

Seeing that Mr. Penner has not arrived, we will then move on to our next out-of-town presenter. Peter Hargrave, private citizen. Once again, Peter Hargrave, private citizen. And one last time for Peter Hargrave, private citizen.

Seeing that Mr. Hargrave is not here, we will now move to Jon Hobbs, from the Royal Architectural Institute of Canada.

Welcome to Manitoba, Mr. Hobbs. You can proceed.

**Mr. Jon Hobbs (Royal Architectural Institute of Canada):** Thank you very much, and thank you for your indulgence and the indulgence of the committee to allow me to go ahead of the pack here.

I think first I would like to provide a brief introduction and some personal background on why this issue is important to me and to my organization, the Royal Architectural Institute of Canada. My name is Jon Hobbs. I am currently an architect licensed in the province of Ontario and the executive director of the Royal Architectural Institute of Canada.

I became an architect at the encouragement of my father, an engineer, a metallurgical engineer to be exact, who understood the difference between architecture and engineering. His assessment was that I should pursue a career in architecture. My father and our neighbour, his electrical engineering friend, knew that building design was for architects.

Before moving to Ottawa to work on behalf of our profession, I was in private practice for nearly 20 years, and I should point out that more than a few of my clients were, indeed, engineers. In particular, the late Ted or Edward McCormick who was the founder of a large and successful engineering firm, McCormick Rankin, a friend that still holds an esteemed reputation in Ontario, came to me to design a condominium and a store. Ted knew when he

needed architectural advice. Many of our clients included other engineers, the Canadian General Electric Company, a firm run by several engineers who designed and produced large electrical motors and turbines in Peterborough, Ontario, these engineers knew that when it came to accommodating humans and understanding their space and office needs, an architect was absolutely necessary.

Upon moving to Ottawa, I initially served as our national practice adviser, where I was editor-in-chief for the *Canadian Handbook of Practice for Architects* and I was a co-ordinator for provincial regulatory matters, and this is where I came to understand the regulatory framework for the architectural profession in Canada.

In Ottawa, well, we have a lot of things. We have a lot of hot air these days about election, but we also have many national associations, hundreds of them, in fact, and I am pleased to report to you that the Royal Architectural Institute of Canada works very frequently and co-operatively with our engineering counterparts, the Association of Consulting Engineers of Canada and the Canadian Council of Professional Engineers.

We understand and respect each others' mandate. In fact, tomorrow the RAIC and ACEC, that is the national associations for architects and engineers, we are hosting our federal members of Parliament to educate them about the importance of design, construction and infrastructure to Canada, its economy and, especially, to our quality of life.

Tonight I would like to make four points. I would like to provide you with a definition of architecture and a better understanding of what architecture is. I would like to indicate why architecture is important to Winnipeg and to Manitoba. I would like to explain about the difference between architecture and engineering. I would like to describe the situation across Canada. Let me repeat. What architecture is, why it is important to you here in Manitoba, how architecture differs from engineering and where we stand on this issue across Canada.

I would first like to read quickly a definition of architecture, produced by the Union internationale des architectes, or the UIA, which says, "The practice of architecture consists of professional services in connection with town planning as well as the design, construction, enlargement, conservation, restoration or alteration of a building or group of buildings. These professional services include, but

are not limited to, planning and land-use planning; urban design; provision of preliminary studies, designs, models, drawings, specifications and technical documentation; co-ordination of technical documentation prepared by others, such as consulting engineers, urban planners, landscape architects and other specialist consultants as appropriate and without limitation; construction economics; contract administration; monitoring of construction; and project management."

I should point out that this definition is recognized by the United Nations and by UNESCO and it is used in many parts of the world. It does not fully explain what architecture is, however. Vitruvius, a Roman architect and a first architectural historian, defined architecture as achieving three things, firmness, commodity and delight. These words are pretty obscure and I will try and explain them.

By firmness, what Vitruvius meant was integrity, structural soundness and durability. All buildings must be structurally sound. It goes without saying that all engineers and architects realize this and both can achieve this through their professional design services, whether it be a steel frame for a skyscraper or a building envelope that can withstand the rigors of a Manitoba winter.

Commodity means functionality, the second characteristic. In other words, a building that is able to function well or solves a problem. For example, a warehouse solves the problem of storage of goods by keeping them dry and well arranged and accessible. However, solving a problem that involves human activity, that is, a building that functions and is suitable for people, whether it be a dwelling, a place of work, a place of worship or recreation, adds another dimension of complexity. A house must be suitable and comfortable to live in. A hospital must serve as an institution that supports healing and good health outcomes. A church must inspire. A laboratory must accommodate a myriad of research functions. Only an architect is trained to solve problems affecting human beings and how humans function and operate in buildings. This is basic training for an architect.

The Arkansas Supreme Court put this best when it rendered a judgment on a case in 2003, and I read a quotation, "A person of ordinary intelligence can glean that architects plan and design buildings primarily intended for people to work and live in, and engineers plan and design buildings primarily

intended for the accommodation of equipment, vehicles, goods, and/or processes."

The final characteristic of architecture is delight, as described by Vitruvius. Delight means pleasing the senses and inspiring human beings to see, feel, touch, and fully experience our built environment. Buildings must not only be visually pleasing, but they must support a wide range of human behaviours, such as resolving aural or acoustic requirements for an opera house. Delight is most definitely the purview of an architect. Beauty, grace, and delight are not necessarily esoteric, luxurious or frivolous, as I will go on to explain.

\* (18:40)

Architecture, therefore, is a building or built form that has firmness, commodity and delight, or one that is durable and endures due to its integrity and technical applications, one that successfully supports human occupancy and human activity and one that provides inspiration, stimulation and esthetic satisfaction and is suitable to mankind. Two minutes, okay. I will read quickly.

Now, why is architecture important to Canada, Manitoba and to Winnipeg? The design of our cities is key to ensuring a vital, healthy and competitive economy in the 21st century. Only those cities that offer a diverse and fine quality of life, that is cities that support and produce good design, will attract investment and knowledge workers. It is critical to the economy of this province and this city that it remain a leading and dynamic place that can attract business and skilled labour.

This city is blessed with a wonderful historic and architecturally significant area, the Exchange District, and I am sure you recognize the cultural, social and economic benefits of this district. You must remember that today's buildings will be tomorrow's heritage. Today's buildings are tomorrow's heritage. It is critical for the long-time survival to ensure that the built legacy is at least as good today as that of the last century. I have left with you a consultation paper and a model architecture policy that elaborates on this more.

I would now like to talk about how architecture differs from engineering, and I am going to leave my only copy of this for you. It is an NCARB document on architecture as it differs from engineering. First, the training of architects varies from that of engineers. At university, architects spend over 50 semester hours in design, whereas engineers spend

about 12 semester hours. Architects study general courses in structural systems and environmental systems, whereas engineers spend considerably more time in the study of one specific system.

Secondly, internship and examination for architects differs from engineers. Internship for architects is very prescriptive and includes design and construction documents among other things. Engineering internship is less—

**Madam Chairperson:** Mr. Hobbs, if you could make your concluding remarks, please.

**Mr. Hobbs:** Okay. Well, I would like to talk about the situation across Canada. I think this document outlines the differences.

**Madam Chairperson:** At this point, I am going to have to—I apologize—ask you to stop. If you have copies of your presentation, we can have them circulated to the members here of the committee.

I understand there are some questions. Mr. Schuler has a question for you.

**Mr. Ron Schuler (Springfield):** Thank you very much, Mr. Hobbs, for presenting to this committee, coming all this way, and we wish you a safe flight back home again. Thank you very much for the booklet you gave us, and I see you even feature prominently one of our bridges. Thank you very much.

However, we do have in front of us Bill 7, and we will be sitting for numerous days by the looks of things. Can you, unfortunately in a minute, tell us Bill 7, yea, nay, and why?

**Mr. Hobbs:** I would suggest you reconsider it. I think someone mentioned a definition, "gross floor area." Certainly that should be reviewed, the definition of that or "area." I think also you need to review the grandfathering clauses and leave the regulation of architecture with what you as legislators have created, the Manitoba Association of Architects.

**Mr. Schuler:** Yes, and if there is something specific, Mr. Hobbs, that you would like this committee to consider, perhaps you could even leave it with us in written form. I had a quick look at your presentation. It certainly spells out architecture. However, what we are looking at is Bill 7, and anything specific to it would be very much appreciated.

**Mr. Gerrard:** I would ask you, just briefly, to give us a comparison of the situation if we had Bill 7,

with how that would compare with the situation across the country.

**Mr. Hobbs:** Unfortunately, that was the big part of my presentation. I would say that, in Ontario, the legislation describes what architects do and it is reinforced by the Building Code Act. I have left a matrix of that Building Code Act with you.

In other provinces, in particular Québec, and I have a copy of the Québec legislation with me to give you, it is done by exception, and the exceptions are very small in area and requirements. This is the same situation in British Columbia and elsewhere.

I was on the council at the Ontario Association of Architects in the eighties, I have forgotten when, when this issue came up and we went through the process of grandfathering engineers into architecture and architects into engineers. A joint board determined what steps they had to go through to qualify and both had to become members of either association and be regulated by the association that they were practising in. I think nine engineers became architects, two architects became engineers. They became members of those associations and were subject to those associations' regulations.

**Madam Chairperson:** Seeing no other questions, we thank you very much for your presentation. Have a safe flight home.

**Mr. Hobbs:** Thank you.

**Madam Chairperson:** Our next out-of-town presenter is Garry Stasynek, a private citizen. He is No. 111 on page 10.

You can proceed, Mr. Stasynek.

**Mr. Garry Stasynek (Private Citizen):** Good evening minister, honourable members, ladies and gentlemen. My name is Garry Stasynek. I am a professional engineer working in the mechanical building systems area. We have a small firm of four and I opened the doors in 1986, to give you some perspective of our history.

Our work experience includes hospitals, office buildings, personal care homes, industrial buildings, industrial systems and things like retail outlets. A good portion of our work is derived from repairs, renovations, upgrades and replacements of existing mechanical systems where we deal directly with owners. The rise in energy prices has focussed the public's attention on energy conservation and that is a significant part of our work now. We have also had some limited experience in insurance and forensic

work. So that gives you a bit of background as to what our company does.

On a personal note, I am a member of the National Research Council's standing committee on building and plumbing services. You may be aware that the National Research Council is charged with the responsibility of maintaining the National Building Code. For the last four years I have participated in the rewriting of part six, "heating, ventilating and air conditioning," and part seven, "plumbing services." Part seven is published separately as the National Plumbing Code. I just received my copy of this this morning, so it is out for use.

It is my opinion that there are two fundamental questions on the table here: one related to imagination and style and the other related to health and safety of the public. The first question is does an architect's training and experience provide a unique and valuable knowledge of a building's form and function such that they as a group should be intimately involved in the design of our built environment. I think that is a fundamental question, and it certainly is addressed by the previous speaker's definition of architecture. So question two in my mind is does an architect's training and experience provide such an exclusive knowledge of the building codes that they should be given legislative monopoly over the implementation of this document.

My answer to question No. 1 is most definitely yes. Buildings of importance to the public should have the artistic input of architects who are trained and experienced. The concept of public good, I think, demands no less and the marketplace concurs. But there needs to be a separate debate about that; that is not the issue on the table in front of us. What is here is a turf dispute. In spite of what the architects' association may say, this is a turf dispute. In spite of what you hear, this dispute is not about compromising the safety of the public. Having professionals other than architects read and administer the Building Code does not endanger the public safety at all.

\* (18:50)

Upon reading the judgment of Justice McCawley, it is clear that this dispute is about the Building Code. It is about this document and its implementation. This is not a dispute about building style or building suitability for its intended purpose. It is not about the colour of the brick or the shape of the roofline. So what is it about? It is about one

group claiming to be the sole defender of public safety, as embodied in the National Building Code. This dispute is about the unintended consequences of The Architects Act as it was drafted some time ago, in a different era, when the norm of the day was to have an architect's office produce all aspects of a building's design, including structural, mechanical, electrical components, using in-house staff. This is no longer the case.

The current configuration of the building design industry is significantly different. The engineering disciplines have become more technically complex and specialized. Many architects are small one-person firms who retain engineering expertise on a project-by-project basis. The availability of independent engineering offices has allowed smaller architectural offices to exist today. They would not have been able to have done that in the past. The writers of that act did not foresee the rise of a business model whereby independent engineering firms would successfully provide engineering design services directly to owners, contractors, developers, independent of architects.

So my answer to my second question is a definite no, but why is the answer no? It is because the Building Code is written to be understandable by any and all participants in the building industry. It is not intended to be so complex a document that only professionals with specialized training and experience can understand and apply it. In fact, with the new 2005 code, inclusion of intent statements makes this code even more accessible. No one should be given the exclusive right to a public document such as the National Building Code.

The solution of this problem must account for the uncertainty that we do not know what shape the future design industry will take. Regulations put into place today will not be appropriate for the changing market conditions that are coming. We do not have the ability to predict the future, other than to say that it will not be the same as today. The only appropriate approach is to leave the industry completely unregulated, exposed to market forces. It is these forces that will decide what role each of us plays in this industry. It is market forces that will keep this industry sharp, keep it focussed and keep it challenged. An industry that is protected from the rough-and-tumble of the market is no different than one isolated behind tariff barriers. Imagination in progressive design can only grow where there is challenge and struggle. This is what I would like to see.

I would like to see the committee and the bill acknowledge that the design marketplace has changed and will change continuously towards methods that reduce cost and increase value to building owners. I would like the committee to acknowledge that public safety is an integral part of the consensus-based code development process. Having engineers implementing the Building Code in no way compromises public safety. I would like to see the committee and the bill avoid implementing regulations based on building classification, on Building Code part, on building size or any other artificial schedule, since these are, indeed, artificial divisions that cannot account for the diversity that we see in this construction industry. Any form of regulatory schedule will extend the ongoing battle and will create cloistered environments that will be unresponsive to market forces. Isolation from market forces is a sure path to mediocrity.

So I would like to see this bill set aside. As it is written, it is not a workable long-term solution. This bill appears to be a stopgap measure that will only add to the confusion and set the stage for a prolonged dispute. The all-Canadian concept of adjusting things until everyone is equally unhappy is really not a good way to measure the success of this legislation.

The other thing that I would like to see is that the government take steps to temporarily lift the injunction imposed by Justice McCawley, so that the building industry can continue to work. I would also like to see it put in place a combined task group that is charged with creating a working environment where all concerned are exposed to and responsive to the market forces of this industry.

Rethink it, rewrite it and reintroduce it at some future date, is what I would like to see.

**Mr. Gerrard:** Now, one of the things that you said early on was that buildings of importance to the public should have the artistic input of architects. Part of what this bill tries to do is to sort of say what architects should do and what engineers should do. How do you say what buildings are important to the public or where do you go if you do not go in the direction of a clearer definition of what engineers and architects do? Help us out.

**Mr. Stasynek:** Well, what I would suggest we do is leave it open for the market to decide. If you as a building owner wish to choose to have an engineer design your building, so be it. If you understand the importance of architecture in our society and if it is a significant building to you, then I cannot see you

going to an engineer to do that. I have seen buildings designed by engineers, and there is a certain—

**Madam Chairperson:** Excuse me, Mr. Stasynec, I want to advise people in the room that we cannot have public participation in the process.

**Mr. Stasynec:** Right. But what I would like to say is that I have also seen buildings designed by architects that are hideous, absolutely hideous, so I do not think membership in one organization or another gives you, somehow, unqualified rein to do good work. Again, the only rational way that I can see this resolved is let the marketplace decide. Let the building owner, let the person who is putting his money on the table, in the ground, decide whether he wants to have an architect and the artistic input from that as opposed to the mechanical things that we see from engineers.

**Madam Chairperson:** Thank you. Seeing no other questions, the committee thanks you for your presentation.

The next presenter is Mr. Garland Laliberte, Dean Emeritus, Faculty of Engineering, University of Winnipeg. You may proceed, Mr. Laliberte.

**Mr. Garland Laliberte (Dean Emeritus, Faculty of Engineering, University of Manitoba):** Thank you, Minister Allan, honourable members of the Legislature, legislative staff, ladies and gentlemen.

My name is Garland Laliberte. I am here as Dean Emeritus of the Faculty of Engineering at the University of Manitoba. During my career at the university, I had the honour of serving for a year as the president of the Association of Professional Engineers of Manitoba. I also served for a year as president of the Canadian Council of Professional Engineers, which is the umbrella and co-ordinating body for engineering in all of Canada, and I chaired the Canadian Engineering Accreditation Board for a year and, during six years of service on the accreditation board, I was a member of no less than 10 accreditation teams visiting schools of engineering in Canada, the purpose of which was to assure the quality of engineering education in Canada. In all of these roles, assuring the quality of engineering practice for the benefit of the public in Canada was either the immediate or the ultimate objective.

I have a deep respect for the professionalism of those individuals practising both engineering and architecture. Engineers have compromised such that architects will be required on more projects under

Bill 7 than under the previous building code but, even so, and as an engineer, I speak in favour of Bill 7 as it is because, despite some of my concerns, it addresses a number of issues positively.

The positives of Bill 7 as I see them are: the Manitoba Building Code is strengthened and given primacy; safety is ensured; the joint board is strengthened appropriately; grandfathering of engineers, a tool successfully used by many professions in the process of their ongoing development, is accommodated; mutual professional exemptions, which follows on similar success in other jurisdictions, are a hallmark of the legislative framework under Bill 7; allowing modern ownership structures, such that no sub-group of professionals is unfairly prejudiced or favoured in future organizations or evaluations of their practice, a strong feature of Bill 7.

\*(19:00)

Other speakers will address these points in greater detail. In addition, Dave Ennis, Executive Director of the Association of Professional Engineers and Geoscientists, will address points in a media release that I believe you now have a copy of.

In the written material that I presented to you, I have depicted architecture and engineering simply with two circles. The circles overlap. There is a part of engineering that overlaps with architecture and vice versa. It is a concept that has been recognized across this country. A fundamental characteristic in jurisdictions across Canada where the scopes of practices of architects and engineers do not become an issue is an acceptance by both professions of the concept of overlapping scopes of practice.

In these jurisdictions, both professions accept the pragmatism that competent members of either profession are qualified to practise in the areas of overlap. Acceptance of this principle is manifest in the legislation governing architecture and engineering in every province in Canada except Ontario and Québec, and I beg to differ with the presentation that you heard from Mr. Hobbs on that point.

In 10 of 12 jurisdictions in Canada, the concept is realized through mutual exemption clauses in the acts governing the practice of the two professions that allow for either architects or engineers or both to practise harmoniously in the areas of overlapping scope. The difficulties in Manitoba arise from the

fact that only the engineers have accepted this principle of overlap.

Acceptance by engineers in Manitoba, and for that matter in most of the rest of Canada, of that principle between engineering and other professions is manifest in an exemption clause, which in Manitoba reads as follows: "Nothing in this act applies to prevent a person who is registered, licensed or certified under, or has otherwise acquired rights pursuant to, any enactment of Manitoba and Canada which licenses, governs or regulates the practice of a profession or the carrying on of an occupation or trade from practising that profession or carrying on that occupation or trade, in accordance with the provisions of such enactment."

It is a clause that recognizes mutual expertise in areas of overlap. It is significant that this exemption clause in The Engineering Act applies to all persons, not just natural persons, all persons. It is significant that it applies to all professions, all occupations and all trades governed by provincial or federal legislation in Canada.

The position of the Manitoba Association of Architects and the present legislation which governs the practice of architecture stand in stark contrast to the spirit of pragmatism and co-operation underpinning The Engineers Act. There is presently no exemption clause in The Architects Act in Manitoba that recognizes and respects the right of other self-governing professions to practise in their areas of competence. Interpreters of The Architects Act in Manitoba are left to infer that architecture is what architects do, a rather open-ended approach in defining scope.

Under existing legislation, Manitoba is clearly out of step with the rest of Canada when it comes to its approach to regulating the practice of architecture. The intransigence of the Manitoba Association of Architects on the principle of overlapping professions and that association's unwillingness to work this out with the engineers over the past several years has been fundamental to a judge's decision, the result of which has delayed or indefinitely deferred construction projects in Manitoba. Manitoba's building boom has been put on hold and an emergency situation has been triggered. Even the advertisement in the weekend newspapers taken out by the architects acknowledges the delays in the construction industry.

Minister Allan, you and your staff and others in government who have worked on Bill 7 are to be

complimented for coming up with a workable solution to this impasse in an amazingly short time. Bill 7 is not a solution that engineers regard as ideal, but it is one with which we can live.

Notwithstanding my view that Bill 7 provides a workable framework for the practice of engineering and architecture in Manitoba, I do have some personal reservations about the detailed approach employed in the proposed changes to the legislation. For example, I feel that a simple exemption clause in The Architects Act, similar to the exemption clause in the engineers act, could have taken care of the matter without resorting to the detail that is proposed.

Detail in legislation is dangerous in that important requirements may have been overlooked and the absence of additional detail responding to these overlooked requirements may be interpreted in the future as intentional. Detail may also be dependent on related legislation and may require updating more frequently. I much prefer the approach of stating principles in the legislation to be reflected in the interpretation of that legislation rather than attempting to predict the requirements with detail.

I have also some personal concerns about the wording of the grandfathering provision. For me, it goes against the grain that engineers, who for years have been practising engineering competently within the scope of the engineers act, would be characterized in the proposed legislation simply as "performing competent architectural work immediately before September 16, 2005," just because that practice is in the area of overlap.

I recognize, however, that such wording may be necessary to make the intent of the legislation perfectly clear to the public, to engineers, to architects and to users of the services of these professions. I understand that time is of the essence, and the building and construction industry must move on.

Consequently, and on balance, I wholeheartedly support the intent and the wording of Bill 7. I encourage the enactment of the proposed legislation without amendment to provide a framework within which architects and engineers can work together in harmony for the benefit of all Manitobans. Thank you.

**Mr. Gerrard:** One of the comments that was earlier was a clearer definition of gross space versus

building area. I wonder if you can comment on that as something that would need to be perhaps part of an amendment or is it adequately covered.

**Mr. Laliberte:** I probably cannot speak very intelligently on that. I understand the difference between floor area and projected area, footprint in other words, and that needs to be clear, I think, in the legislation.

**Hon. Nancy Allan (Minister of Labour and Immigration):** I do not have a question. I just have a comment for the Leader of the Liberal Party. We offered you a briefing on the legislation, and I think, if you would like, we could do that briefing anytime in the next couple of days. It would shed some light on some of the questions that you have been asking that might be helpful.

**Madam Chairperson:** Seeing no other questions, we thank you very much for your presentation, Mr. Laliberte.

Our next presenter is Myles Kubinec, private citizen. Hello, you are Mr. Kubinec? Yes. Did you have copies you wanted to circulate. The Clerk will come and get them. You can proceed.

**Mr. Myles Kubinec (Private Citizen):** My name is Myles Kubinec. I am a professional engineer in regard to mechanical. I am from Holland, Manitoba.

I am concerned that Bill 7 does not address the problem of proper supervision or co-ordination of building projects in the most direct way. I agree all projects for the protection of persons, process or property that is impacted should have a designated profession of record. That profession should be competent in the scope and activity of the particular task to be undertaken in the project.

\* (19:10)

I personally have not seen the actual wording of the most important part of the amendment. It was not released as of Friday when I last checked. I did not get a chance to check again, but on the Building Code, the document that is used in everyday work, from the press release it appeared that the requirements for professional supervision will be based only on the size and type of building.

I have recently been involved as a professional of record for a mechanical retrofit of an existing building which included a Class T machinery room. The interests of the owner, workers and the public were not compromised under my professional supervision. I do not believe anyone would have

been assisted by the involvement of an architect to oversee my function in the project.

I have also recently worked on a fire protection and water service building for a large condo. I was personally responsible for co-ordinating the work of other professionals and was directly responsible for the design of the fire pump system, which was the main work of the project. The adjacent condo project was supervised, as it should have been, by a competent professional of record, in this case an architect. On the other hand, the independent fire pump reservoir and building project I was supervising did not have and did not require an architect to make it safer, more functional or cost-effective.

I do not believe that the identification of specific case-by-case requirements for designating a specific professional of record for each project is practical or reasonable. To the best of my knowledge, this is not used in other jurisdictions, which I believe was also stated by the dean. Both professions, architects and engineers, are expected to know their area of competence and to practise their profession within those jurisdictions and limitations. There are engineers that are by virtue of their training and experience generalists and very competent to be in charge of large building planning and construction projects. Other engineers, like myself, know not to engage in large types of projects that are outside of my scope of work and outside of my area of expertise, just as the architects know not to design a mechanical system in the building that is outside of their expertise.

With Bill 7 there are two clauses which I am concerned. One limits or eliminates the engineering input unless it is provided under architectural supervision. I guess, I am not a lawyer, that was the way I read it, so you can correct me if I am incorrect. The other seems to grandfather existing engineers that are practising general supervisory responsibilities at the present time. This grandfathering ignores young engineers who will become competent over the next 10 years of working on significant building projects.

I do believe that giving engineers the same right to serve as supervising professionals that architects have and then rule out relying on the professional integrity of both self-policing organizations to govern practitioners will solve things on the legislative end. Requiring a profession of record, either an engineer or an architect, on every project in

the Building Code and thus enforcing the requirement should solve all safety concerns, issues. That is basically all I was going to say.

**Madam Chairperson:** Thank you very much, Mr. Kubinec.

Any questions?

**Mr. Gerrard:** Just, you had a concern about the grandfathering of engineers. Could you just explain that a little bit more?

**Mr. Kubinec:** The concern I had is that by grandfathering engineers, with all professions, there is this grey area where you are not competent enough to know what you are doing but then, you know, you get to a point to where all of a sudden everybody feels that you are competent. Doctors have that, you know. By putting a grandfathering clause, basically I feel that you are acknowledging that there are engineers that do know what they are doing and they have gotten to a certain stage but, for whatever reason, there is never going to be any more.

Being my age, and I am not saying it would ever be me because I do not feel, as a mechanical engineer, that I have got generalist training, but there are young agricultural engineers that I work with every day that do have generalist training and a foundation to become a generalist in the future. I feel that grandfathering that would basically be saying that they can never actually get to that point.

**Madam Chairperson:** Thank you. Seeing no other questions, we thank you very much for your presentation, Mr. Kubinec.

Our next presenter is Robert Hamlin, a private citizen. Did you have copies you wanted to distribute, Mr. Hamlin?

**Mr. Robert Hamlin (Private Citizen):** No, I just have a verbal presentation.

**Madam Chairperson:** Okay, please proceed, Mr. Hamlin.

**Mr. Hamlin:** Good evening, ladies and gentlemen, Minister Allan and honourable members. I am Bob Hamlin. I am a professional engineer and I graduated in 1964. I have worked in several companies in Alberta, Atomic Energy Canada, and of more recent, Manitoba Hydro.

I chaired a national committee of the Canadian Electrical Association for three years. I have some experience in the co-operation required in the various disciplines in an organization and across the country.

I had a staff as many as 100 and retired supervising a staff of 50.

One of the things that has happened, which has not surprised anybody, is the complexity of the buildings and things that have changed since The Architects Act was written. This has become so important in all aspects whether it is building envelope, the aesthetics of the building. To have one discipline only being in charge of it I think is very, very difficult to do. I do not think they have the ability to cover the whole range of it. So what I see is that we need more co-operation between all factions.

It has been the working arrangement in the last many decades between the engineers and the architects. If that would be allowed to continue, then we would not be at this impasse. We would not have to come back to the legislation to get it changed. What I see in the legislation is that the authorities having jurisdiction being strengthened, that would be a good thing because that would allow the bringing together and deciding where a scope of practice should be between the engineers and the architects.

What I have seen in disciplines between engineering and certified technicians and technologists, for example, is, again, there is the overlap between the two. I have seen them work out amicably in an organization this working relation, what the engineers do, what the technicians do, and we have done that with the architects. We need to continue to do that. It becomes even more important.

One thing, the Manitoba Building Code, it is good to see that that is the main driver between all of the work that is done in buildings. What we would like to see from an engineering point of view is reciprocity between The Architects Act and The Engineering Act.

In conclusion, the legislation is not perfect and the previous mechanisms did work, and we now have some legislation that will allow that to continue. It is important to the provincial economy and it should be passed quickly. Co-operation is needed to be re-established to get on with the work at hand and to continue to build the economy that is gathering a momentum that we have not seen in many years. I really urge the legislators to get on with it. It will help us. It has got far-ranging support, this legislation, and it deserves speedy passage.

Public safety should never be compromised, and I think that would be true. However, it should not be determined the sole purview of a particular group of

professionals. It should be done in co-operation with them. Thank you.

\* (19:20)

**Madam Chairperson:** Thank you. Are there questions? Seeing no questions, we thank you very much for your presentation, Mr. Hamlin.

The next presenter is Duane Joyce, private citizen. I call again, Mr. Duane Joyce, private citizen. Seeing that Mr. Joyce is not here, his name will be dropped to the bottom of the list.

Our next presenter is Myron Britton, private citizen. Did you have copies you wanted to circulate to the committee?

**Mr. Myron Britton (Private Citizen):** No, ma'am.

**Madam Chairperson:** No? You can proceed, Mr. Britton.

**Mr. Britton:** I would like to thank the board for the opportunity to speak to you. I am Ron Britton. I am a professional engineer. I am the associate dean of Design Education in the Faculty of Engineering, NSERC design chair or design engineering, past-president of APEGM and a current board member of the Canadian Council of Professional Engineers. I am here to speak in favour of speedy passage of Bill 7.

I believe that professional acts exist to protect the public. I believe that the Legislature has placed the responsibility on the professions in order to handle the day-to-day practice of each profession. I believe that one of the rights that goes with that responsibility is the right to define one's own profession. I see the current challenge as a challenge to the right of a profession to define itself.

As it stands, architects can define one part of what engineers do. If one part of a right is eroded, then the entire right is eroded. This is a complex situation, the circumstances between engineering and architecture.

Understanding, which is what we are attempting to arrive at, which is what the government has been attempting to get the professions to arrive at, is a function of equality. If the two professions are not equal, then the differences will never be resolved.

Some specific points with respect to the act as proposed. First and foremost is the exclusion clause. The exclusion clause provides equality. It provides the opportunity for each profession to define itself and to define what it can and cannot do. I have spent

much of my professional life involved in rural buildings, and the first exposure I had to an exclusion clause was in the agronomist act which entitled me to practise engineering in spite of the fact that I am not registered as an agronomist. But I am registered as an engineering and I practised engineering in that particular field. It seems to me that this is basically a very workable process amongst reasonable people.

The second point I would like to make relates to the joint board. Now, back in 1998 when The Engineering Act was enacted and The Architects Act was modified, it was intended as a dispute resolution mechanism. It has a lack of legal equality under the current situation because the professions do not have equality under the current situation. There is also lack of authority in the given situation in the joint board. However, the current proposals will impose some authority and allow this to become a body which can, in fact, resolve disputes.

A concern that I have with the proposals is the grandfathering clause for engineers who practise architecture. I believe that engineers should not and do not practise architecture. I believe that the inclusion of this clause implies that an engineer is doing what he or she should not. Engineers should practise engineering. They should practise engineering under their act as defined by their profession. This clause assumes that they are not practising engineering and, therefore, I find it very difficult to accept.

In general, I would suggest that the proposed changes should permit those individuals who are involved in the professions to arrive at a workable solution because it will be based on equality. I am concerned about the complexity of some of the clauses, but I can accept that, given that the complexity is created by those who write laws, as compared to persons like myself who attempt to understand them.

The province needs both professions. One profession does not supersede the other. They must work together. It is a complex relationship, but I believe that the exclusion clause in the joint board gives us a sufficient base on which to start to resolve the differences between the two professions. Thank you.

**Madam Chairperson:** Thank you very much. Are there questions from the committee? Seeing no questions, we thank you very much for your presentation.

The next presenter is Lawrence Homenko, private citizen. Yes, we are at No. 150, for committee members, on page 13. You can proceed, Mr. Homenko.

**Mr. Lawrence Homenko (Private Citizen):** Good evening, Minister Allan, honourable members, ladies and gentlemen. I am a certified engineering technologist and a graduate of Red River College. I own Homenko Builders Inc., a design-build contracting company, and manage Custom Precast Limited, an associated company which manufactures structural pre-cast concrete building components. We are certified by the Canadian Standards Association and the Canadian Welding Bureau.

We provide design-build solutions to buildings in Manitoba, northwestern Ontario and the United States, specifically North Dakota, South Dakota and Minnesota. During the past 25 years, we have worked on over 400 projects, of which less than 20 involved an architect. The balance of the projects, 380-plus, were designed by the clients, our company and a professional engineer in accordance with the Building Code. For all of these projects, building permits were obtained and, upon completion, occupancy permits were issued. All of the owners were pleased with our choice of building materials, the products supplied, design employed and the design team to bring the project to a successful completion.

Due to time constraints, we are including a list of two of our largest clients which are owned by Winnipeg families residing in Winnipeg. Sun-X Properties is the largest developer of office/warehouse space in the city, followed by Terracon Developments. A random sampling of the tenants are listed below. For Sun-X, DHL/Loomis, Siemens, Convergys, Grand & Toy, New Flyer, Color Ad Packaging, Day & Ross, SLH-Sears Long Haul, Sun-X Business Centre, which many of you may recall was the old Labatt's site before they took down the brewery. We did the entire block, Westburne Electric, Warehouse One, Province of Manitoba, I believe that is the purchasing department for all of Manitoba, Corporate Express, Sleep Country Canada and Frito Lay/Pepsi.

For the ones for Terracon Developments, Terracon Business Park and Tuxedo Business Park, Winnipeg Regional Health Authority Manitoba Tissue Bank, Coca-Cola, 3M Canada Company, Maple Leaf Foods, Trans Canada Pipelines Ltd., Panasonic Canada, Manitoba Pork Council

Executive Offices, Manitoba Chicken Producers Executive Offices, Saskatchewan Government Insurance, Ridley Inc., Rothman Benson & Hedges, Chubb Security, Acklands-Granger, ACS Public Sector Solutions. Medical industry, Surgipath Canada, Stevens Company, Brathwaites Ontario, Canada Drugs.

A pattern is readily discernible by the number of repeat customers that keep us in business. The obvious assumption is that we must be providing a very good service for our clients. I was going to end here, thank the minister and honourable members for a fairly balanced, compromised and speedy resolution to the problem at hand and proclaim my support for Bill 7 when, on Saturday, I read an advertisement the architects placed in the *Free Press*, and I just had to speak further on the issue. I have the ad included with my presentation for your information. If you look to the back it is folded in there. I have highlighted some of the points I will be speaking on.

\* (19:30)

When I read the ad, I felt my blood pressure rising and that is definitely not a good thing. I do not have the time to go into great detail concerning all that is wrong or misleading with their argument, but I have highlighted several words in that ad that I will address.

First and foremost, the entire ad is a generalization of vague terms designed to sway opinion or cause doubt in the mind of a layperson that is not conversant with the building permit process and the Manitoba Building Code. The amendments as proposed in Bill 7 could not possibly lower the safety and functional standards of buildings, because that would mean the majority of the buildings we have constructed in the past are either unsafe or poorly functional at best simply due to the lack of an architect's seal on the drawings. What does this say about the successful clients we have provided services for? Are they not intelligent enough to determine whether they need the services of an architect or engineer for their projects? I am quite certain that our clients have not damaged the quality of life for Manitobans by building these types of projects without the services of an architect.

While I personally feel that the best and least bureaucratic solution to the problem would have been to simply amend The Architects Act similar to that of The Engineering Act and follow the Manitoba Building Code, I cannot see this happening very

quickly. I have two other items here I would like to read, if I could.

Engineers are compromising. Under the previous Manitoba Building Code, engineers were successfully completing and supervising a range of projects, working with architects as they, the clients and the authorities having jurisdiction considered appropriate. Under Bill 7, architects will be required on more projects than under the previous established protocol. Some examples are all places of worship, restaurants, arenas with more than 1000 people and any residence, office building or store larger than 600 square metres. Many of these buildings have been designed and constructed successfully in the past without architectural involvement.

Another note I made, I would also like to thank Mr. Hobbs of the Royal Architectural Institute of Canada for agreeing with Bill 7 when he pointed out that engineers are responsible for the design of buildings housing equipment, vehicles, et cetera and such, which are typically found in group four of the Building Code and stating architects should be responsible for the people buildings which are classed from A to E in the code.

Having said that, I want to thank the minister and her advisors for this timely solution which is a fair compromise, and I fully support the speedy passage of Bill 7. Thank you.

**Madam Chairperson:** Thank you. Are there any questions for Mr. Homenko? No? Seeing no questions, we thank you very much for your presentation.

Our next presenter is Mr. David Derksen, private citizen.

**Mr. David Derksen (Private Citizen):** Good evening, Madam Chairperson.

**Madam Chairperson:** Did you have copies you wanted to circulate?

**Mr. Derksen:** No.

**Madam Chairperson:** Okay, please proceed, Mr. Derksen.

**Mr. Derksen:** Good evening, Madam Chairperson, Minister Allan, members of the committee, ladies and gentlemen.

I would like to speak to Bill 7. My name is David Derksen. I have been in the construction industry for about 22 years. I currently am the district manager for Robertson Building Systems.

In that capacity, I have a close working relationship with many general contractors in the province. Many of these contractors are facing two significant issues right now. One is that they have projects that are ongoing that are on hold. They are in various stages of construction. They have had their permits pulled. They have had occupancy permits denied to their owners on projects that are complete. This needs to be rectified and we see Bill 7 as a reasonable compromise to that situation.

We also look at the future and see that their ability to provide construction services in the future and choosing the appropriate professional services as required also impaired. Bill 7, once again, addresses that to a reasonable extent.

The builders I come in contact with take pride in their ability to provide not just construction services but also complete costing and design services to their clients. They need to have the flexibility to choose which professional services are required to meet the needs of each of their clients. These contractors have always recognized that there is a need for engineering services and architectural services, however not on every project. They have enjoyed the flexibility, up until the recent court ruling, to be able to choose whether there would be an engineer required to supervise their project or an architect to supervise their project.

Although Bill 7 does not restore everything to the way that it was before the court ruling, it does bring a measure of compromise and a measure of clarity to the situation. Therefore, I would urge you to pass Bill 7 as it is written into law as quickly as possible.

The construction industry in Manitoba, as I see it, and many of my contractor friends see it, is in a somewhat precarious state. With construction being slowed down and issues being out there in terms of whether or not there is going to be work in the future for many of their trades people, they are noticing ads from B.C., ads from Alberta, saying come work for us. At this time, many have not yet left, but I know that many are considering that. They would appreciate the passing of this bill quickly so that they can continue to work and enjoy the lifestyle that they have here in Manitoba, so they do not have to uproot their families and move them to other jurisdictions.

Once again, thank you for recognizing the importance of this issue and your quick work.

**Madam Chairperson:** Thank you very much Mr. Derksen.

Are there questions for the presenter?

**Mr. Gerrard:** Maybe you can just give us a little bit more detail on how many buildings that you are aware of are being delayed or deferred.

**Madam Chairperson:** Mr. Gerrard, I am sorry. I do not think we could catch the question back here. If you could just speak in the mike.

**Mr. Gerrard:** The question was, I was just asking for a little more detail on how many buildings have been delayed or deferred in your experience.

**Mr. Derksen:** It is somewhat anecdotal in terms of the numbers, but I am aware of about 10 right now that I have been involved with that are somewhat on hold or in limbo.

**Madam Chairperson:** Thank you very much for your presentation.

Our next presenter is Ellen Kotula, private citizen.

While we are waiting for Ellen Kotula, I have just received a request from John White for his presentation to be included as a written submission to Bill 7, copies of which have been distributed to committee members. Does the committee grant its consent to have this written submission appear in the committee transcript for this meeting? *[Agreed]*

For the information of the committee members, Mr. White is No. 62 on your list.

Once again, Ellen Kotula, private citizen. Seeing that Ms. Kotula has not come forward, her name will be dropped to the bottom of the list.

Our next presenter from out of town is Mr. Bruce Wilton, ND Lea Engineering. Once again, Mr. Bruce Wilton, ND Lea Engineers? One last time. Seeing that Mr. Wilton is not here, we will have his name dropped to the bottom of the list.

Calling Mr. Phillip Dorn, private citizen. Once again, calling Mr. Phillip Dorn, private citizen. Mr. Dorn will be dropped to the bottom of the list.

Aynslee Hurdal, private citizen, 185. I am on page 15, for the information of the committee members.

**Madam Chairperson:** Hello, Ms. Hurdal. Did you have a presentation you wanted to circulate to committee members?

**Ms. Aynslee Hurdal (Private Citizen):** No, I do not.

**Madam Chairperson:** Okay, please proceed.

\* (19:40)

**Ms. Hurdal:** Thank you. Hi, I am a student at the University of Manitoba. I am studying architecture there. I have been studying there for six years and it takes six years of studies to become an architect. I will be graduating next year, upon which I need to spend another three years to become an architect that can get a seal.

So we go through nine years of education in order to become an architect and I feel that if this bill goes through, my partner and I—and my partner is in law school; he will be graduating next year—are probably going to have to leave the province that I have strong ties to. I love this province. It is sad that two educated people who have strong ties to this province will probably have to leave because I do not see the building industry, in terms of architecture, growing due to this bill. I think it will, in fact, inhibit the growth of building and that is all I have to say.

**Madam Chairperson:** Thank you very much. Are there questions for Ms. Hurdal? Seeing no questions we thank you very much for your presentation.

The committee calls Roger Wilson from Fox Warren Ethanol Agency. Once again for Roger Wilson, Fox Warren Ethanol Agency.

One last time for Roger Wilson, Fox Warren Ethanol Agency.

Mr. Wilson will be dropped to the bottom of the list. The committee will now move on to people who are from Winnipeg or close proximity.

The committee now calls the first person registered, Don Oliver, private citizen.

You can proceed Mr. Oliver.

**Mr. Don Oliver (Private Citizen):** Thank you very much, Madam Chairman, honourable Minister Allan and members of the Legislative Assembly.

My name is Don Oliver. I am a registered architect in the province of Manitoba and I have been registered since 1989. I have been active in my association on various committees. I have been on council for six years and, two years ago, I was the acting president of the association. I am the founding member of a small architectural practice based in

Winnipeg, doing most of our work in rural and northern Manitoba and northern Ontario.

Over the last few years, there have been many attempts to have The Architects Act recognized by the authorities having jurisdiction in this province, some with the involvement and some without the involvement of government assistance.

Two years ago the Province of Manitoba introduced the retail sales tax on businesses practising a restricted scope of practice. At the meeting of these stakeholders with the Minister of Finance at the time, I stated that the MAA felt it was unfair for its members to have to collect retail sales tax while the office of the Fire Commissioner's office was not recognizing The Architects Act in our restricted scope of practice to design buildings defined by our act. We were assured that this would be addressed, giving our profession some hope.

A year and a half ago, Bill 45, which we all remember was the changes to the engineers and geoscience act, was introduced and in a committee room after the second reading, one of the hardest fought public confrontations between our two professions took place. We were fortunate that the honourable Minister of Labour, Nancy Allan, saw fit to allow representatives from both of our associations to meet with Legislative Counsel and quickly redraft the offensive parts of that proposed legislation and to come to an agreement that allowed the engineers to get the provisions they needed to continue on and represent their own act.

The consequence of this unfortunate incident was the deflection away from the creating of the directive from the Office of the Fire Commissioner's office and the constricted involvement of both professions in another round of joint board discussions to resolve this jurisdictional issue. The resulting Witty Report and its recommendations were not implemented in spite of assurances that they would be.

In the spring of 2004, the Manitoba Association of Architects decided to act on the increasing trend by non-professionals and contractors to use stamping engineers to circumvent the requirement for an architect on projects, and the City and Province's facilitation of this practice. The MAA initiated an injunctive action against the City of Winnipeg.

Bill 7 is the government's response to the September 16, 2005, decision by Justice McCawley on that injunctive action. So this charge is all part of

your package and you can refer to it later, just to give a little bit of guidance about the process here—

**Madam Chairperson:** Mr. Oliver, I have to stop you for a moment. I am sorry. I will ask you to use the information you have in this package. Similar to rules in the House, you are not allowed to use exhibits, so I am sorry, I am going to have to ask you to put that aside. Thank you for your understanding.

**Mr. Oliver:** Like I say, that exhibit is in your package, so you can refer to it. In that case, the MAA asked the court to decide whether the City of Winnipeg could issue building and occupancy permits based on the building drawings that were prepared and sealed by non-architects, generally speaking, engineers.

The City of Winnipeg had been issuing these permits, as had other authorities having jurisdiction. You can see in the chart there that there are actually two milestones in the production of a building where the authority having jurisdiction has some input into the process. There is the issuance of the construction permit, which happens after the design work and the bidding and tendering is gone, and then there is also the issuance of an occupancy permit, which happens after the construction and prior to occupancy by the building's users.

In the City of Winnipeg case, the city's legal counsel argued that it was allowed to decide for itself whether an architect or engineer or neither is required on a building. The Association of Professional Engineers and Geoscientists of Manitoba sided with and supported the city's position.

The MAA argued that The Architects Act and the engineering statute, being statutes that are in place for public health and welfare, required that architects be involved in the design, planning and supervision of the construction of certain buildings, and that engineers skilled in the appropriate disciplines, structural engineering, mechanical engineering, electrical engineering were required for the design of the building's structural, mechanical and electrical systems, and that the City and other authorities having jurisdiction could not issue building and occupancy permits unless both professions were involved, each in their own area of professional expertise.

The Court of Queen's Bench agreed with the Manitoba Association of Architects. When the decision came down, the government initially

panicked. What about the buildings that were in the process of being built? What about the buildings that the authorities having jurisdiction had issued permits for that did not have architects, even though the law now said they required one? These are practical problems, but they are not insurmountable ones.

The government, under pressure by several special interest groups, bought into the fabricated aura that this was a crisis situation. Was there a crisis? The Manitoba Association of Architects does not believe that there is one, and the lack of action by the Office of the Fire Commissioner's office has delayed progress on what should have been a temporary situation.

\* (19:50)

Within days of the court's decision, the MAA and the City of Winnipeg discussed the ramifications of the ruling, what was needed to be done and how the MAA could help. Today, we are told directly from the City's department head that there is no backlog at the City of Winnipeg's permit department, the largest authority having jurisdiction in the province.

What about the other authorities having jurisdiction? The Office of the Fire Commissioner has not issued directives on how to deal with the court ruling, and many municipalities are still operating business as usual. There is no appearance to be a crisis. Any buildings that are in-between the building permit and the occupancy permit stage can be dealt with very easily.

Bill 7 is a response; it is not a solution. The solution is needed. Bill 7 creates more problems than purports to solve. My architectural colleagues will be speaking on the specifics of these problems. If government feels that the City of Winnipeg case requires immediate action, rushing through Bill 7 is not the solution. Bill 7 is a hasty and devastating response to the situation. We feel that the simple and direct solution to the perceived time crisis that we are faced at is for the court to be asked to vary the order, which is to suspend it while the government addresses the situation and develops a responsible considered solution. Taking this action will buy the government time with no adverse economic consequences. I ask the minister and this committee to delay the third reading of Bill 7 until all of us are able to properly evaluate and amend the devastating articles. Bill 7 is not in the best interest of Manitobans.

My colleagues will be speaking to you later on this evening and tomorrow about the problems inherent in Bill 7. I support the concerns that they have and agree with their proposed solutions to achieve good, sound legislation.

**Madam Chairperson:** Thank you very much. Are there questions?

**Mr. Gerrard:** I am puzzled because we have been hearing that there is a big backlog of permits, and you say that there is not? I mean, this seems to contradict what we are being told from other sources.

**Mr. Oliver:** The indication from the City of Winnipeg is that because they have been dealing with the problem with the backlog since the ruling, which came out on September 16, most of the problems they have had with projects that were stalled have made their way through. Immediately after the ruling, the City took the stance of informing each of the permit holders of what they felt were the requirements to go forward. Projects that were in the process of being built were just asked to get an architect involved to review the project for supervision as it went through. They stopped the projects being applied for a building permit until, once again, they had an architect involved, which met the ruling from Justice McCawley.

**Mr. Schuler:** Don, thank you very much for coming to committee and making your presentation. We met on the 17th of this month, and I am a little bit confused. I thought there were three areas where you had specific issues with the legislation and, from what I see today, you just do not like the bill at all. Has your association shifted its position? Now you are at the point where you do not want the legislation to proceed at all? Can this legislation be amended like we had discussed a couple of days ago, that some changes be made to it and it might be agreeable to you or no? You have now looked at it again, and this legislation has to be put on hold? Maybe I misunderstood you when we met on Thursday or Friday of last week.

**Mr. Oliver:** Our position has been right now that we would prefer that the bill be put on hold to give the parties a chance to develop good legislation. There are some intents in this legislation that are very, very good, things that straighten out and get us in line with the rest of Canada and other jurisdictions in North America. But there are also other parts of the legislation that are devastating, and it cannot be fixed with a few word tweakings. There are whole blocks of it that must be reworked. Grandfathering, well,

you will get into that a little bit later when I am the first speaker which talked about delaying the bill, giving us time to do it properly. Other speakers that you will hear tonight and tomorrow will be articulating each of the concerns as part of their presentation. Okay.

So there are a number of concerns. The biggest one we feel is the easiest fix is to have the injunctive action addressed in the courts, taking any sort of pressure that the government feels that they have because of the projects that are being stalled, and then deal with the act properly and achieve the good legislation that we all need.

**Madam Chairperson:** Seeing no other questions, thank you very much, Mr. Oliver.

There has been a request from two of our presenters to have their positions switched, that is from No. 3, Gerry Semerak, and from No. 135, Mr. Robert Eastwood. This is at their request, so I am asking if there is agreement? *[Agreed]* Thank you very much.

Our next presenter is Vince Kwiatkowski, a private citizen. You can proceed, Mr. Kwiatkowski.

**Mr. Vince Kwiatkowski (Private Citizen):** Kwiatkowski, that was close. I want to thank Minister Allan and the members of the Legislative Assembly for letting me speak tonight as a private citizen.

For the record I would like it noted that I have a degree of a Master of Architecture, and I am in good standing with the Manitoba Association of Architects. I have been practising for 23 years in the province of Manitoba.

I am not going to go into detail in Bill 7, but I would like it noted that I am in support of the position of my colleague Don Oliver, and call upon the minister and this committee to delay Bill 7 from proceeding to third reading until all discussions are heard.

I will be reading from a letter forwarded to Raymond Wan Architects by Creswin Properties, who is a client of his. Creswin Properties is owned by the Asper family. Any of the articles and concerns of Bill 7 will be presented in time by the joint board representatives and the members of the MAA association. I prefer that they would speak, and they will be answering a lot of the issues to Bill 7.

Proceeding along from the letter, the letter is dated from the client November 20, 2005, and it is to

whom it may concern. It is from Dan Edwards and it is cc to Raymond S. C. Wan. The subject is The Architect Act modifications. In reading, "I am writing to express my view and offer my support to the Architects of Manitoba, with regard to the above noted subject. I have been involved in the development, acquisition and management of residential, commercial, retail and commercial office real estate for in excess of 25 years at the local, national and international level."

Second paragraph, "During my career, I have worked with companies that did not see the need for architects and with companies that absolutely insisted that an architect be part of the project team, usually in a leadership or team management role. Where an architect was involved, almost without exception, at some point in the life of the real estate a situation would occur where an architect would be hired, or should have been hired.

"On projects where an architect was involved, the finished project typically demonstrates the value brought forth to the project on many levels such as design, safety, cost and sustainability.

"Notwithstanding the above, this memorandum should in no way be interpreted as diminishing the value or need for engineers. No successful project is concluded without the involvement of the appropriate engineers, whether it is electrical, mechanical, structural, geotechnical, etc. Each project is different and the appropriate professionals need to be involved to ensure the quality, safety and longevity of the project, regardless of the nature of the engagement.

\* (20:00)

"In closing, I would like to stress that I feel the current nature of the industry is extremely successful, that the current legislation is workable and when things are not broken, they should not be fixed.

"Regards: Daniel R. Edwards, President and CEO, Creswin Properties Ltd."

**Madam Chairperson:** Are there questions for the presenter? Seeing no questions, we thank you very much for your presentation.

**Mr. Kwiatkowski:** Thank you very much for your time.

**Madam Chairperson:** Our next presenter is Robert Eastwood, private citizen. You can proceed, Mr. Eastwood.

**Mr. Robert Eastwood (Private Citizen):** My name is Robert Eastwood. I am speaking as a private citizen. I am speaking as an architect. I am a principal of one of the larger firms in the city of Winnipeg, Number Ten Architectural Group, and I have been in practice in this industry for over 30 years. I am also involved, not only within the province, but across the country. I am registered in five provinces, and we do work internationally.

As part of my concern related to the current act and process, I have attempted to talk with a number of principal businesses within the province, both architectural and engineering, about the nature of the process and the wording of the current bill. I have attempted, in concert with them, to put together a joint statement in a general way, which is what this brief statement outlines that I have been in discussion with these firms on.

I have been given permission to speak briefly on behalf of those firms to present some of the issues that we have in mind. We really want to deliver the message that our collective industries are affected by the proposed legislative change.

Our industries, the ones that I have spoken to over the last number of days, employ approximately 350 professionals, technologists, planners and related staff in the architectural, engineering and planning industry in Winnipeg and Manitoba, and a significant greater number across Canada.

Our collective work is, as I have said, across Canada, around the world. Our collective businesses represent scores of years working together as architects and engineers in the design of buildings. As industry members, we are truly focussed on the building industry versus other aspects of the industry. Our companies represent, probably, close to 50 percent of the professionals and staff involved in the design of buildings in Winnipeg.

We understand that the bill is a required mechanism to assist in giving clarity to the authorities having jurisdiction on this process. However, as a group of architects and engineers, we want to stress that the proposed legislation is too important to rush. We mutually recognize the importance of the suggested legislation to both of our professions. More importantly, we recognize that the public benefits from the collaborations and skills of both professions, and what they bring to a project is significant. We want legislators and authorities having jurisdiction to recognize those skills and

benefits when they address issues of act or code changes.

We cannot speak to the resolution of specific language required within the act, but, primarily what we want to speak to is our concerns about a lack of clarity related to the proposed bill. Those concerns include a couple of areas: how the proposed scope of work is governed; how grandfathered professionals are licensed or reviewed; and how authorities will make judgment about when to include professionals in alteration projects.

As I mentioned, what our concerns are, primarily related to the current bill, is clarity. It is important that both of our professional associations maintain a role in the interpretation, scope definition and licensing of professions in our province and in our industry.

It appears that the proposed legislation suggests that the issue of scope definition will be governed by a public board operating outside of both the professional associations and their acts for some areas of building and construction. In order to provide clarity to authorities having jurisdiction and regulatory boards and municipalities, it is necessary that changes in regulations be appropriately reflected either in the bill—and it is our understanding the bill currently does not reference those adjustments—or in the professional acts in order to ensure continuity and stability, both through the professions and to the authorities, and that the professional acts of both associations are respected and not significantly modified or compromised by legislation. We understand that both associations in previous discussions, and is reflected in one of the schedules in the outline bill, had agreed to recommendations related to areas that have been of previous concern, such as the recognition of engineers' sole involvement in industrial projects, and we recognize that effort in the discussions to date. There are areas, we believe, that clarity is still required, such as multiple occupancy projects within that sector, and that clarity will benefit professionals, builders and authorities.

In the second item, under grandfathering, it appears that the grandfathered professionals under the bill will be working outside the direct authority of APEGM or the MAA, at least that appears to us the way we read the current language, even though those two bodies are the ones empowered to grant professional licences. The certificate is suggested to be issued by an intermediary board. It should be

recognized that that board does not have the licensing, investigative or regulatory authority in the same manner as the professional bodies. This may also raise concerns about resolution of liability issues for professionals acting outside of educational and professional guidelines of their professional bodies. Again, our issue here is one of clarity for both professions and clarity in the description of issuance of licences or certificates as referenced in the bill.

The third item, the proposed section on alterations, appears to rest all decisions on who is professionally involved in those projects within the authorities having jurisdiction. There is no reference to either the professional acts. The table suggested in item 2.3.1.3(1), or the scale or occupancy of the proposed alteration, and we believe that some reference to those items, again, will provide clarity to the authorities and guidance in terms of their rulings, because it appears to us that they are the ones given authority under that section to solely rule. There were other workable guidelines nationally. Some of those have been referenced in discussion today, such as the OBC or Ontario Building Code, that may assist or prove workable.

As we stated at the beginning, this issue is too important to rush, we believe. We believe that there are areas that need clarity to both professions. We suggest that the wording of the final resolution merits more time. Our collective working environment and Manitoba as a whole is enriched by the efforts of both professions, and we anticipate that the current draft legislation may create some compromise as to that working environment and our collective efforts to strive for excellence in the living and working environments of Manitoba.

That is the brief written statement.

**Madam Chairperson:** Thank you very much. Are there questions for Mr. Eastwood? Seeing no questions, we thank you very much for your presentation.

The committee now calls Tom Monteyne. You can proceed.

\* (20:10)

**Mr. Tom Monteyne (Private Citizen):** Yes, thank you. I am both a registered architect in the province of Manitoba, and have been since 1992, and I am an adjunct professor in the Faculty of Architecture at the University of Manitoba, and have been teaching there continuously since 1994. I have made a submission on the education of architects. It has a

few components here: There is my submission; there is the calendar of courses that architects take at the University of Manitoba; there is the Canadian Architectural Certification Board's guide of student performance criteria; and then there is a little statement in here on the actual tuition fees that students of architecture pay.

I guess I want to take you through what architectural education is, to bring up you to speed with the depth and complexity, and also to emphasize that the focus of the education is on the design of buildings. Our students go through many exercises over the course of actually six years, three years undergraduate and three years graduate education. It focusses on the design of buildings. The point I am trying to make, of course, is that the design of buildings is a specialized occupation and so the education of architects has to support this specialization.

I have already referred to the Canadian Architectural Certification Board. It was formed in 1976 by agreement of all the provinces, quite an amazing feat in this day and age. Hard to imagine all 10 provinces agreeing on something in this day, but it did happen. What the CACB established was the Canadian education standard.

I just want to take you through, I will not go through every last detail of this, but I want to highlight the main areas of education, the first one being human behaviour as it relates to the physical environment in which we function and live. Environmental study, including all aspects of site planning, site analysis, urban planning at a variety of scales from the rural to the urban and the individual building to the scale of the city. Graphic communication, which, of course, focusses on the various forms of drawing that we use to communicate ideas both to clients and to civic authorities and all kinds of other stakeholders. Building design is probably, as I have already said, the main focus, ranging from simple building projects to complex buildings. The related systems, topics of study such as spatial analysis, design process, and, you can read for yourselves. There are quite a lot of things here.

But there is an emphasis. It is comprehensive, and there is an emphasis not so much on learning how to design every kind of building in the world, but, really, how to design buildings, how to go through the process of researching and learning about the specific program, the specific kind of

client, and then figuring out how to synthesize all of those things into an actual working building.

The next area of emphasis is the building's technical systems, which include structure, environmental control systems, mechanical, electrical systems, the things that make buildings work. It is in this area that we tell our students about the roles of the different professionals involved in this. I would say we encourage our students to respect the other disciplines and to learn how to work with them. And then, finally, the last set of issues is the profession of architecture, which focusses on the ethics of being a professional and your professional conduct.

The thing is that the Canadian education standard is geared towards producing an accredited professional program. The CACB actually administers this program nationally and all schools that are members, and it is all the 10 schools of architecture in Canada and we are affiliated with other schools in North America. Basically, the CACB visits our school on a regular basis and reviews all the work we do. It takes a lot of work for the staff. We have to put up projects from all our students, and not just the best students. We have to do average students as well, and we show every last thing we are doing in the school. This board, which is made up of registered architects from other provinces and some from United States, and academics, they decide whether we have met the standard and whether our students' work meets the standards. I can tell you from having gone through three of them that it is very stressful, but once it is done and you get your accreditation, you feel very accomplished. Currently, we are in very good standing, our school here in Manitoba.

The other thing I wanted to point out here because we are quite serious about all this, we have a list, or the CACB has created a list of student performance criteria. There are 37 of them, and literally it is a checklist. We have to go through all of them, and our students have to demonstrate their competency in each one of these. And, again, I do not want to necessarily talk about all 37. It is in the handout I gave you, but I just wanted to highlight the areas.

Fundamental design skills: Essentially we want to ensure that all of our students have a basic fundamental level of ability to organize space, to integrate structure and construction systems and basically to be able to take a building program and create a workable building.

The second one is human behaviour, and our students have to have awareness of the theories and methods of inquiry that seek to clarify—and I am reading it here—clarify the relationships between human behaviour and the physical environment. We focus a lot of effort on accessibility which basically means the ability to design both the site and the building to allow for the use and happy inhabitation of people of a range of disabilities. I can tell you that that is a lot more complicated than just following the Building Code.

Site conditions: We spend a lot of time, again, learning how to respond to the conditions of a site, the found conditions, whether that is natural or whether it is built.

Building systems: Structural systems; life-safety systems; building envelope; building service systems; plumbing, mechanical, electrical, vertical transportation, fire protection; building systems integration, which is actually quite an important part of all of this because an actual building is the synthesis of all these things I am listing. I mean, it is possible to study them in isolation, but the real test is to be able to integrate these things into a working building.

And the second-last one, Building Code compliance. We do spend time dealing with the Building Code and making sure our students know how to make their way through it, how to decipher it, how to use it, and how to integrate the needs of that within a working, successful building.

And finally, the last one here, comprehensive design, which is the ability to produce a building project, in other words, a design that could be built, could exist in the real world, and that is informed by a comprehensive program that the student develops from schematic design through the detailed development, integration of all structural and environmental systems, and all these things into a working building. Essentially, this is the final project that all graduate architecture students have to complete successfully to graduate.

I have already touched on the fact that CACB comes and makes sure we are doing this, so we do not just get to say we are doing it, we have to prove it. And so, I guess in conclusion, what I would like to say is that we take the education of architects very seriously. We believe that architects have a serious role and the part we play in the construction of buildings has a very serious impact on society. I think that—it is not in the text, but I would just like to

say I think that this bill perhaps unintentionally undermines our role at the university because, essentially, it is going to make it possible for other people who are not trained in the design of buildings or at least not comprehensively trained, tested and certified to design, and so I believe that undermines our educational program. Thank you.

**Madam Chairperson:** Thank you. Are there questions?

**Mr. Gerrard:** We have heard from others that this bill actually will extend the size or the shape of buildings which will now need an architect compared to before. Do you want to comment in respect to the concern that this will undermine?

\* (20:20)

**Mr. Monteyne:** Yes, I believe that subject is going to be handled at great length by other people. I suppose if I am going to tie that comment to what I have just presented about the education of architects, we certainly do not limit the education of architects to buildings over 600 square metres. We educate them to design small things, even a piece of furniture up to the scale of cities and urban development. So "scale" in that sense is a legal issue perhaps, but in regard to the education of architects we try to be comprehensive.

**Madam Chairperson:** Thank you.

Our next presenter is Terry Danelley, a private citizen. You may proceed, Mr. Danelley.

**An Honourable Member:** Nice to see you again, Terry.

**Mr. Terry Danelley (Private Citizen):** Nice to see you. It has been a long time. I wish we were here under better circumstances.

**Madam Chairperson:** You may proceed, Mr. Danelley.

**Mr. Danelley:** Good evening. I want to thank the minister and the committee for allowing me to speak this evening. My name is Terry Danelley. I have been a practising architect for 23 years, and I am a principal with LM Architectural Group in Winnipeg, one of the four largest architectural and interior design practices in Manitoba. I am also the immediate past president of the Manitoba Association of Architects and was one of the MAA representatives selected to discuss the proposed legislative changes to The Architects Act with the

representatives from both the Department of Labour and APEGM.

I am here this evening to speak against Bill 7 which, I believe, is a seriously flawed piece of legislation that is being rushed through the legislative review process for reasons of political expediency. It is my intent and the intent of our members over the course of these proceedings to demonstrate to this committee the very real and damaging consequences to the profession of architecture and to the people and the economy of Manitoba which would result if this bill were passed. Further, there are other avenues of recourse, such as a consent variation order, which the Department of Labour has acknowledged can resolve the current permit backlog problem that government has stated is affecting the provincial economy without resorting to the unprecedented changes to The Architects Act inherent in Bill 7.

I implore you to exercise that option and to table this bill. Take the time necessary to understand the issues and to put forward responsible legislation that will address the very real need for change, which the MAA has both acknowledged and supported in previous discussions and negotiations with the Department of Labour and APEGM.

In follow-up to Mr. Monteyne's presentation on the education of an architect, which clearly illustrated the difference between the educational requirements of the two professions, I will focus on the training requirements of our intern members leading to registration with the MAA and practise as a registered architect. This is, again, to demonstrate to this committee the very substantial differences that exist between the two professions in the education, training, testing and certification of an architect versus an engineer, particularly as it pertains to the planning and design of buildings. It is why we so strongly believe that only architects are qualified to undertake this responsibility to ensure the health and welfare of the public.

*Mr. Vice-Chairperson in the Chair*

Upon approval by the Canadian Architectural Certification Board for their academic qualifications, the applicant may register with the MAA, for the Intern Development Program or IDP. This program has been developed to ensure conformity with the North American standards of practice. The key elements of the IDP process that prepare an architectural intern for the responsibility of practice and which provides the MAA, as the licensing and regulatory body, with measurable and certifiable

proof of competency include the following: employment and mentorship; documented experience working on building projects; MAA-sanctioned continuing education programs; and testing to confirm knowledge and competence.

I wish to now elaborate on these four key elements.

Employment and mentorship. Buildings are highly complex entities and getting more complex with each passing year. Architects, with all of their education, training and experience, must satisfy and find a balance between numerous and often conflicting design requirements. This is no small task. Engineers argue that by simply satisfying the Building Code that they have satisfied the public good. This comment is so naive and shows such a complete lack of understanding of what constitutes architecture and of what architects do that it should be dismissed outright.

This profession has determined that in order to properly prepare an architect for the highly complex responsibilities of practice that they must satisfy a 5600-hour internship program under the direct supervision and control of a registered architect. This requirement is common to all of the professions including, as I understand, engineering. This is a time-honoured practice which recognizes that internship is the most effective method of transferring very specific knowledge from the experienced practitioner to the intern. In the case of architecture, it ensures that the intern gains the necessary experience and exposure to a wide variety of planning, design, technical, regulatory and many other related issues, all of which have an impact upon a building project and which require sound judgment capable of being gained only through experience.

By ensuring that the intern's continuing education occurs under the direct supervision of an experienced architect, the intern gains the necessary knowledge and experience with no risk to public health and welfare. It is a very effective and important element of the training of an architect that ensures that he or she is qualified to practise independently. Engineers, to my knowledge, have no comparable training experience as it relates to building planning and design.

In addition to working under the direct supervision of an architect for a minimum two-and-a-half-year period, the MAA also assigns an independent architectural mentor whose

responsibility is to counsel the intern and to ensure that they are receiving the necessary experience to satisfy the intern requirements imposed by the association.

The interns meet on a regular basis with their independent mentors throughout the duration of their internship. Should the intern be experiencing difficulty with their employer as it relates to their required experience, it is the mentor's responsibility to advise the employer and the MAA who will intervene to resolve the concern. These checks and balances were instituted to ensure that an intern is receiving the necessary experience to qualify him or her for registration and practice.

Documented experience. As I indicated in my description of the Intern Development Program, the intern is required to gain 5600 hours or a minimum of two and a half years of practical experience under the direct control and supervision of a registered architect with counselling from an independent mentoring architect. He or she is required to gain experience in predetermined and prescribed areas, all relating to the planning and design of buildings.

The experience falls under four mandatory categories and two discretionary categories as follows: Category A, Design and Construction, mandatory; Category B, Construction Administration, mandatory; Category C, Management, mandatory; Category D, Related Activities, discretionary; Category E, Discretionary Activities.

Category A, Design and Construction, consists of the following 10 activities: programming; site and environmental analysis; schematic design; engineering systems co-ordination; building cost analysis; code research; design development; construction documents; specifications and materials research; document checking and co-ordination. Total hours required: 2800.

Category B, Construction Administration, consists of the following three activities: bidding and contract negotiations; construction phase, office; construction phase, site observation. Total hours required: 560.

Category C, Management, consists of the following two activities: project management and office management. Total hours required: 280.

Category D, Related Activities, consists of the following: professional and community service. Total hours permitted: 80, and

Category E, Discretionary: related disciplines; post-graduate work; teaching and research; undergraduate experience in the RAIC syllabus program. Total hours permitted: 1880.

The intern is required to record his experience in a log book provided by the association. The log book is reviewed at pre-determined intervals by both his employer and mentoring architect prior to submission, review and acceptance by the MAA. I have attached with this submission the Experience Area Description which describes in greater detail each of these activities and the required intern experience for each activity.

I have also included the Periodic Assessment Form from the Canadian Experience Log Book which each intern must submit. This demonstrates the exposure to the profession and the depth of knowledge relating specifically to the planning and design of buildings required of the intern prior to their registration with the association.

Continuing education. In 1995, the MAA, recognizing its responsibility to ensure that its members remain knowledgeable and current with changes in the profession, instituted the first continuing education program for architects in Canada. Several other provinces have since followed suit.

The program consists of mandatory, that is association-sanctioned and directed courses, and self-directed activities that must be documented and declared by individual members to the MAA. This past year two courses on specific aspects of the Manitoba Building Code were conducted by a recognized code authority and a third is planned in the near future.

*Last week, I, along with many other architects, attended a course sponsored by the RAIC and sanctioned by the MAA, on sustainable design for existing buildings.*

Continuing education ensures that our members stay relevant with changing technology, regulatory requirements, construction delivery methods and a whole host of other issues affecting the practice of architecture. Can the engineers say the same?

\* (20:30)

Testing. In order to satisfy the requirements of the intern development program, the intern is vigorously tested to ensure that he or she has in fact gained the necessary knowledge to become

registered and to independently practise architecture. This is done through the Architect Registration Examinations or ARE, a series of nine examinations administered by the National Council of Architectural Registration Boards or NCARB.

These examinations have been adopted for use by all of the Canadian provinces and 55 member boards in the United States.

*The ARE concentrates on those services that most affect the public health, safety and welfare. The ARE has been developed with specific concern for its fidelity to the practice of architecture; that is, its content relates as closely as practicable to the actual tasks an architect encounters in practice. In addition to testing for competence in specific subject areas, NCARB is aware of the responsibilities an architect may have for co-ordinating the activities of others involved in the design-construction process. This examination thus attempts to determine the candidate's qualifications not only to perform measurable tasks but also to exercise the skills and judgment of a generalist working with numerous specialists. In short, the objective is to reflect the practice of architecture as an integrated whole.*

*The various divisions of the ARE are designed with this objective in mind, and the core functions of architectural practice, site design and building design, are accorded fundamental importance in the examination's three graphical divisions. The other divisions are written to assess or evaluate the candidate's ability to deal with the design process as well as the technical and programmatic aspects integral with design. This exam approach helps to establish and measure the level and type of job-related performance encountered in practice.*

*Nine divisions comprise the examination. The six multiple choice divisions are: (1) pre-design; (2) general structures; (3) lateral forces; (4) mechanical and electrical systems; (5) building design, materials and methods; and (6) construction documents and services. The three graphic divisions are: (1) site planning; (2) building planning; and (3) building technology.*

*The graphic divisions are all-day-long exams, and most interns choose to write only one of the multiple choice divisions during one sitting, as there is extensive study material associated with each exam. I wish to point out that three exams: general structures, lateral forces, and mechanical and engineering systems, require the intern to possess a core understanding of building engineering systems.*

*This understanding is critical in their ability to direct and co-ordinate the services of the consulting structural, mechanical and electrical engineers on any given project.*

*Once the intern has successfully completed the requirements of the Intern Architect Program, he or she may apply for registration to the MAA, where their credentials are reviewed by the MAA Registration Board who makes a recommendation to council. Once approved, the intern is authorized to practice as an architect and is subject to the professional standards established by the MAA. The MAA and the RAIC are also important resources to the practitioner, to assist with issues that inevitably arise in the course of practice.*

*As you can appreciate, the process to become an architect is demanding and vigorous and requires a minimum of eight and a half years to complete, although in reality it normally takes 10 to 12 years.*

**Mr. Vice-Chairperson:** Excuse me, Mr. Danelley. I apologize for interrupting, but I want to let you know that you have one minute left and so might want to skip to your conclusion or summarize.

**Mr. Danelley:** Okay. Architecture and the planning of buildings is a complicated affair and one not easily learned. To suggest that engineers possess the same education, training and testing as architects is preposterous. I will tone down the rhetoric. Their education, training and testing is relegated at best to a very narrow focus of one aspect of building systems, that is, the structural, mechanical or electrical systems. At worst, and this applies to the vast majority of engineers, they possess no specific knowledge of the building sciences, there being well over 70 different engineering disciplines, and yet this legislation as currently proposed would allow the process engineer to provide architectural services on major additions and renovations to a hospital, school, personal care home or any other building type purely upon the judgment of the authority having jurisdiction, many of whom themselves are engineers.

This legislation would give control for which new buildings could be done by either an architect or an engineer to the Building Standards Board. This civil body, consisting of one architectural representative and 12 special interest groups including an engineer, has shown nothing but disdain for this profession on this issue for the past 12 years.

**Mr. Vice-Chairperson:** Mr. Danelley, your time has expired.

Questions? Mr. Rocan, and then Mr. Gerrard.

**Mr. Rocan:** Mr. Chair, I wonder if there is leave of the committee, in viewing the documentation brought forth by Mr. Danelley, I think he has 11 pages in his presentation, I wonder if there would be leave of the committee to have those 11 pages put into Hansard and deemed to have been read.

**Mr. Vice-Chairperson:** Is there leave of the committee to include the entire presentation in Hansard? *[Agreed]*

**Mr. Danelley:** *This legislation is perverse and without precedent in North America. It is being rammed through the Legislature with complete disregard for due process, for the very negative consequences it will have upon my profession, or for the impact it will have upon both the long-term economy and the health and welfare of the people of this province. I again implore you to resolve the immediate construction backlog problem through other means available to this government and to table this legislation. To not do so will send a clear message that architects in the province of Manitoba are not wanted. Thank you.*

**Mr. Gerrard:** You say that in the document that the legislation is without precedent in North America. Those are pretty strong words. Now, we have heard, actually, sort of conflicting views as to the extent to which this bill is similar or different from other jurisdictions. Perhaps you can give us a little bit more elaboration on why you say it is without precedent in North America.

**Mr. Danelley:** It has been based upon our own research with other provincial jurisdictions throughout Canada. It would appear that certain aspects of the legislation can be found in other provincial jurisdictions, but we do not believe it makes for good legislation by cherry-picking legislation from other acts that really do not serve the public good.

**Mr. Vice-Chairperson:** Seeing no further questions, thank you for your presentation.

The next presenter is Jim Orlikow. We will distribute your brief. Proceed when you are ready.

**Mr. Jim Orlikow (Private Citizen):** Minister Allan, committee members, ladies and gentlemen, my name is Jim Orlikow and I am a registered member of the Manitoba Association of Architects. I am here today to speak in support of the position of my colleague, Don Oliver, Bob Eastwood, and call upon the

minister in this committee to delay Bill 7 from proceeding to third reading.

I would like to speak briefly on the issue of education of engineers, as it is distinct from that of architects and as it pertains directly to the need to delay Bill 7. Let me say first that I believe, and the MAA believes, that both architecture and professional engineering are equally valued professions, yet they are different professions. My colleague has provided to you information about the nature of the education required to become an architect and how it focusses on building design.

To become a professional engineer, there are also rigorous education requirements. Professional engineering is a broad discipline with its roots in specialized areas of mathematics and sciences with applications in a myriad of contexts. Professional engineering is a design process which integrates mathematics, basic sciences and complementary studies in developing elements, systems and processes to meet specific needs. In Canada, there are, at last count, 116 different areas within engineering, ranging from aerospace engineering to chemical engineering, computer, civil, electrical, food, forest, manufacturing, shipbuilding engineering, software engineering, and water resource engineering, to name a few.

In Manitoba, professional engineers are not licensed according to their specialized discipline. Rather they are licensed as professional engineers and are given a seal reflecting the P. Eng. designation. An engineering program of education involves a common first-year program involving such courses as calculus, chemistry, computer science, electric circuits, engineering statics and thermal sciences and three years of discipline-specific study, i.e., in the field of specialization, such as mechanical, electrical, manufacturing, structural, et cetera.

Because of the broad nature and range of engineering disciplines, the accreditation criteria and procedures, the criteria used to accredit a university engineering program established by the Canadian Council of Professional Engineers are of necessity quite general. These accreditation criteria make specific reference in the required criteria to mathematics, linear algebra, statistics, integral calculus and the natural sciences including physics and chemistry. There is no reference at all to the word "building."

I have provided to each of you a copy of information taken from the University of Manitoba Faculty of Engineering Web site, which sets out the course requirements for an undergraduate engineering degree in the six streams it offers: biosystems, civil, computer, electrical, manufacturing and mechanical, simply to give you an idea of the kinds of courses that an engineering student is required to take. As can be seen, none of these programs include programs on building design. I have provided you with information regarding the criteria for accreditation of engineering programs which makes no reference to building design. I would certainly encourage you to review these documents as you consider Bill 7 further.

Furthermore, the specific and distinct education and expertise of engineers as it differs from that of architects has been clearly made in cross-examination testimony for the Queen's Bench Winnipeg Centre in an action between the Manitoba Association of Architects and the City of Winnipeg. That testimony includes John Frye, former chief plan examiner, City of Winnipeg, on November 24, 2004; John Woods, professional engineer, on November 25, 2004; and Julian Saj, professional engineer, plan examiner, City of Winnipeg, in December 2004, all of whom have testified to the specific expertise and knowledge unique to engineering.

Architecture. I would now like to briefly describe the practice of architecture. The practice of architecture is a highly specialized design process in a highly specialized and somewhat narrow design context. That design context is buildings. The practice of architecture involves the synthesis of a variety of issues, including the client requirements, user requirements, client's budget, Building Code requirements, environmental issues, zoning requirements, to name but a few, into an organized and integrated solution that balances the project demands into a reasoned, three-dimensional, physical solution to meet occupants' performance requirements for a building.

Architecture is the creation of spaces and the built environment for human life and occupancy. Architects' specialized education and training makes them experts, the only experts in human needs as it relates to the spaces and built environments that people require. They study these needs and how to design buildings around them. The role of architecture is not to make pretty buildings. Architects design and co-ordinate the construction of buildings as a holistic entity to achieve whole

building performance as it pertains to human occupancy. Architects are educated and trained to assemble all of the discrete pieces, including the structural, mechanical and electrical systems which are designed by engineers into a co-ordinated whole. Their education and training teaches them these skills and they are tested on their competency.

\* (20:40)

In order to underscore my point, I wish to point out the potential adverse scenario that Bill 7, if approved, would permit. As a resident in the constituency of Fort Garry, my local community hospital is the Victoria General Hospital. Victoria General Hospital serves Fort Garry, St. Norbert, and much of south Winnipeg and adjacent communities. I also happen to be the architect for the Victoria General Hospital's \$15-million major renovation project that includes building addition and alterations for a new emergency and oncology department.

In doing the building design for Victoria General Hospital and many other similar hospital renovation and alteration projects, I recognize the need to integrate the discipline specific expertise of engineers. However, I also know engineers alone are not qualified or trained as architects are to design, organize, integrate and co-ordinate all the specific expertise necessary for a building project such as the Victoria General Hospital renovations. Yet, in the future if approved, Bill 7 would facilitate engineers alone to do so contrary to what is required in other jurisdictions in Manitoba and contrary to what is in the best interests of the citizens of this province.

As I have stated, I am a member of the MAA and a registered architect. I have been licensed to practise architecture in the province of Manitoba not because I believe I am competent but because I have fulfilled the specialized education requirements to serve to practise this profession. I have completed nine years of building-specific education and training, and I have been tested on building-specific design principles and satisfied the national qualification standards to practise architecture that are required by every jurisdiction in this country.

When you see "Registered Architect" beside my name, it is your assurance that I am qualified to design a building. You need look no further to assess whether I am qualified in this field. "Registered Architect" is your assurance that I am. You can count on a registered architect.

On this basis and many other presentations you will hear tonight I support the position of my colleagues, Don Oliver, Bob Eastwood and call upon the minister and this committee to delay Bill 7 from proceeding to third reading.

In advance, I thank you for your serious consideration and reasoned support in the delay of Bill 7.

**Mr. Vice-Chairperson:** Thank you for your presentation.

**Mr. Gerrard:** With Terry Danelley I had asked him, you know, what was different in terms of this legislation without precedent elsewhere in North America and what you are doing is providing a little bit of clarification. What you are saying is that other jurisdictions in North America would not allow engineers to do the Victoria General Hospital renovations, whereas this legislation would allow engineers to do that. Is that what you are saying?

*Madam Chairperson in the Chair*

**Mr. Orlikow:** Conceivably, this legislation would allow that because it would be up to the authorities having jurisdiction to determine if an architect or an engineer is involved, and, as Terry Danelley mentioned, many of the authorities having jurisdiction are engineers by training. So, conceivably, you would not need an architect for the VGH renovations or any hospital renovation or any renovation at all for that matter.

**Mr. Rocan:** Mr. Orlikow I see by your presentation, sir, that you are a registered architect and from what I have read a very good one at that I might add.

In your humble opinion, sir, why is it then the minister responsible would see fit to have engineers join your association in the grandfathering clause because you make a clear distinction between yourselves and engineers?

**Mr. Orlikow:** I think there have been presentations earlier that have suggested the grandfathering clause is possibly being done for the purposes of recognizing the past rather than what is necessarily good for the citizens of this province.

**Ms. Allan:** Thank you very much for your presentation. You made a direct reference to the Victoria Hospital, and I think it would be important for the members of this committee to know that the Building Code would require an architect on that project.

**Some Honourable Members:** Oh, oh.

**Floor Comment:** The VGH—

**Madam Chairperson:** Excuse me for a moment. I am sorry, we cannot have people from the galleries participating.

**Mr. Orlikow:** If I can comment, as I understand Bill 7 it would allow alterations or additions to existing facilities to be done by an engineer. Under that clause that would allow an engineer alone to do the renovations and addition to Victoria General Hospital, or any hospital for that matter.

**Ms. Allan:** My understanding is that the amendment has to do with area—*[interjection]* Okay, then I will get further clarification on it. Thank you.

**Mr. Orlikow:** I would appreciate that.

**Madam Chairperson:** Seeing no other questions, the committee thanks you very much for your presentation.

**Mr. Orlikow:** Thank you.

**Madam Chairperson:** The committee calls Dave Lalama. You may proceed.

**Mr. Dave Lalama (Private Citizen):** Thank you. Good evening everyone. My name is Dave Lalama. I am a registered architect here in Manitoba. I studied for four years in the architectural science program at Ryerson University in Toronto before obtaining my Master's of Architecture at the U of M after a further two and a half years of study. I am currently a principal at Number Ten Architectural Group and I have been living and working in Winnipeg for almost 20 years. I am an avid Bomber and Moose fan too, I just wanted to add that. I have seen a resurgence in our city and I think you have all witnessed it in the last few years, in large part due to the new and exciting architecture such as the MTS Centre, Red River College, the new Hydro tower, the future Human Rights Museum and the opening of the Millennium Library after extensive renovations and a very exciting addition, which, by the way, would not have required an architect if this bill was in effect.

I also believe that there is a growing awareness and appreciation of the treasure of buildings we have in our Exchange District and a climate for creativity has been growing slowly here, a climate where young designers and architects could look forward to contributing their talents and skills to create meaningful architecture that our city and communities would be proud of. However, this bill as written will

destroy all that potential for creative growth and it will reduce the design of buildings to merely an exercise in building to the lowest common denominator. If you read the preface to the Manitoba Building Code, it actually states that the Building Code is a minimum standard to which to construct buildings. It also states that the Building Code is not meant, it is not the intent, to be a text book of design.

Some background. The content of the existing Manitoba Architects Act is very similar to other provincial acts, architects acts, and contrary to false fears raised by APEGM and other industry stakeholders, the economy is not in danger of suffering due to the current Architects Act. Just as in Ontario and B.C., the sky is not falling because of The Architects Act. The problem that existed with the backlog of building permits was caused by the authorities having jurisdictions failures to enforce the Architects Act in the past. The specific permits of the city are being dealt with expediently without the need to totally and hastily diminish the intent of The Architects Act.

\* (20:50)

I am going to go to Bill 7 now, specifically clause 34(1) to (12) of The Architects Act, clause 68.1(1) to (12) of the engineers act. If you review those act, or those clauses, these totally ignore the fact that architecture is different from engineering and that architects have been educated, trained and licensed to design buildings for people, people of all ages, from day-care children to the elderly and to the disabled. If you look at clause 34(1) Grandfathering Professional Engineers, this clause has already concluded that the few engineers who were already breaking The Architects Act prior to September 16, 2005—it concludes that they were performing competent architecture.

My question is who concluded this. The task or services that this statement refers to should be listed. Example, was it a mechanical upgrade that those engineers did, or an electrical upgrade? I say list those specific services that those few engineers were providing and then we can, indeed, judge if that was architecture or an engineering service. Regardless, a person who is not educated, trained or licensed to practise architecture should not be allowed to do so. Should someone who is not licensed to practise medicine be allowed to do so? It is a basic, basic question.

Clause 34(2), (3) and (4). A joint board or chair should not be allowed to decide the criteria or

conditions that someone has to meet to practise architecture. These criteria should be included in The Architects Act and mandated by the architects' association, as it is in every other province, and for good reason.

Clause 34 (5) to (12). To allow an engineer or anyone else to hold a recognition certificate and thus practise architecture, for which he is not qualified, and then not to be a member of the association of architects is completely absurd. Who will have the jurisdiction to monitor him, assess his competency or punish him for any professional misconduct? My conclusion: if anyone wants to practise architecture, they should obtain the required education, the training and licensing.

Clause 25(1) and 15(1.1)(b). The wording of these sections allows the architect's scope of practice to be totally mandated by the Manitoba Building Code which is prescribed by regulation under The Buildings and Mobile Homes Act. This act is governed by the Building Standards Board who can then decide what types of buildings require an architect. No other regulated profession in Manitoba or Canada, as far as I am aware, has a scope of practice defined outside its provincial act, and by a group made up of ministry stakeholders, business and private interest makes no sense.

Only one person out of 12 is a rep of the Manitoba Association of Architects on that board. The other persons do not have the expertise or the required knowledge of the architectural profession to make decisions about its scope of practice. The architect's scope of practice must be contained within The Architects Act, as it is in other provinces.

25(2), Limitation. I like this clause because it states that no person or firm engaged in work, and I will paraphrase it, shall be styled or hold itself out as an architect unless he is a registered architect. It makes perfect sense. However, all proposed clauses regarding grandfathering of engineers and retroactive issues contradict this basic clause.

Part 4, Validation And Coming Into Force, clauses 23(1) and (2) and 24(1), (2) and (3) basically state that all work done prior to June 16, 2005, which was ruled by the Court of Queen's Bench to be illegal work performed by engineers and allowed by authorities having jurisdiction, will now be retroactively permitted by these new clauses. My question is why. There is no reason. It is not right. Part 4 should be deleted from this.

Table 2.3.1.31, Professional Designer Required, and Table 2.1.7, alterations. I will refer you to the MAA's response to these in latter speakers to come up. I totally concur with the MAA's position in regard to arena-type buildings, to gross building area and alterations of buildings. Very important issues, I will not get into them right now.

Also, both tables must become part of The Architects Act to ensure that they cannot be revised without a change to that act. Otherwise, the Building Standards Board, who is unqualified to do so, could change these tables and the scope of practice criteria in the future.

For all other items that I have not touched on, I concur with the MAA's position and response.

In closing, I want our youth, my children, perhaps yours, who are aspiring to be architects to have a community here that values architecture and the creativity, skills and vision that architects can contribute to our communities. This bill puts that hope and our future in jeopardy.

I have often heard the Premier (Mr. Doer) say regarding other issues that we will do it because it is the right thing to do. I respect and applaud this rationale. I sincerely hope that this same approach is applied in this matter. I truly believe that if the proper time is given, the architects' and engineers' associations can work together to resolve this issue and put forward changes to The Architects Act that are, indeed, the right thing to do. Thank you.

**Madam Chairperson:** Thank you. Are there questions for Mr. Lalama? Seeing no questions, we thank you very much for your presentation.

**Mr. Lalama:** Thank you.

**Madam Chairperson:** The committee calls David Kressock. Is Mr. Kressock here? You can proceed, Mr. Kressock.

**Mr. David Kressock (Private Citizen):** Thank you very much. Madam Minister, Madam Chair, my name is David Kressock. I am a registered architect and a member of the Manitoba Association of Architects, and I am also a principal with the Winnipeg firm, LM Architectural Group.

I am here, firstly, to express my concern over the legislative changes proposed by Bill 7, and I believe that these will have nothing less than a devastating impact on the practice of architecture in our province. I support the previous positions of my architectural colleagues, and I, too, call upon the

minister and this committee to delay Bill 7 from proceeding to third reading.

Now, specifically, I am here to speak on the fundamental core principle that the architect is the only professional that is educated, trained, tested and certified in the comprehensive design of buildings for human occupancy. It is my opinion that Bill 7 does not recognize this and that it is this element of human habitation and the interests of the occupants' health and welfare relating to the total building design that sets architects apart from our other professional colleagues. It is critical to understand that the professions of architecture and engineering are distinct. They are complementary, but they are distinct. This is why there is separate education, training and certification between the professions of architecture and engineering. It is why we have a Faculty of Architecture and a Faculty of Engineering.

In general terms, the registered architect is trained and tested on a very broad range of professional skills in their capacity to act as the generalist in the design process, and this goes far beyond merely interpreting the Building Code. The building engineer, by comparison, is a specialist who brings his expertise on a very focussed aspect of the design process, the structure, the ventilation, the plumbing and the electrical systems. In considering buildings for human occupancy, it is only the architect who has been educated, trained and examined with respect to the skills and knowledge necessary to determine the overall building design and to act as the co-ordinating professional. It is because of this training that almost all legislatures across North America have assigned the responsibility for designing buildings for human habitation to architects rather than to members of the engineering profession. Under Bill 7, this would change in Manitoba, and our province would be, to the best of my knowledge, the only jurisdiction that will now have a legislated scope of practice for architects that is not in their legislation. This cannot be allowed to happen.

The aspect of designing for human habitation and designing for the overall occupant health and welfare is the fundamental role of the architect. Now, that is not to say that our engineering colleagues do not take human safety and well-being into the design of their respective specialities, quite the opposite. But it is the architect who is trained in the total building occupant welfare.

\*(21:00)

So, when buildings of assembly-use, like theatres, libraries, schools and museums, institutions like hospitals, care homes, residential projects, apartments, dormitories, hotels, office buildings, shopping centres, supermarkets, and even industrial uses like factories, warehouses, laboratories, all have occupancies that require a design professional that has been trained and certified in the design of their overall health and well-being. This professional is the architect.

Now we, as a profession, acknowledge that there are instances where certain buildings that, either by their smaller scale, in The Architects Act, less than 400 square metres, or by their specialized industrial nature, such as a grain elevator, they can have occupant loads that are very small and therefore can be undertaken by other design professionals. This is already acknowledged in our current legislation and subsequently was expanded in previous working documents such as the Witty Report. But I must reiterate that, in buildings that are larger, more complex and have larger occupancies, it is the architect that is the only professional certified, trained, in the comprehensive design of these buildings.

In closing, I have two comments. First, as an owner of a firm and as an employer in this province, the proposed changes to Bill 7 will have, in my opinion, tremendous consequences in the ability to retain good young architects in this province. Bill 7 will serve to drive our young professionals to jurisdictions where the skills and training of architects are recognized, and their practice and their scope of practice is legislated.

Lastly, as you have heard, there are dozens and dozens of specialized disciplines in the field of engineering. Some are related to the building industry, structural, mechanical, electrical, but many have absolutely no correlation, agricultural, nuclear, geological, chemical. However, all are covered under the very broad title of professional engineer and are registered generically with no distinction on their particular area of specialty.

There is only one kind of architect. A professional who is educated, trained, tested and certified in the comprehensive design of buildings for human occupancy. This is the only basis on which we, as professionals, are registered and are governed by our association. So, again, I urge this committee to table Bill 7 for third reading and to

proceed with more negotiations in order to achieve a much more suitable resolution to this issue. Thank you, Madam Chair.

**Madam Chairperson:** Thank you very much. Are there any questions for the presenter? Seeing no questions, we thank you very much for your presentation.

The committee calls Gerri Stemler. You can proceed, Ms. Stemler.

**Ms. Gerri Stemler (Private Citizen):** Minister Allan, Madam Chair, honourable members of this committee. My name is Gerri Stemler. I am a registered member of the Manitoba Association of Architects since 1986 and I am a past president of the MAA.

I support the position of my colleague, Don Oliver, and call upon the minister and this committee to delay Bill 7 from proceeding to third reading in order to give this important legislation the time it deserves. It is important for this committee to know the position of APEGM, that is the Association of Professional Engineers and Geoscientists of Manitoba, and CEM, Consulting Engineers of Manitoba. Understanding what APEGM and CEM want helps to make clear the true deficiencies in Bill 7.

The following has been the position of APEGM and/or CEM: Any engineer, any building, any time. In the City of Winnipeg court case, APEGM first argued that any engineer who felt they were competent to design any building should be allowed to do so. But when questioned, even APEGM and CEM admitted that not all engineers are capable of designing buildings, nor were those that they believed to be qualified competent to design most buildings, but only some buildings.

When asked which engineers should be allowed to design buildings, CEM stated that the only limitations should be whether the individual engineer assessed themselves as being capable. CEM even said that aerospace engineers, agricultural engineers, food engineers, manufacturing engineers, mineral process engineers, ship building engineers, might be capable of designing buildings, but it would depend on the individual capability assessment.

So how are the authorities having jurisdiction to know whether the engineer that has sealed the architectural plans submitted with an application to build a building is competent such that they have comfort in issuing a permit? APEGM and CEM

suggest the decision be left to individual engineers. If an engineer believes he or she is competent, that should be enough for the authorities having jurisdiction.

The purpose of a professional licensing scheme is this. You set qualification standards that assure an appropriate level of competence. You only allow those people who satisfy the qualification requirements to engage in that practice and refer to themselves as members of that profession, example, professional engineer, architect, lawyer, surgeon.

The public, including the AHJs, is protected because all people who are entitled to practise that profession have fulfilled the requirements. This means that the public does not have to look behind the designation, either being a lawyer, doctor or architect to have confidence that the professional is qualified.

It is clear from the ads placed in the newspapers that Manitoba's engineers believe that additions to large buildings such as schools, libraries, hospitals, arenas, apartment buildings, office buildings and stores should be allowed to be completed without an architect. This would be unprecedented in any jurisdiction in Canada, and I refer you to the documents that Mr. John Hobbs has left with you in his presentation that he did not have time to finish that dealt with what was happening in the other provinces.

The illegal practice of architecture by engineers should be allowed to continue because it has been going on for so long. APEGM also argued that since the City, but also other authorities having jurisdiction, had been allowing engineers to practise architecture by issuing building and occupancy permits based on architectural drawings sealed by engineers, that this practice should be allowed to continue.

The court rejected this argument saying that it would be a perverse result to allow the practice of engineers sealing architectural drawings to continue when the legislation specifically intends that the practice not be allowed. The court in the City of Winnipeg case examined all of the legislation and found that the government did not intend that engineers were allowed to practise architecture.

The third position, architects just want more work. APEGM argued that the MAA had brought the court action because it was looking longingly at the fees that owners have paid to engineers rather than

architects. The MAA always knew that the number of engineers who had been practising architecture without a licence was only about a handful; it was thought maybe 8 or 10 or 11 engineers. It has recently been told to the MAA that there are 12 engineers involved in this practice.

The MAA did not take the extraordinary step of going to court, which cost its members thousands and thousands of dollars out of their own pockets, in order to try and get the work being done by a handful of engineers. It went to court because the law was broken and people who were not licensed to practise architecture were, in fact, doing so.

The City of Winnipeg case was a public interest case. That is why the MAA had the standing in the court and asked for the court's interpretation. The MAA asked the court whether the law was being broken and the court declared that it was.

Engineers also believe that they can read the Building Code. They believe they can read the Building Code, that the design of buildings means only that the building complies with the Building Code, and accordingly engineers can read the Building Code as good or better than architects. The Building Code, by its very nature, provides a minimum standard for buildings. Do we want our children and future Manitobans to live in a world of minimums or to live and work and play in an environment that contributes to their health and welfare?

\* (21:10)

I am a registered member of the Manitoba Association of Architects, and I have been licensed to practise architecture in the province of Manitoba, not because I believe I am competent, but because I have fulfilled the specialized education requirements, the internship requirements which are a prerequisite to practise in this profession.

I have completed nine years of building-specific design education and internship. I have been tested on building-specific design principles and have satisfied the national qualification standards which are required in every jurisdiction in this country if you want to practise architecture. I am accountable to my profession, professional regulatory body, and thereby to the public. As a registered member of the Manitoba Association of Architects, you need look no further to assess whether I am qualified to design a building, "Registered Architect" is your assurance that I am, and you can count on a registered architect.

**Madam Chairperson:** Thank you. Are there questions for the presenter? Seeing no questions, we thank you very much for your presentation.

The committee calls Michael Farion.

**Mr. Michael Farion (Private Citizen):** My name is Michael Farion and I have been an intern member of the Manitoba Association of Architects for five years now. I graduated in 2000 with a Master's of Architecture Degree. I recently have just completed the Intern Development Program which my boss, Terry Danelley, has spoken on before. That took me five years to fulfil 5600 hours that is required, so you can get it done in two and a half years as it says, but the reality is to fulfil all requirements takes a lot longer than two and a half years. I support the position of my MAA colleague Don Oliver and call upon the honourable minister, Nancy Allan, and this committee to delay Bill 7 from proceeding to third reading.

I love this city and this province and would like to stay here and be a productive contributor to society and continue practising architecture in this province. I love architecture and have dedicated 13 years of my life to this profession at great personal and financial sacrifice. Many of my colleagues have already moved on to Calgary, Vancouver, Edmonton and New York, to name a few places. Many graduates leave this province in search of greater opportunities elsewhere. I myself left Winnipeg in the early nineties for six years as I could not find design work in this province. I decided to come back because I love this city, its culture and what it has to offer its citizens. Winnipeg has a proud architectural past, hailing from the turn of the century, and continues onward today. This year, Manitoba architects took home four Prairie Design awards for recently completed projects.

I would like to speak on the grandfathering clause, which is 34(1), and I will not read that part of it, but I feel the grandfathering clause may potentially wipe out the architecture profession in Manitoba as we know it. Why would someone like myself spend eight years getting an architecture degree when someone can get an engineering degree for four years and work on the same projects?

This poorly written piece of legislation will render the Faculty of Architecture at the University of Manitoba obsolete. This piece of legislation sets a bad precedent in condoning the actions of a few engineers practising illegally. Bill 7 as written may put the future of other professions in jeopardy, such

as the medical and law professions. Can someone in the audience tell me when the University of Manitoba started offering two-for-one professional degrees? The damaging legislation tabled in Bill 7 will do just that.

This was actually a letter. It was not written by myself but was written by a colleague of mine; it is kind of a tongue-in-cheek letter. Hopefully, it does not offend too many people here, but I am going to read it anyways. "I have over the course of the last 20 years built a very lucrative business in performing home operations, specializing in kidney transplants and hip replacements. Having watched countless episodes of *ER* and with the ability to affirm that my basement is equally as sterile as any hospital room, I clearly have the requisite facility and knowledge on par with any of the so-called medical professionals. Further, to my knowledge, my fatality rate is commensurate with most municipal hospitals. Further still, I have not yet been convicted of any crime much like most of the doctors in the province of Manitoba.

"The cost savings I provide to my clients are a result of low overhead. Expensive systems and equipment, staffing, liability insurance, student loans for health care training and education all contribute to the high cost of standard medical care of which I am able to forgo and pass the savings directly on to my clientele.

"I now find, however, to my great dismay that there is a long-standing piece of legalese that has the nerve to define who is certified to practise, and under what circumstances, the profession of medicine, and that myself and other home care providers, the so-called black market or back alley doctors, are excluded. I am now forced to cancel my forthcoming gall bladder removal and arm-bone-connected-to-the-wrist-bone work and inform my clients that they will now have to pay retail for any future operations.

"I will be circulating a petition and organizing a rally under the banner, 'witchdoctors count,' and we will be wearing white doctors' gowns to protest this most unfair circumstance. Under what authority does the law have to dictate who can practise medicine? My livelihood is at stake and the livelihood of all witchdoctors, shamans and allied professionals. I urge the public to join their voices to our own to save the Province money by reducing health care costs."

As you can see, this is like saying there is a shortage of world doctors in northern Manitoba and we should allow chiropractors and dentists to

practise medicine because they have a science degree. In Manitoba, you are not given a choice with regard to doctors, lawyers or engineers. For that matter, in situations in which the law states that the use of such a profession is mandated, why would an engineer, interior designer, developer or contractor be allowed to practise architecture without certification?

I am briefly just going to talk about exam comparisons of the two professions. I am currently writing some of the exams right now. I have written three of the nine exams and I feel strongly about this because the engineers only write one exam. It is eight hours long whereas an intern architect has to write nine exams and they include as my boss, Terry Danelley has said, pre-design, general structures, lateral forces, mechanical and electrical systems, building design/materials and methods, construction documents and services, site planning, building planning and building technology.

The exam is administered exclusively on computers and candidates must pass all divisions to complete it. Maximum total testing is 27.25 hours.

The engineers claim that—what was I going to say. Oh, sorry, I got this quote from the Engineers Count Blog Web site. I will just kind of read it real fast. The engineers claim that the construction projects have already been delayed, and more delays are expected as everyone in the province scrambles to find an architect. With only 150 architects trying to do the job of over 3000 engineers, can you imagine what this means for any kind of construction in Manitoba.

The reality is, can anyone on this committee honestly say they would rather have a computer engineer, chemical engineer, an agricultural engineer or a petroleum engineer design, administer the buildings and also be knowledgeable in financing, real estate, human behaviour, social conduct, safety issues as well as universal access issues to develop a building project?

\* (21:20)

In concluding, I would like to read a quote from a respected structural engineer which is actually published on the AIA Web site which is the American Institute of Architects Web site. The quote is from an eminent structural engineer, Professor Mario Salvadori. He has written numerous books on structural engineering. I have read two books right now, helping me study for my general structures

exam. Here is the quote, "A good architect today must be a generalist, well-versed in space distribution, construction techniques and electrical and mechanical systems, but also knowledgeable in financing, real estate, human behaviour and social conduct. In addition, he is an artist, entitled to his expression of his aesthetic tenets. He must know about so many specialities that he is sometimes said to know nothing about everything. The engineer, on the other hand, is by training and mental makeup a pragmatist. He is an expert in certain specific areas of engineering and only those aspects."

Thank you.

**Madam Chairperson:** Thank you very much. Are there any questions for the presenter? Seeing no questions, we thank you very much for your presentation.

The committee calls Mr. Victor Sven, private citizen. You may proceed.

**Mr. Victor Sven (Private Citizen):** Minister Allan, Madam Chair and members of the committee. My name is Victor Sven. I have been a registered architect with the MAA for the past 23 years. I totally support the position of my colleague Don Oliver and the previous architectural colleague speakers on their position.

First of all, I would like to just quickly read the content of a letter that has been forwarded by one of my architectural colleagues, Raymond Wan Architects, by Morguard Real Estate Investment Trust.

The letter was on Morguard's letterhead, and it is directed to Raymond Wan Architects. It says, "Dear Ray: RE: Proposed Legislative Changes to The Architects Act. It is with pleasure that we write this letter in support of architects in the province of Manitoba. As you are aware, being a prudent property owner in the province of Manitoba, the services of an accredited architect are vital to our business and future developments. Therefore, we are in strong objection to the proposed modifications of The Architects Act. Should you require anything further in the future, please do not hesitate to let us know. Yours truly, Morguard Real Estate Investment Trust," and it is signed by Leah Shilling, Tenant Coordinator.

Secondly, a lot of the points have been addressed by my colleagues earlier, and there are going to be more speakers on the details of the objections, our problems with the bill coming further, but I would

just like to stress the point that there is a major difference between the practice of architecture and the practice of engineering. We are trained differently. We are trained with different schooling, internship and examination to qualify.

I work with engineers day in and day out. They are a diverse group of professionals. When their practice is applied to the building construction, they design within the discipline, hopefully, the system within the buildings, such as structural, mechanical, electrical, geotechnical, civil, et cetera. Architects are specially educated, trained and tested on the design and co-ordination of the complete building and the systems, including integration of the building's structural, mechanical and electrical systems. We do not, however, undertake to engineer the systems, even though during our schooling and testing we were tested on this discipline.

As far as I know, there are no engineering schools anywhere in the Western world that have architecture in their curriculum. Simply put, there is no architectural engineering. I graduated in 1980 from Nova Scotia Technical College. It is a highly regarded engineering school, and they see fit to have a separate school of architecture to train future architects for the Maritimes. I am proud to be a graduate of an engineering school.

The MAA always advocated for the involvement of the appropriate licensed professionals on building projects. Both architects and engineers are required, depending on their relevant expertise. This interpretation has been supported by every jurisdiction in this country and I believe in North America.

I keep hearing some engineers saying that they can practise architecture just as safe and competent, then I say if they feel that way and they believe that way then qualify, take the exam and join the architects and become a member of the MAA.

So, in conclusion, I totally support the position of my association, the MAA, and the presenters of my architectural colleagues. That is all I have got to say.

**Madam Chairperson:** Thank you very much. Are there questions for the presenter? Seeing no questions, we thank you very much for your presentation.

The committee calls Scott Stirton, Smith Carter Architects and Engineers. You can proceed.

**Mr. Scott Stirton (Chief Executive Officer, Smith Carter Architects and Engineers Inc.):** Minister Allan, Madam Chairperson, honourable members. To everybody behind me, I know there are a lot of architects and engineers, developers, builders and constructors, I must admit I reflect why, over so many years of architectural registration, being a registered architect for so many years in Manitoba, why we are here today. It does perplex me and I will get to some of my concerns.

Just a little bit of background. My name is Scott Stirton. I am a registered architect in Manitoba and have been for some number of years. I was educated at the University of Manitoba and took the gruelling education that has been talked about earlier this evening. That is where I received my Master of Architecture.

I am currently the Chief Executive Officer of Smith Carter Architects and Engineers in Winnipeg. We have had a firm here since 1947. We are an integrated firm with offices in Winnipeg, Ottawa, Calgary, Atlanta. We perform work in virtually every province in this country. We are doing work in more than six U.S. states at this point in time. We currently have projects ongoing in Asia, U.K., U.S.A., Mexico, Africa and Germany.

We have approximately 100 employees here in Winnipeg, with 120 nationally, and we are comprised of all the major ingredients that I believe are necessary to deliver our built environment. Our staff is composed of mechanical engineers, electrical engineers, structural engineers, landscape architects, scientists, and we have over 30 intern and registered architects. We are what I say are the ingredients for the built environment, and we uniquely understand the differences between those, and we uniquely put these people in positions to take their expertise and training, skills and continuing education to benefit all the projects that we do.

Although I am an architect by training, I am here to represent my views not only in regard to the profession of architecture, but the perspective on all professions involved in the built environment. I am representing my personal views as the leader of one of the largest AE firms in the country, and I believe that that is the necessary ingredient for innovation, integration and to build sustainable built environments for all people.

Through the repeated delivery of the architecture that we do in our practice, it is clear that architects are trained and have demonstrated experience in

overall building design. Our engineers acutely understand, the building engineers in our company that do mechanical systems, electrical systems, they are absolutely vital to the success of projects.

We are working on the Manitoba Hydro project now, which is a sustainable project; it is absolutely critical to have mechanical engineering input. But we are the synthesizers of the entire process. We are bringing solar engineers from Germany. We are working with engineers in our office, engineers from different parts of the country. They are providing input which drives part of the solutions, but we still are the synthesizers, the ones that look at the human comfort issues, the integration of the systems and bring it together. We are uniquely trained, very much like Tom Monteyne from the university talked about, to do so and bring that together.

We also have interior designers in our office who, I know, have been caught in the adjunction. They absolutely play a vital role in understanding some of the human issues in our built environment, and they are applied in all projects when it is critical. We ensure that spaces in buildings and communities are designed with people and make sure that human health and welfare are at the forefront and that the environment is kept in mind.

\* (21:30)

Our current office building, which some of you may have been if you drive down McGillivray, has won over seven awards. We have won awards from environmental engineering. We have won awards for landscape design. We have won awards for disability and accessibility, a prime concern of ours as architects in the built environment. We have won awards for business innovation because we think about business innovation. We understand that the built environment in architecture is about business for many people. But we also understand that it has to relate to the environment that were built in, respect the landscape, respect the climate that we are in, understand that it has to relate to the environment that we are built in. Respect the landscape, respect the climate that we are in.

Our goal is to push the envelope of thinking. The Building Code, in my opinion, the ASHRAE Guidelines that the engineers use is the base line for us. It is to maintain safety. Our goal and our training is to make sure that we can push and advance the understanding of the built environment, and it is very critical, and that is the role that we perform in our business.

I do not profess the either/or mantra of architects or engineers. It sort of pains me to be up here hearing this discord between architects and engineers. We are collaborators. We understand the benefits of one another. I understand that there is a group of engineers who have been practising illegally architecture here, and I think that that is very sort of shameful. It upsets me to think that that has caused all of us here to rethink an act in a major way.

I asked myself, and I sat down with our engineers, our interior designers, our landscape architects and I said, "I am trying to figure out why I am going to be going through this in the next week or so." We asked this: Are we really here to discuss a monumental proposal to change The Architects Act due to the small group of professional engineers that have been practising architecture illegally for some time? Are we here because the City of Winnipeg was approving the design and construction drawings for buildings that was contrary to the law? Are we here to voice our concerns over a draft form of legislation as contrary to the fundamental underpinning of self-regulated, restricted-scope professions? Are we here to deal with the interim, temporary problem of permit approvals, backlogs in the city and rural municipalities due to the injunction levied by the courts against the City, which I know everybody in this room has tried to help to move that along to help clients, business owners, interior designers get their works reviewed and certified so that they can get the industry? We are not here to slow it down. Are we here to reconcile the past of an ongoing issue of the two joint boards of the two prime professions that have wrestled for so many years?

It is so easy to get mixed up in the minutiae, forgo rational thinking, throw the baby out with the bath water, so to speak, without a complete background, historical retrospective of professional legislation and the fundamental origins of this issue.

I want to state that I recognize that a majority of the people in this room here today are part of this industry responsible for the built environment. It must be said that those in the room, I believe, are concerned for a varied number of reasons. Those reasons are from public human health and welfare, the quality and the future of our built environment here in Winnipeg and in the province. The concern for professional recognition is important, I think, to everybody here: the ongoing validity of professional education that we have heard so much about, training and certification, the sustainability of one's core business and perhaps there is a lot of self-interest.

Having said this, I believe that all those here today are part of this broader industry, each one bringing value, knowledge and expertise, but we have to understand that there are differences and we cannot blur the edges. This is how we built our practice and recent designs such as the Manitoba Hydro project and our office building.

But, having said this, I need to come before committee this evening to raise some of my concerns and perspectives on the draft legislation being proposed, namely Bill 7. After reading Bill 7, deciphering the real meaning behind the legalese—it is not my expertise—I am concerned that this bill is trying to undo the errors of the past, and this is not a bill looking to address the evolving world of design, construction, and development which is getting more complex. It needs to be done in a collaborative, integrated manner with these stakeholders here. I do not know what the exact form is because I know it has been tough over the years, but let us not give it up. Let us get back to it. Let us not throw away so much that we have done, the momentum we have in our city, the quality of the design that we are seeing, for a backlog.

The one issue that really does concern me is the scope of practice. As I understand it, the proposed legislation is structurally moving to the authority and control of our restricted-scope profession to that of the Building Standards Board. Without getting into details on the relationships between The Buildings and Mobile Homes Act, the Building Code and the Standards Board, I do fail to understand the reasoning behind such a move, a move that will effectively, as I understand it, allow a group of individuals made up of industry stakeholders—I know there is one architect on it now, but they are not necessarily, there are businesspersons, private interest citizens. Let us not see business drive this. Let us not see politics drive this. Let us think about the built environment for the future. We are on something. We are moving ahead. Let us not stop it.

Although I understand the role of the Building Standards Board and its performance in the administration of the construction industry, I do not understand its role in the decision making in regulated practice. And, although this is of central concern to me, I believe the key issues that you probably will hear more of are the scope and governance of our practice in the bill, the definition and clarity required for gross area, the issues of alterations and the openness. The engineers do critical buildings that we talked about early this

evening like hospitals and the like, and without revisiting these issues, I remain really concerned that unforeseen problems that are hidden in the legal jargon are not fully evident to everybody here and they will come up and this problem will not go away. We will create new ones.

I understand the concern of the past backlog. Our company has helped people get through that, and I know we have faced, but I think we need to move forward. I strongly believe that this bill, if not revisited with in-depth perspective, a balanced input from stakeholders in this room, the goal to end the temporary backlog, it may be achieved, but, I think, however, Winnipeg and Manitoba will further its reputation as a have-not province because it will not have unity among the built environment industry here.

I would like to ask the committee to reconsider this bill. Take some time. I think we need to look at a mechanism to solve any ongoing intermediate permit and supervision issues through mechanisms such as requesting the lifting of the current injunction to ensure backlog does not exist as we move back to the table to work together.

The stakes are high. This is not solely about professional sovereignty. This is about the fundamentals of a self-regulated profession, this is about the value of our education, the value of our collective knowledge in the built-environment industry. This is about sustaining Manitoba as a province that has great design values and economic and social well-being for all our people. That is all. Thank you.

**Madam Chairperson:** Thank you very much, Mr. Stirton.

Are there questions for the presenter? Seeing no questions, we thank you very much for your presentation.

The committee calls Ken Hildebrand, private citizen. Did you have copies of your presentation you want to circulate? No? You can proceed, Mr. Hildebrand.

**Mr. Ken Hildebrand (Private Citizen):** Thank you. Good evening, Minister Allan and members of the Legislative Assembly. I am Ken Hildebrand. I am a member of the Manitoba Association of Architects. I attained my registration with the MAA through a program called the Royal Architectural Institute of Canada Syllabus of Studies. There are about a handful of graduates in Manitoba and about 43 across this country. The program has been in effect

for many decades. So you might say I took the road less travelled, but that road less travelled was because of my passion for architecture and for wanting to be an architect and be part of a profession that I feel very strongly about. I think my presentation will take somewhat of a road less travelled as well, because over the next couple of days, judging by the list on the door, you will be hearing arguments pro and con from both architects and engineers. I do not want to get into the detail of that. I think that those will be made self-explanatory by those who make those presentations.

But I would like to just talk about architecture and what it means to me and, I think, what it means to all of us, and that is that this building that we are in is arguably the finest provincial legislative building in the country and, perhaps, in North America. I have visited all of the other legislatures, and Manitoba stands apart. When some of my colleagues have visited from other provinces, they were just astounded by this Legislative Building. This is the work of architects. This is a legacy that someone left to us. Those legacies have been created in the Exchange District. They have been created around this city. They are continuing to be created through the Esplanade Riel. I think that those speak to the strength, the stability, the confidence of this place called Manitoba. This building speaks to a democracy, and, I mean, it is the very process that we are involved in here this evening. I think that, not to belittle what engineers do because certainly engineers were a very important part of this facility and others, but, certainly, that philosophical, that visionary approach comes from architecture.

I think that to speak to the contrast between engineering and architecture, engineered buildings will safely stand the test of time and engineered systems will heat and cool buildings as they should. So why, then, engage architects to design buildings? Buildings are more than enclosures to keep out the elements and spaces in which to conduct business. Buildings nurture the human spirit. Nurturing the human spirit, coupled with building science, is what architects do. All the great buildings of the world owe their beauty to architects. All the great cities of the world owe their beauty and functionality to architects.

\* (21:40)

Architecture, like art, is not always easy to understand, but it is vital to the well-being of a civilization. Architects combine art, science,

economics and building regulations to create a built environment that is worthy of its citizens. The proposed changes to The Architects Act threaten to take away that mysterious yet vital element called architecture, architecture that ensures that the people of Manitoba are surrounded by a built environment that honours those who live here.

I think we can learn from ancient societies. I will close with my reading a quote about architecture. It comes from an elder, Tessie Naranjo, from the Santa Clara Pueblo: "We Pueblo people hold healing ceremonies for our homes just as we do for any member of the community. Our structures are extensions of our world order and are viewed as living beings with life and death cycles. Shelter is not just a place to live but an extension of the natural world or of the sacred realm. The house reflects the relationship of earth and sky, mother and father. Houses are also symbols of the larger ordering of the universe in which mountains, hills and valleys define spaces where humans can dwell. Building and creating shelter is to bring the human and cosmic forms together. The roof or ceiling of the structure may be seen as the sky or the father which protects and nurtures the people who live inside. The floor is the Mother Earth which embraces us when we die." Thank you.

**Madam Chairperson:** Thank you very much. Are there questions for the presenter?

**Mr. Rocan:** Mr. Hildebrand, you touched on a note here a minute ago and it got me thinking.

About 20-some-odd years ago I was at a conference in Cincinnati, I believe it was, a national conference of state legislators. I believe the individual at that time was the Speaker from Missouri. I cannot remember his name right now, but anyway he had informed me that sometime in those years Ronald Reagan had dispatched a group of individuals to tour the North American continent looking for different criteria in public buildings, acoustics, the layout, functionality, different things that represented the environment.

This building I am told, sir, thanks to the architects of the day, is second only to the Supreme Court of the United States, is what I was told and that is going back 20 years ago. I thank you very much for reminding me of that.

**Mr. Hildebrand:** Thank you.

**Madam Chairperson:** Thank you. Before I call the next presenter, I just wanted to inform the people

who are at the back of the room that there are some empty chairs that are up at the front. So, if you did want to come and just take a look to see if there is a place to sit, there are a few empty chairs now.

The committee calls Glen Gross, private citizen.

**Mr. Glen Gross (Private Citizen):** Minister Allan, honourable Chair and members of the committee, I have had some tough acts to follow, and I am sure you are going to hear some very compelling arguments to come.

My name is Glen Gross, and I am a registered member of the Manitoba Association of Architects. I support the position of most of my colleagues that you will hear today and tomorrow, and I call upon the minister and this committee to delay Bill 7 from proceeding to third reading. Like Mr. Monteyne and Mr. Danelley, I am going to speak a little bit on the architects' education.

Being one of the most recent additions to the small list of registered architects in this province, I can attest to the rigor that is set out as the standard for those who wish to become a registered architect. I began my university education in architecture in the fall of 1990. I completed the undergraduate program at the University of Manitoba in '93 and my master's in '98.

I gained employment in an architectural office two weeks after graduation and immediately began logging hours under the careful tutelage of both my employer, a registered member, and my mentor, also a registered member, which is a requirement. The Intern Architect Program or IAP is the nationally endorsed accreditation program for interns which outlines the requirements of the logbook or Canadian Experience Record Book as it is officially known. I have attached a copy of the Periodic Assessment Form to indicate the breadth of experience that is required of an intern before they may become registered.

Unlike Mr. Farion, I was able to complete my record book in just over two and a half years, having had the good fortune of working in a small office that afforded a variety of opportunities as required by the IAP. In addition to the 5600 hours of experience, an intern is also required to take a series of internationally endorsed exams fondly known to interns as the NCARBs or National Council of Architectural Registration Boards exams. Upon completion of these exams, an application for

registration may be submitted to the Manitoba Association of Architects.

I began writing the NCARB exams in the fall of 2003 and finished my last exam in December of 2004. You can imagine my gratification having finally received the results of this exam in the spring of this year.

To summarize, from start to finish, it took me 14.5 years to achieve the status of registered architect. As far as I am aware, this time line is typical, if not somewhat accelerated, relative to the length of time it has taken other young architects to achieve this goal. I can speak with honesty when I say that I still have a great deal to learn. It is often said that most architects do not hit their prime until well into their fifties, which would explain in part some of the grey hairs you see here tonight.

The Manitoba Association of Architects has a policy for continuing education that mandates minimum requirements for all members, registered or not, to continually update their education and keep abreast of changes in the construction industry and architectural practice. This is the case for all jurisdictions in Canada and the United States. I am convinced that a more committed and passionate group of professionals you will not find anywhere. The restricted scope of practice that architects have enjoyed for the better part of the last century has been in place for a very good reason. It is architects who are responsible for the multifaceted nature of the built environment, from public safety to spaces that nourish the spirit, from space programming to finicky weather-proofing details, from client consultation and programming to co-ordination between structural, mechanical and electrical consultants. This responsibility is not taken lightly. It explains why this small group of people, with whom I take great pride in being associated, is here before you today.

The Manitoba Association of Architects and its members stand for excellence in the built environment. We are charged not only with crafting beautiful spaces, but with the legal responsibility of ensuring public safety. It is ironic that the culmination of our educational training is a piece of paper and a rubber stamp, but it is our seal and signature which represent years of training and competency and provides assurance to each and every member of society that we are capable of designing buildings intended for public use and occupancy.

As you can see, I clearly have a vested interest in making my opinions known with regard to the inadequacies of Bill 7. I consider the bill to be an insult to my professional designation and a complete disregard for our membership at large. I urge the minister and this committee to delay Bill 7 from proceeding to third reading so that it may receive the due diligence required of it to ensure excellence in the built environment for all Manitobans.

Thank you.

**Madam Chairperson:** Thank you very much. Are there questions for the presenter? Seeing no questions, we thank you very much for your presentation, Mr. Gross.

The committee calls Greg Hasiuk, private citizen.

**Mr. Greg Hasiuk (Private Citizen):** Good evening, honourable Minister Allan, Madam Chairperson, everybody else who is here tonight. My name is Greg Hasiuk. I am a registered architect with the Manitoba Association of Architects.

Now, first I would like to state my support of my colleague Don Oliver and call upon the minister and this committee to delay Bill 7 from proceeding to third reading.

I am going to keep my personal opinions tonight to myself. I have e-mailed most of you my personal opinions. I am going to stick to one topic tonight. A few of the members here have asked, "Well, what is the doomsday? Give us a specific example. What is wrong with the bill?" So I am going to give you one.

The issue I wish to speak about this evening is the relocation of vital decision-making authority from The Architects Act to the Manitoba Building Code. This relocated authority pertains to the requirement in The Architects Act that allows exemptions or, as some have called, exclusions for the involvement of architects on certain buildings. This involves proposed subsections 15(1.1) and 25(1) of The Architects Act, as well as the proposed amendments to The Buildings and Mobile Homes Act.

\* (21:50)

Now, this really is the most critical concern of the MAA and, really, potentially other self-regulated professions. The proposed amendments weaken public protection offered by The Architects Act. It converts architecture from a legislatively entrenched restricted scope of practice to a profession that can

have pieces of it carved out by a board comprised largely of business interests and stakeholders. This flies against every other self-regulating profession in this province and most other provinces. This is unprecedented and is an inappropriate structure for any self-regulating profession. It diminishes the independence of the profession of architecture and the profession's ability to protect the public by ensuring that only those qualified to practise architecture are allowed to engage in its practice.

The Building Standards Board is responsible for making recommendations to the minister about the content of the Manitoba Building Code. These amendments effectively give the Building Standards Board control over what is the practice of architecture.

There is no other regulated profession in Manitoba which has its scope of practice defined by a group of industry stakeholders that include business and private interests. By analogy, in the medical profession, this would be similar to a board comprised of representatives from the regional health authority, the Manitoba League of Persons with Disabilities, the Association of Manitoba Municipalities, pharmaceutical suppliers, medical equipment suppliers, insurers and only one medical practitioner being given authority by the Minister of Health (Mr. Sale) to report on what the scope of practice should be for medical professions. This is unprecedented.

The Building Standards Board has a valid role to play in the administration of the construction industry. We are not disputing that. But it has no proper role in making decisions about what activities require or do not require the involvement of a licensed professional. This is a decision that has to be made by government in consultation with those with expertise in the area, that is the members of that profession. With the exception of the Manitoba Association of Architects' representative, who is only one person out of 12, the Building Standards Board has no expertise to enable it to do so.

Once a decision is made about when an architect is required, those requirements belong in legislation, which is paramount and overrules regulations, such as the Manitoba Building Code. To paraphrase Chief Justice Monnin of the Court of Queen's Bench, "To allow the code to define the act would be to let the tail wag the dog, or the regulation wag the statute."

The codes should provide clarity for the authorities having jurisdiction, with the City, with

the Province, regarding which activities require an architect or an engineer, or none. But the requirements must be set out in the statute and be incorporated into the statute, not the other way around. To place such important matters into an impermanent and ever-changing document like the Building Code, circumvents the legislative process and, in doing so, dismisses transparency and accountability.

A chart describing these exemptions is a valid tool used in other provinces to provide clarity for the authorities having jurisdiction about which activities can or must be done by which professional, or none. These charts are valuable. We endorse them. We want them. We want clarity. While a chart is a very clear tool to use to achieve that clarity, the full parameters of the scope of practice of architecture, including any exceptions, must continue to be set out in The Architects Act. It has to be in our act.

It was noted during Bill 7's second reading in the House that in Saskatchewan and Ontario this chart is contained in the provincial Building Code. This is true. However, while Ontario does have a chart in their Building Code, it is only a clarification document of the provisions which are expressly set out in the architect and engineers acts in that province. It does not remove the scope of practice from the legislation.

Saskatchewan is not a model that can or should be applied for Manitoba either. For one thing, the statutes governing architects and engineers are completely different. In other words, as we understand, they license their engineers by discipline. They are not generic engineers. They are structural engineers, mechanical engineers, I believe.

Now, I have been licensed to practise architecture in the province of Manitoba, not because I believe I am competent, but because I have fulfilled the specialized educational requirements and the internship requirements which are a prerequisite to practise this profession. When you see "Registered Architect" beside my name, it is your assurance that I am qualified to design a building. You need to look no further to assess whether I am qualified in that field. "Registered Architect" is your assurance that I am. You can count on a registered architect. Thank you.

**Madam Chairperson:** Thank you very much. Are there questions for the presenter? Seeing no questions, we thank you very much for your presentation.

The committee calls Spencer Court, private citizen. You can proceed, Mr. Court.

**Mr. Spencer Court (Private Citizen):** Minister Allan, honourable ministers and the standing committee, I would like to express my gratitude for this opportunity to speak to you at this time. My name is Spencer Court. I have lived in Manitoba for the past seven years.

Although the technical and legal aspects of the proposed legislation will be addressed by other representatives and have been addressed by others, I appeal to the committee from the perspective of a recent graduate student, current intern member and future registered architect.

First, I would like to state that I support the position of the Manitoba Association of Architects on this matter, including the position of my colleagues, and call upon the minister and this committee to delay Bill 7 from proceeding to the third reading.

In a sincere effort to demonstrate my intent to practise in the province that I was educated in, I will present now just a brief personal history that might be of some worth to you. After studying for two years in my province of birth, my wife and I moved to Manitoba from Alberta in order to pursue my undergraduate and master's degrees. I selected the Faculty of Architecture at the University of Manitoba because it was regarded as the best in western Canada and, arguably, the best in the country. I have committed to Winnipeg even though Calgary had a graduate school of architecture and several of my colleagues were completing their architectural education in their home province. I transferred to Manitoba because I was committed to what my research confirmed to be a superior education outside my home province.

Since our move, my wife and I have had two children, both at the Victoria General Hospital. I have become a home-owner of five years. I have firmly established residency in this province. I have voted. I have paid taxes and, for the last two and a half years, enjoyed a career path working for an esteemed and long-standing architectural firm that has realized many significant projects, many of which have been in the media, highly praised by both the public and politician alike.

Along with others over that last year, it has been in my best interest to familiarize myself with the events and arguments that have repetitively

transpired between the architectural profession and a dozen or so engineers or developers who practise beyond their certified scope of training and education and have been facilitated to do so by authorities having jurisdiction. I have recognized the Witty Report and other court rulings as devices to mediate the disputes and protect the public's best interest via The Architects Act, and to do so from unscrupulousness and those who may profit from its injudicious alteration.

\* (22:00)

It is in light of this history that I approach the committee as a young professional and a representative of Manitoba's future in opposition to the fundamentally flawed legislation that constitutes these amendments. Despite the best intentions on the part of legislators, I am, in fact, horrified at the decline of professional standards that would inevitably result from the passing of this particular legislation. I am dismayed at the lack of concern for Manitoba's future buildings and environments.

As someone who, after eight years, is still not legally entitled to call himself an architect, I am distressed by this attempt to vary the professional playing field by allowing engineers, grandfathered under a new clause, the opportunity to practise what is termed competent architecture. Without subjecting them and any others to at least the same rigour of certification as is assured in the process administered by the National Council of Architectural Registration Boards, which I am also subject to, this clause produces a double standard.

It is equally displeasing to see that these grandfathered engineers will go unmonitored by the MAA, the body charged with the responsibility of governing architects and the delivery of competent architecture service in Manitoba. Both the provinces of Alberta and Ontario at least require passing the same registration exams to certify all engineers who contend to practise architecture in their respective provinces.

The restricted scope of practice I was being trained and educated for and understood to be reserved for me as I became registered in the province will be nullified, overturned to and governed by a group of stakeholders in the construction industry who the majority is inclined to serve their own economic interests, rather than the public good, and which has no expertise to regulate. I apologize for some of the redundancies that many of us are presenting here.

According to the proposed amendments, they will also have the power to dictate to me what architecture is and by whom it can be practised. Although the board has a vital role to play, the Building Standards Board should not dictate laws which are there to protect the public or manipulate a regulated profession. The law should dictate the standards. What more appropriate place is there to maintain the full parameters of the scope of practice of architecture than within The Architects Act?

I ask the provincial government why should I, part of a restricted scope, self-regulating profession and citizen of Manitoba, remain with my family in this province when it does not seem to value the public safety and welfare I would first demand as a citizen and equally the same welfare the profession of architecture provides for this province. Why should I stay when this legislation seeks to undermine my education and training? Is this government is actually telling me I would have been better off getting an engineering degree, in any of its tenets, if I wanted to practise architecture the easy way? It would certainly take less time and training for me to do so, even at this point in my livelihood. Tell me now, before I take my first registration exam.

The proposed legislation is alarming and contrary to the public good. Is a lower standard really acceptable when it comes to the health and welfare of the citizens of this province? This is what Bill 7 proposes. Will the next self-regulating profession placed under attack be of the medical sort? Have our laws reverted back to the days a hundred years ago when anyone could profess to be a trained professional by merely saying so?

It became apparent that some minor alterations might be required in order to bring The Architects Act of Manitoba in line with that of other jurisdictions. Instead, we see the extreme gutting of the act before us. This legislation is paving the way for an eventual, but certain, degradation of standards in public health and welfare, leaving the majority of buildings to this lesser standard and an elite remaining few to meet the true standard demanded by the public and which architects certifiably are trained to make possible.

If the urgency in passing this legislation is to fix any remaining permit log jams in specific municipalities that have been unable to cope with the recent court ruling of September 16, I petition the appropriate authority to ask the Manitoba

Association of Architects if they would possibly consider temporarily suspending the injunction order. This could allow current projects caught in the funnel to proceed with supervision and alleviate the pressure of passing hastily written legislation which unequivocally is not ready to be made law.

Notwithstanding this—and this is a bit of a side note that you might find interesting; I find it a bit interesting, as the Manitoba government has embarked on this multiphase million-dollar campaign to brand Manitoba and market the province beyond its borders, that even inadvertently it would risk the disillusionment of its professionals and other skilled workers. How could we still expect the valued talent of society to speak acceptably of their former residency here wherever they now find themselves practising when they have been legislated out of their livelihoods? What do the former trained professionals, other skilled labourers and dissatisfied residents of this province have to say about Manitoba, and what pretext has government given them to criticize? Do our professionals leave because of bad policy and poorly legislated law, or is it just plain opportunity that is found elsewhere?

We have an opportunity this week. Promote your province right now by tabling this disparaging legislation.

**Madam Chairperson:** I have to ask you to summarize and to end at this point. I give you one more sentence.

**Mr. Court:** We spend most of our lives in buildings, especially in Winnipeg largely due to the elements. I do not want my family to spend their lives in buildings that are sort of set to this mediocre standard as much as probably generally the public does. I will leave it at that.

**Madam Chairperson:** Thank you.

**Mr. Jim Maloway (Elmwood):** Mr. Court, you had mentioned that 12 or so engineers practised beyond their scope with the authorities' agreement, and I wanted to ask you, I would consider that all of these engineers would have to have malpractice insurance, errors and omissions insurance, probably by Encon insurance or someone else, but probably Encon would be the main one.

I would suggest to you that how could they possibly be doing this out of scope with the insurance company agreement, because the insurance company would just not cover them for this kind of

activity if they were doing something they should not be doing.

**Mr. Court:** Well, that kind of a question I would probably defer to somebody who has more expertise in answering sort of an insurance question.

I would think they would have to have insurance. However, there is probably no guarantee that they are covered because an insurance company is just going to ask: "Well, do you have a degree in engineering, and if so, that is good enough for me." They are certainly not going to start investigating people on an individual basis.

My degrees and my eventual registration as an architect would serve that exact same thing. If I were to be insured to do buildings, they would ask me, "Are you a registered architect?" and that would be the end of it.

**Mr. Gerrard:** You make a comment about the fact that Alberta and Ontario require individuals who are grandfathered to pass the same registration exams to certify engineers who want to practise architecture in their provinces.

Can you expand a little bit more in terms of what would need to be involved in engineers practising architecture in Ontario and Alberta?

**Mr. Court:** Well, certainly, as I have mentioned, my formal education has all taken place in Manitoba, aside from a first few years that I spent at the University of Lethbridge getting my general liberal requirements taken care of. As a result of that, certainly, my interests in all of this have been limited to Manitoba.

\* (22:10)

Now, it is my understanding that both of those provinces do allow for a certain type of grandfathering within that form of certification at least. They have to prove themselves somehow, and who is going to regulate that? Well, someone has to do it. Certainly, this question is probably best left to be answered by the legal counsel that is provided. So I hope that suffices for now, but I am sure it will be answered.

**Madam Chairperson:** Thank you very much.

Mr. Penner, David Penner, private citizen. You can proceed, Mr. Penner.

**Mr. David Penner (Private Citizen):** My name is David Penner, and I am a registered member of the Manitoba Association of Architects.

I would like to first state my support of the position of my colleague Don Oliver. He called upon the minister and this committee to delay Bill 7 from proceeding to third reading. More specifically, I would like to speak to the Building Standards Board, which some of the previous speakers have spoken to, to some extent, but I would like to give the committee a little more background.

The proposed legislative changes removes the architects' restricted scope of practice from The Architects Act and places it in a regulation, the Manitoba Building Code, that is monitored by the Office of the Fire Commissioner, through a mechanism called the Building Standards Board, who, in turn, makes recommendations to the Minister of Labour for approval. In the past, the restricted scope of the architect has been the method by which government ensures that certain buildings are designed and certified by a qualified person. To protect the public interest, it decides what specific buildings by size, use and occupancy require a qualified professional to design and certify construction. Only an architect is qualified to design and certify large and/or complex and/or high occupancy buildings. Only an architect is educated, trained, and tested to do that.

The Building Standards Board's role is to provide advice to the Minister of Labour and the Fire Commissioner on the Manitoba Building, Fire and Plumbing Codes. It operates under the direction of a secretary, Mr. Dennis Beacham, who is himself a professional engineer, as well as the manager of codes and standards, Ms. Nancy Anderson, herself a lawyer.

My understanding is that the board is comprised of the Fire Commissioner, the Deputy Fire Commissioner, a representative from the Manitoba Association of Architects, a representative of the Association of Professional Engineers and Geoscientists of Manitoba, and representatives from construction industry stakeholders who you have heard most of this evening already, but I will say them again: the Manitoba Homebuilders' Association, Manitoba Building Officials Association, Winnipeg Construction Association, Association of Manitoba Municipalities, Manitoba Federation of Labour, Manitoba insurance industry, Manitoba League for Persons with Disabilities and the New Home Warranty Program of Manitoba.

In the past, Manitoba has adopted the National Building Code and added amendments recommended

by the Building Standards Board. The purpose of the National Building Code is explained in the first few pages of the code in a guide to its use, and I will quote: "The National Building Code is essentially a set of minimum provisions for the safety of buildings with reference to public health, fire protection and structural sufficiency. It is not intended to be a textbook on building design, advice on which should be sought from professional sources."

I would go further, though, than that excerpt. The National Building Code also speaks to the minimum acceptable provisions for barrier-free access and it speaks to the minimum acceptable levels of energy efficiency. Neither of those two issues appear to be within the scope of the Fire Commissioner's office.

Part 9 of the National Building Code addresses housing and small buildings where it is less likely that an architect be involved; therefore, it is less likely that reasonable standards of design are being brought forward. So it speaks to more minimums. It speaks to minimums of space requirements, such as ceiling heights, et cetera, minimum provisions of natural light, maximum level of sound transmission between occupancies, minimum standards regarding protection of property and provision of comfort.

Part 3, on the other hand, applies to large buildings that hold a greater number of people, and, because it is presumed that by provincial statute an architect would be involved for those buildings, many of the non-safety-related minimums are not described. Part 3 does include arena-type buildings, industrial buildings, schools, hospitals, et cetera.

In Manitoba, in recent history, buildings that fell under this part of the National Building Code were required to be designed and certified by an architect. The proposed legislation provides a framework where this will no longer be the case.

The current legislative changes set forth a framework where the standard for the industry will be the lowest possible level of public protection. It creates an environment of the lowest common denominator. The economy it supports will be based on the most marginal of developments. It does not support a bright vision for the continuing development of our province and it does not do it right.

The current Manitoba amendments to the National Building Code were developed by the Office of the Fire Commissioner, vetted through the

Building Standards Board and recommended to the Minister of Labour (Ms. Allan) in very much the same manner as the proposed legislative changes before you would require.

In the past, and contrary to public interest, the board has chosen to disregard the provisions of The Architects Act and allow the design and certification of certain buildings to be carried out by unqualified persons. The transition from a government in the past that had honoured the provisions of The Architects Act to a government that proposes to revoke the provisions of The Architects Act was a slow process that occurred over some 15 years. The provisions of the act were challenged and confirmed in court in the Denoon case, which, I believe, was in 1998, and reconfirmed with the McCawley decision this past September.

It is unreasonable to assume that a board run by the Office of the Fire Commissioner whose mandate is primarily public-safety related to fire safety would recognize the value of an architect's involvement in the development process. This, by no means, devalues or undervalues the concerns related to fire safety. They are very important. But there are many, many other issues that arise in the design and construction of buildings.

\* (22:20)

There are other stakeholders that are also represented to balance the perspective, but it is unreasonable that, when a decision is being made on whether an architect should be required to design an arena, for example, the decision is being made by a contractor who knows little of the design process, a representative of the Home Builders' Association and a representative of the New Home Warranty Program.

**Madam Chairperson:** Mr. Penner, I have to ask you to just put your last sentence on the record. Your time is coming to the end.

**Mr. Penner:** There has been a very bad history with the Manitoba Association of Architects and the Building Standards Board, and I really would not expect that our association would have any success in communicating our concerns on behalf of the public at large.

**Madam Chairperson:** Thank you.

**Mr. Rocan:** I wonder, with the indulgence of the committee, if Mr. David Penner's seven pages of his presentation, which he did not have a chance to get

on the record, and I see it is very well thought out, I wonder if there would be leave to have it deemed as being read. [Agreed]

**Madam Chairperson:** So your presentation will appear as if it was entirely read, pages 1 to 7.

Mr. Penner: *There are other stakeholders that are also represented to balance the perspective, but it is unreasonable that, when a decision is being made on whether an architect should be required to design an arena, for example, that the decision is being made by a contractor (who knows little of the design process), a representative of the Home Builders' Association and a representative of the New Home Warrantee Program. What background do they have to make that decision? Very, very little. Will they rely on the advice of the Secretary of the Board, a mechanical engineer by education who believes his structural engineer colleagues can design buildings? Very, very likely. And how will they respond when there is pressure to take architects out of the loop for the design and certifying of construction of our schools and our hospitals and our cultural institutions? One must assume they will do the same as they had done in the past.*

*The current legislative framework relies on government to protect the safeguards of the system. The Architects Act are amongst those safeguards that protect our quality of life for everyone, the tradespeople, the developer, persons with disabilities, the public that use the buildings, the neighbours that live with them. The Department of Labour has not protected the Architect Act in the past and we cannot expect them to do so in the future. How is it that when the rest of the country is adding more demands to the construction industry to increase the level of protection of the public that our province does the opposite. Are we waiting for a the leaky condo situation similar to B.C.'s? When it comes to large, complex, and/or high occupancy buildings, our government must be taking the high road and insisting that ALL buildings should require an appropriate involvement of ALL professionals, architects, structural engineers, mechanical engineers, electrical engineers, interior designers, etc.*

*On a side note, my office does very few projects of a marginal nature, that is, projects where the client group's financial resources are so limited that they can only invest in the very most minimum standards of construction. But I have participated in those*

*projects and I can assure you that they are THE MOST demanding from a liability and public safety point of view. And if the financial resources are not there then the fees for a reasonable degree of professional services are not there and the professional is truly put to the test. For example, if a mechanical engineer on a marginal low cost housing project specifies something in the fine print that adds a load to the roof, and the roof is designed to the bare minimum Code conforming capacity, and the structural engineer is not made to know that his mechanical counterpart has added the load, it might result in a roof failure. Engineers working in different disciplines on a building project seldom concern themselves with what impacts the other disciplines, in part because they do not have an education directed towards an interdisciplinary process, that is to say a process by which many experts are required to address many facets of the project. They respond to problems but they are less accustomed to anticipate problems that are outside their specific discipline. These occurrences are more frequent than we would like to think and for some architects, some of the time, they are a very, very real concern. Building design is NOT a legitimate discipline of engineering. The current Engineering Act DOES NOT sufficiently protect the public.*

*The MAA has had a long history of getting nowhere with the Buildings Standards Board. Leaving the authority of which buildings require an architect to the BSB and Minister of Labour will wipe the profession off the map. The Minister of Labour has provided the MAA with a **draft** Table that defines what buildings must have an architect to design and certify construction. We are confident that over time, as the pressures for marginal development continue, the BSB will strip the protection that government was previously obliged to provide. The MAA's concerns and its communications with the BSB in the past have been ignored, postponed, delayed and generally have not been taken seriously. Government will be throwing us and the public to the wolves.*

*I have provided a brief chronology of the MAA's efforts to persuade the BSB to play a role in ensuring the appropriate level of architectural AND professional engineering involvement in buildings in Manitoba since December 2003. The history of the Department of Labour's contempt for what architects do extends over a much longer time frame and the committee is welcome to more information if it is requested. Copies of the most recent*

correspondence, over the last couple of weeks, are also attached.

*December 2003*

The MAA speaks to the Chair of the BSB advising about their concern about a provision of the MBC that is being interpreted by AHJs as allowing engineers to design buildings that The Architects Act says requires an architect and suggesting that the language of that section be changed to ensure that it is not inconsistent with The Architects Act. The MAA asks to be allowed to make a presentation to the BSB on the issue. The Chair of the BSB invites the MAA to make a submission regarding a change in the language of the relevant MBC provision.

*March 2, 2004*

MAA forwarded a written submission on the issue to the Chair of the BSB. The MAA asks to be allowed to make an oral presentation to the BSB on the issue.

*March 5, 2004*

The MAA followed up on their March 1st letter with a phone call to the BSB Chair. He had not received the material and suggested that the MAA call the BSB Secretary.

*March 5, 2004*

The MAA followed up with the BSB Secretary and reiterated its request to be allowed to make a presentation to the BSB. The MAA was told that it could do so at the BSB's next meeting, but that the next meeting would not be held until May 2004.

*March 17, 2004*

The BSB writes to the MAA stating that until the Architecture and Engineering Joint Board forwarded the BSB an agreed upon revision to the relevant section of the MBC that "the proposal from the MAA would be held in abeyance". (The issue had been with the Joint Board for more than three years with no resolution!).

*April 13, 2004*

The MAA writes to the Chair of the BSB objecting to the BSB's refusal to consider the issue raised by the MAA.

*May 17, 2004*

After hearing nothing further from the BSB the MAA wrote to the Minister of Labour expressing its concern that the BSB was refusing to consider the MAA's submission.

*June 2, 2004*

The Minister of Labour replied advising that the BSB would now accept the MAA's submission.

*Sept 30 2004*

The BSB wrote to the MAA advising that the MAA would be allowed to make a presentation on the issue at the next meeting of the BSB, which would be November 9th.

*Nov 3, 2004*

The MAA forwarded a written package to the BSB for distribution to the BSB members.

*Nov 9, 2004*

The MAA made its oral presentation to the BSB on the issue relating to the MBC section (2.3.1.3)

*Nov 25, 2004*

Having heard nothing from the BSB, the MAA wrote to the Chair and asked if it could have a response from the BSB as to the MAA's request that the BSB recommend changing the language of section 2.3.1.3. of the MBC, as suggested by the MAA in its submission.

*Dec 3, 2004*

The MAA was copied on a letter from the Chair of the BSB to the Minister of Labour advising her that the MAA's request to change the MBC provision would be held in abeyance until after the "Witty process" (another Joint Board process) was complete and his Report received (it was to be delivered to the Minister by December 31, 2004).

*Jan 31, 2005*

The Witty Report was delivered to the Minister.

*Jan 31-Sept 19, 2005*

The MAA heard nothing from the BSB.

*Sept 19, 2005*

The MAA had heard nothing from the Minister's office or the BSB. The MAA again wrote to the Chair of the BSB, enclosing a copy of the court's decision in *MAA v. City of Winnipeg and APEGM*, which held that the MBC DID NOT AND COULD NOT expand the scope of practice of engineers and allow them to practice architecture. The MAA renewed its request (1st made in 2003!) to amend the relevant MBC section. The next meeting of the BSB had been scheduled for September 27th.

*Sept 19-Nov 21, 2005*

The MAA has received no response from the BSB.

October 24, 2005

The meeting of the BSB scheduled for October 25th was canceled and members of the Board were canvassed for their availability for alternative times. The MAA representative on the BSB indicated that he was not available at the time being proposed and requested information on the agenda (as was the practice of the BSB if a member was not available). His request was not replied to, the meeting went ahead without the MAA representative being present (or his being told that the meeting would go ahead regardless). At that meeting the Manager of Codes and Compliance advised the BSB that the Minister was going to retroactively make all of the illegal work legal by passing legislation in the form of amendments to The Architects Act. The MAA had never been so advised. I have attached copies of related correspondence.

The bottom line is that the BSB is NOT responsive to the MAA and has refused to address legitimate issues regarding the Code and the required involvement of professionals. Giving them authority over carving exceptions out of The Architects Act would be to gut this profession and the protection of the public that the involvement of an architect provides. Our province has been generally lucky that those projects that have already gone through the system unlawfully have not resulted in significant loss of property or, God forbid, life. And for those buildings that do go bad, will the owners and the public have recourse through insurance? It is unlikely if an unqualified person provided the design and certified the construction. It is even more unlikely if the retroactive component of the Bill goes forward.

The Building Code is not the bible of architecture. It is only one (very small) component. It is a component of the process that defines the **bare minimum standards and the bare minimum level of protection of the public**. The Building Code is not what ensures that a woman walking down her office hallway does not have to look at a man urinating in the men's room as the next guy opens the door to go inside. The Building Code is not what ensures that parkades are designed in a way that protects women. The Building Code does little to protect our natural environment. The Building Code does little to protect our cultural heritage. The Building Code does nothing to protect our urban environments from visual despair.

Architecture is all of these things. It is the creation of the built environment fit for, and responsive to, human life. Every Manitoban's life is valuable. Architecture embodies that value and gives it a built form that responds to and protects human need.

The BSB does not have the expertise to allow them to make the decisions the Bill is asking. And history has demonstrated that the BSB is unwilling to take the MAA's advice on these important public health and welfare issues.

The proposed legislative changes are flawed. I urge government to delay legislative changes and set up a task force. I urge government to request that the City of Winnipeg see a "consent variation order" from Justice McCawley, who handed down the decision in September, and seek temporary relief from the injunction in order to clear up the backlog outside Winnipeg.

I am a Registered Member of the Manitoba Association of Architects. I have been licensed to practice architecture in the province of Manitoba, not because I believe I am competent, but because I have fulfilled the specialized education requirements and the internship requirements which are a prerequisite to practice this profession.

I have completed nine years of "building specific" design education and internship. I have satisfied the national qualification standards which are required by every jurisdiction in this country. I am accountable to my professional regulatory body, and thereby to the public.

When you see MAA beside my name, it is your assurance that I am qualified to design a building. You need look no further to assess whether I am qualified in that field. "Registered Architect" is your assurance that I am. You can count on a Registered Architect.

**Mr. Gerrard:** You have appended some material on the association, or you have included in your presentation, which you were not able to present in detail, the history of the problems between the Manitoba architects association and the Building Standards Board and communication. I am stunned, quite frankly, by the delays and the lack of response, and I, just sort of reading this, wonder could this really be happening. Could you just go into a little more detail?

**Mr. Penner:** Our representative on the Building Standards Board has had a very frustrating time during his tenure on that board. I have been on executive council for the last four years, at which time he reports on a monthly basis and we hear nothing but frustration. We really feel that our interests are not being heard.

**Madam Chairperson:** Thank you. Are there any more questions for the presenter? Seeing no other questions, we thank you very much for your presentation, Mr. Penner.

The committee calls Rina Ricci, private citizen. You can proceed, Ms. Ricci.

**Ms. Rina Ricci (Private Citizen):** My name is Rina Ricci, and I am an intern member of the Manitoba Association of Architects.

I support the position of the Manitoba Association of Architects and call upon the minister and this committee to delay Bill 7 from proceeding to third reading. Beyond offering support to my colleagues regarding the proposal to delay Bill 7, I would also like to offer the minister and this committee my own personal feelings about the potential detriment that a rush to pass this bill may cause to all citizen of Manitoba, to the built environment of the province and to me as a voting member in this province.

I firmly believe that all citizens of Manitoba are physically and psychologically affected by the quality of both their built and natural environments. The profession of architecture is unique because it holds the utmost duty to craft the built environment with excellence in order to ensure life safety issues, to maintain and promote a sound ecological footprint and to foster a sense of community among all citizens.

Architecture is not just about fulfilling the requirements of the Building Code and about getting buildings up. The essence of architecture is about making places that hold meaning to the people that they affect. Architecture defies the sole act of building because it is not just about providing basic shelter. Rather, it is about providing places to dwell, places where we take personal responsibility for cultivating and conserving our environments, places that give meaning to our everyday lives.

There is beauty and delight in architecture, and I argue that as human beings, beauty and delight cannot be lived without. The beauty of architecture is that it assigns the tools of light, shadow, color, sound

and materiality to communicate experiences that cannot be said in words or displayed by images. The beauty of architecture is that it hovers in the chasm that exists between the real and the possible. The beauty of architecture is that it embodies stories from our lived past and merges them with the fictitious world of our minds.

I was not born into this province; rather, I chose Manitoba because I thought that as a recent graduate from the Faculty of Architecture at the University of Manitoba, I could find my place here as an architect and live my dream by contributing to the cultural landscape of this province. Please, your honour and committee members, do not put my future and the future of this province in jeopardy by rushing into a decision on Bill 7. If this bill is passed, it will leave me no other choice than to find another home in another province, another province that values my profession as valid and essential to the well-being of its ecological footprint, its network of social complexity and to the intricate fabric of the built environment. Thank you.

**Madam Chairperson:** Thank you. Are there questions for the presenter? Seeing no questions, I thank you very much for your presentation.

The committee calls Robert Winslow, private citizen. You can proceed.

**Mr. Robert Winslow (Private Citizen):** Good evening, my name is Robert Winslow. I am a registered member of the Manitoba Association of Architects from the constituency of Kirkfield Park. I am also a professional accredited by the United States Green Building Council as a leader in energy and environmental design, a member of the Royal Architectural Institute of Canada, past chairperson of the Interns-in-Architecture Committee of Manitoba and past chairperson of the Manitoba Chapter of Construction Specifications Canada.

Tonight I am here to speak as a private citizen against Bill 7. First, I would like to state that I support the position of my fellow architects tonight and call upon the minister and this committee to delay Bill 7 from proceeding to third reading. Bill 7 creates more problems than it purports to solve. More time is needed to give this piece of legislation the careful consideration it deserves. My colleagues have already explained to this committee the problems in principle with making the Manitoba Building Code the place where The Architects Act is defined and weakened. I want to speak to you about the specific consequences and give this committee

some examples of the kinds of situations which are not in the public interest that placing this kind of definition in the Manitoba Building Code will create.

I wish to focus on the issue of alterations. This issue involves the draft Table 2.1.7—Alterations, which Bill 7 proposes to insert into the Manitoba Building Code. Although Table 2.1.7 is currently only a draft, its final version may state that an architect is not required on any building. However, for the purposes of my comments here tonight, I will use the draft table that has been created, since it appears to represent the government's current intended direction.

According to the draft version of Table 2.1.7, every single renovation or alteration project could be completed without the involvement of an architect. Based on the draft table, such projects would include such notable examples as the renovation of the Centennial Library, now known as the Millennium Library; the entire Downtown Campus of Red River College; the entire second floor addition to Polo Park Shopping Centre; the new cardiovascular wing addition to St. Boniface General Hospital; the new hip and knee surgical suites addition at Concordia Hospital; the recent addition to Brandon Regional Health Centre; the Manitoba Children's Museum and the Forks Market; the Warehouse District condominium conversions including the Ashdown Warehouse, the Lofts on Bannatyne, the Fairchild Loft condominiums on Princess Street; the Clarion Hotel at Polo Park; the proposed multi-storey conference centre and rental unit expansion at the Viscount Gort; the recent renovations and expansions of the Wolseley School, Sisler High School, Neepawa Collegiate, Tanner's Crossing in Minnedosa and the Duke of Marlborough School in Churchill, to name but a few. The future addition of high-rise hotels and condominiums above Portage Place Shopping Centre or the Shops of Winnipeg Square could also be affected.

\* (22:30)

Through the skilful and strategic placement of firewalls, an engineer would be able to design all of the above by dividing the building into multiple compartments which conform to the area limitations imposed by Bill 7 and all would be in accordance with the Manitoba Building Code and not require an architect.

The Manitoba Association of Architects knows that not all alterations require an architect, but many, such as these that I have mentioned, do. I also

acknowledge that the authorities having jurisdiction need some flexibility and discretion to respond to the necessities of time and geography. However, clarification is necessary. The key is to find a solution that balances the authorities having jurisdictions' need for flexibility, with the certainty necessary to protect the public and ensure that buildings in which there is human occupancy require an architect.

Proposed alterations to such buildings need to be reviewed by an architect, even if that architect is a contracted consultant to the authorities having jurisdiction so as to assess whether or not the architectural aspects of the building will be affected by the planned alteration.

The Manitoba Association of Architects knows and understands that government wants to foster and maintain the economic benefits associated with the construction of buildings in this province. I support the government and the Manitoba Association of Architects in this goal and believe that the involvement of an architect helps to achieve that goal. However, the government must also ensure that buildings protect the health and welfare for the public, for occupancy and assembly. Where the interests of public health and welfare conflict with economic benefits, public health and welfare must be paramount. If decisions concerning what work must be done by an architect is left to the recommendation of the Building Standards Board, then economics alone will be given priority.

The Building Standards Board is a group of laypersons whose 11 members represent key stakeholder groups concerned with building construction, building standards and fire safety. Their role is to provide advice to the Minister of Labour and the Fire Commissioner on the Manitoba building, fire and plumbing codes. Towards that end, the Building Standards Board has a very valid role to play in the administration of the construction industry. However, by inserting Table 2.1.7, Alterations into the Manitoba Building Code, Bill 7 would literally remove the definition of the scope of the practice of architecture from The Architects Act and expand the role of the Building Standards Board to include defining the practice of architecture in Manitoba, which is a restricted-scope profession.

With the exception of the one member on the Building Standards Board, who represents the Manitoba Association of Architects, the board does

not have the expertise to make such decisions about the restricted scope of practice of a regulated profession. No other regulated profession in Manitoba, be they lawyers, doctors, accountants or even engineers, has its restricted scope of practice defined by a group made up of industry stakeholders.

I daresay that such a removal of a defined scope of practice from any professional act would be unprecedented in Canada and contrary to every other jurisdiction in North America. I cannot begin to imagine how the design and construction industry in Manitoba could continue to flourish, prosper and grow if the rules and regulations governing our practice become so obtuse and different than those of our neighbours and our province's largest trading partners.

This is of great concern to me because the practice of architecture is not localized. Our members are highly integrated with all jurisdictions throughout North America. The Manitoba Association of Architects has established extensive reciprocal licensing and practice agreements with other restricted-scope professions that rely on a minimum level of commonality in definition, testing and regulation between jurisdictions.

To remove the definition of an architect's scope of practice from The Architects Act would likely isolate Manitoba and disrupt the reciprocal trade that we have enjoyed for so many years. Projects such as the Millennium Library, MTS Centre, the new Winnipeg airport and the Manitoba Hydro tower have benefited tremendously through partnering with architectural firms from Vancouver, Calgary and Toronto. All such partnerships were enabled through reciprocal agreements amongst the self-regulating architectural professions and could be jeopardized by Bill 7 and, in particular, the inclusion of the draft Table 2.1.7 of the Manitoba Building Code.

I have earned the professional designation registered member of the Manitoba Association of Architects. I have been licensed to practise architecture in this province, not because I believe that I am competent but because I have fulfilled national qualification standards that are required by every jurisdiction in this country and which are internationally recognized. I believe that the key is to find a solution that balances authorities having jurisdictions' need for flexibility with the certainty necessary for regulated profession with a restricted scope of practice. I ask that you consider a balanced solution similar to that used successfully in Ontario. I

ask that you refer to the Ontario Building Code, section 2.3, Design and General Review, which I have distributed to you, and in particular Table 2.3.1.1, which was noted by the Honourable Conrad Santos during Bill 7's second reading in the House. Table 2.3.1.1 of the Ontario Building Code is a tested and proven document that clarifies the provisions which are expressly set out in the engineers and architects act of Ontario. The Ontario table, unlike Bill 7's draft table, does not remove the restricted scope of practice from The Architects Act.

I would like to conclude on a personal note. I am not originally from Manitoba. I was born and raised in Edmonton, Alberta. I moved here at the age of 17, an age at which many young Manitobans think of leaving this province. I moved here to pursue an education at the University of Manitoba school of Architecture, renowned as one of the best schools in North America. I came to learn and grew to appreciate all that this province has to offer, and despite protests from my family, who remain in Alberta, I have stayed in Manitoba for most of the past 21 years. I stayed because I saw opportunity for growth and prosperity as a registered architect, and so far I have not been wrong.

You can count on a registered architect. I hope I can count on you. Thank you for your time.

**Mr. Gerrard:** Thank you for presenting the material on the Ontario Building Code. Now this is dated 1997.

**Mr. Winslow:** It is currently the code in practice.

**Mr. Gerrard:** And this, I gather, has been in use for at least eight years, and I would ask have there been problems with it. Is the testing of this been found to be very workable? Give us some information on what has happened in the last eight years.

**Mr. Winslow:** To the best of my knowledge, the Manitoba Association of Architects and its many members who practise in Ontario have not had a problem with the table as it is used, and they do support its use.

**Madam Chairperson:** Seeing no other questions, the committee thanks you very much for your presentation.

Mr. Les Stechesen. You can proceed.

**Mr. Les Stechesen (Private Citizen):** Honourable ministers, members of the committee, ladies and gentlemen, my name is Les Stechesen, and I am a registered member of the Association of Architects

for 49 years. Given that date, and the fact that I am near the end of my career, this does not mean that much to me, but should this legislation proceed as written, it is so devastating, so onerous, that I have no choice but to come up here and defend my younger colleagues. I, therefore, support the position of my colleagues Don Oliver and all the others who preceded me and call upon the minister and the committee to delay Bill 7 from proceeding to third reading.

Specifically, I have been asked to speak briefly on 1.3 Arena-type Exemptions, involving draft Table 2.3.1.3(1), titled Professional Design Required. But, if you would allow me, I would like to also give you a personal anecdote, just to kind of put some background. I think I must have handed you one of my notes there.

\* (22:40)

I was born in Ontario to an extended family of house builders and carpenters and, hence, it was not surprising that I came to the conclusion in my teens, some 60 years ago, that I wanted to become an architect. In Ontario's educational environment, this meant attending the eastern universities of either Toronto or McGill. Fortunately, a careers night architect who as a war veteran attended the University of Manitoba's School of Architecture and spoke very highly of it, I enrolled in the U of M. But at the outset, it was my plan to move to Toronto on my graduation. The careers night architect was correct. Not only was the School of Architecture the premier school in Canada; it rivalled many American colleges.

Upon graduating from architecture, I was so impressed with the heritage of architecture in Manitoba, both historic and contemporary, that I decided to remain. Indeed, the quality of architecture reflected itself in the solid representation over the years, in the RAAC prestigious Massey Foundation awards of excellence in architecture by Manitoba architects.

With the constant and steady erosion of our profession by untrained designers and developers, this is no longer the case in recent years. If Bill 7 should stand as proposed, and I were at the beginning of my career rather than the end, there is no doubt I would leave this province for a less hostile environment. Why would I want to knock my head against what promises to be the most restrictive jurisdiction for architects in all of North America? I have served as a mentor to many younger architects,

and my current advice to them would be the same. Leave while you have the opportunity. Manitoba does not respect your training, achieved through gruelling years of education, apprenticeship and extensive testing.

In getting back to the issue that I have been asked to address, "1.3 Arena Type Extensions." The Draft Table proposes that engineers be permitted to undertake "Arena Type" buildings up to 1000 fixed seating without an architect's involvement. Since the Province of Manitoba does not mandate the licensing of its engineers by discipline, this means all engineers, whether they are chemical, mechanical, electrical or agricultural, will be allowed. No jurisdiction in Canada allows this. What this therefore does is to create a category of engineers as pseudo architects without requiring them to demonstrate their qualifications based on objective building design criteria.

What are the consequences of this proposed action? Few arenas have any fixed seating, and so many arenas would fall within this category. Indeed, the MTS Centre, if it was initially designed and constructed with a fixed seating capacity limited to 1000 people, and the remaining fixed seating added at a later date through the proposed "Alteration to the Building," which would also not require an architect, as per the Draft Table, it could have been constructed without the involvement of an architect.

Arenas, according to the Building Code, are classified as assembly occupancies. They are commonly used for high-density gatherings, such as electoral polling stations, wedding socials, community dances and circuit court proceedings, or high-risk events such as rock concerts. As well, these buildings can serve as emergency shelters during disaster relief efforts. As assembly occupancies, they should involve the same assurance of professional involvement as do other assembly occupancies which require an architect.

The term "arena type" is not defined and, therefore, the provision is not even limited to arenas. In the new National Building Code of Canada, the current version, the definition of "arena" includes swimming pools and skating rinks. Does "arena type" include community centres, many of which contain daycare centres, classrooms, gymnasiums, pools, observation areas, et cetera? Does it include curling rinks, many of which include restaurants?

Where is the remedy? The associations are offering two. Number one, assembly occupancies

should be treated as requiring architectural involvement; and, two, engineers who are able to demonstrate the qualifications to design arenas, presumably it would be the same ones who have been designing them for the last 15 years, can be accommodated with an appropriate grandfathering provision, as was done in the province of Alberta.

The Manitoba Association of Architects, MAA, can provide details of this. As others have done, in closing, I would like to reiterate that I am a registered architect, a member of the Manitoba Association of Architects, and "Registered Architect" is your assurance that I am, and that you can count on me as, a registered architect. Thank you very much.

**Madam Chairperson:** Thank you. Are there questions for the presenter? Seeing no questions, we thank you very much for your presentation.

The committee calls Kent Woloschuk. You can proceed.

**Mr. Kent Woloschuk (Private Citizen):** Honourable minister, members of the committee. My name is Kent Woloschuk, and I am a registered member of the Manitoba Association of Architects. I support the position of my colleague Don Oliver and call upon the minister and this committee to delay Bill 7 from proceeding to third reading.

My address to the committee regarding Bill 7 will focus specifically on the point of building area in the determination of the requirement for an architect. This was probably a little more applicable about 20 speakers ago. I have a couple of general comments to frame the specific point I will address in further detail.

It is incredibly disturbing that a ministry would propose such poorly researched, biased and potentially crippling revisions to The Architects Act at the sole request of another group with a vested interest. A knee-jerk response to the inappropriate, unethical, fear-mongering tactics of a small group is shameful. Proposed revision to The Architects Act by the ministry has shown an incredible contempt to the architectural profession. The majority of issues that are being discussed today were previously negotiated between the Manitoba Association of Architects and the Association of Professional Engineers. The resulting Witty Report, which was prepared by Dr. David Witty, who was an informed, impartial mediator and agreed to by both parties, is

currently gathering dust despite assurances by the ministry that the recommendations would be implemented.

I would like to demonstrate how a small issue and a simple issue, but a potentially loaded issue, with inappropriate wording, can change the intent and enforcement of the building requirements for an architect. It should be noted that during discussions with the government and the Association of Professional Engineers, the Manitoba Association of Architects had previously agreed to a concession increasing the area of the current 400-square-metre gross building area to 600 square metres. The proposed amendments by the government have taken this concession and distorted it to a point where there is no enforceable limit.

The difference between building area and gross area is a very significant point. By definition, building area is the square footage of the single largest level of one storey of the building. This definition does not take into consideration the total area of the building. Building area is the total cumulative square footage of each floor of the building, giving a more accurate representation of the true size and scale of the building. The use of gross area as the determining factor of the building size also provides clarity to the act by providing a clear determination of the entire building area, irregardless of firewall exceptions or building links.

I have included a set of graphics in your package there. I could not bring up my little cards because it is not allowed. It is also in colour, which is something only architects tend to do. To illustrate the discrepancy between gross building area and building area, I will take an example of a seniors home. If we are using a building area as a criterion, we can take a one-storey building that is 600 square metres, and it would fit into the exception that an architect would not be required. We can then take that same building on page 2, make it a three-storey building, tripling the gross area of the building and occupant load, but under the regulations of the building area, it is the same building, even though we have tripled the occupant load to 192 people.

It is also important to note that the Building Code recognizes the use of firewalls or building links as a means to limit the risk of fire to occupants and allow each building area to be treated as a separate building. The next step would be to string these modules together, utilizing firewalls or links to further increase the overall size of the project.

\* (22:50)

If we put three modules together, we would have a gross area of 5400 square metres, an occupant load of almost 600 people, but, yet, the code-defined building area, 600 square metres. With this means, a building of 18 000 square metres, which is the size of two and half football fields could easily be constructed for residential, business or mercantile occupancies without the involvement of an architect. This means that a seniors complex, three storeys in height, unlimited in the number of suites or area, could be planned and directed without an architect. The proposed wording of "building area" would allow this to occur, whereas the simple revision to the wording of "gross area" would clarify this issue.

I would also like to point out that the scope of work in the architects acts of other jurisdictions is based on the intent and wording of "gross area." I have also included a chart that highlights that from a number of other jurisdictions. The requirements for an architect in Alberta are based on the gross building areas ranging from 300 to 500 square metres.

Alberta also goes further to differentiate the number of storeys within the act. As an example, an institutional or assembly building of one storey requires an architect on anything larger than 300 square metres. On a two-storey building, the building area would be 150 square metres, again, a total of 300 square metres, and on a three-storey building we are limited to 100 square metres. As you can see by the difference based on the number of storeys, it is clear that the intent and regulations are based on the gross square footage.

British Columbia's requirement for the act is also based on the gross square footage. Taking, again, the assembly or institutional space, a one-storey building requiring an architect would be 275 square metres, again well under the current Manitoba legislation.

Ontario and New Brunswick are similar. The gross area for buildings for residential, building services, mercantile, is 600 square metres with a three-storey limit. An architect is required for all assembly and institutional buildings.

To this point, I guess the explanation has been relatively academic based on technicalities, regulations and legalities. I would like to take an example of a real-world project just to show how far a departure the government is proposing. A seniors apartment block that I am aware of was constructed

in southwestern Manitoba. It is a three-storey, 15-unit apartment complex complete with attached garages. The building was not only over the 600-square-metre gross area, but over the 600-square-metre building area. No firewall was installed, no involvement of an architect. The building in question was designed by a residential drafting service, reviewed and stamped by an engineer. As a minor complication, the building was constructed partially on the adjacent owner's property.

I have written previous letters to the Office of the Fire Commissioner pointing out numerous code issues regarding this building which include unprotected building-face issues based on the proximity of the property line, unprotected opening issues, stair rise and run issues, stair handrail issues, ramp guard and handrail issues, fire separation issues, sound transmission coefficient issues. These are all basic code issues that have a direct effect on the life, safety and well-being of the occupants. To this day no remedial work has been done. Numerous code issues remain that are not being enforced by the inspectors. I fail to see how this scenario best serves or even reasonably protects the public.

The only way to clarify this issue is to adopt the intent and wording that utilizes the gross building area as a requirement for the involvement of an architect. I am a registered member of the Manitoba Association of Architects. You need look no further to assess whether I am qualified to design a building. "Registered Architect" is your insurance that I am. Thank you.

**Madam Chairperson:** Thank you. Are there any questions for the presenter? Thank you very much.

The committee calls John Woods, private citizen.

**Mr. John Woods (Private Citizen):** Good evening.

**Madam Chairperson:** Hello. You can proceed, Mr. Woods.

**Mr. Woods:** Madam Chairperson, honourable members of the Legislature, thank you very much for the opportunity to speak on behalf of Bill 7.

My name is John Woods, and I graduated from the University of Manitoba in 1983 with an electrical engineering degree. I took a master's degree and graduated in 1985, and I have been in the consulting engineering business ever since. I am past-president of the Consulting Engineers of Manitoba, and I am a

member of the Engineering, Geosciences and Architecture Inner-Association Relations Joint Board which we are using the term "joint board" to relate to.

I have spent many hours in the last month with Mr. Danelley and Mr. Cohlmeier, in the presence of and at the behest of Jeff Parr and Nancy Anderson, both of whom I thank very much for their hard work and perseverance, and we have been discussing all of these issues that you are hearing about today. So this has been an ongoing process.

I would like to start by reading a little bit of an introductory of an executive summary of a report that was written, I guess, in September of 2004 as we entered the most recent leg of the joint board. It establishes APEGM's position. APEGM is the Association of Professional Engineers and Geoscientists of Manitoba, so I will use that acronym.

APEGM's position for going forward, in terms of the joint board, is based on the following principles: Number one, professional engineers engage in the practice of professional engineering; No. 2, architects engage in the practice of architecture; No. 3, both professional engineers and architects may, subject to competency, design buildings; No. 4, the scope of professional engineering and architecture with respect to building design substantially overlap, and you have heard that from both sides, I believe.

The public is well served by its ability to choose competent persons to design buildings from either profession. The competency of the professionals must be the responsibility of the professional body to which they belong. Neither the definition of architecture nor professional engineering should infringe on the legitimate activities of other professionals who are duly recognized by provincial legislation.

As noted, the overlap is, in our opinion, a positive aspect. The 1994 Law Reform Commission confirmed, among other things, that the public's welfare is best served by their ability to choose from more than one professional group. The perception that there is a chronic conflict between jurisdictions rests with and is perpetuated by the architects' governing body. On occasion, conflicts do arise, and in 1998 the joint board was legislated to resolve issues of jurisdiction between the two professions. The most current terms of reference are dated

October 12, 2000, and are duly signed by both parties.

We confirm APEGM's commitment to the legislated EGAIAR joint board process, based on these terms of reference. In 2003, the EGAIAR joint board provided to the governing councils of both professional bodies a unanimous recommendation to execute a memorandum of agreement document which reflects a fairly negotiated compromise from both parties. The board, again, is made up of five architects and five engineers, all of whom are appointed by their associations.

The recommendations were accepted in 2003 in their entirety by APEGM council, with some reluctance but with no conditions. The Manitoba Association of Architects council rejected the recommendations outright and, ladies and gentlemen, that is why we are here today and that is why we are talking about this. This could have been resolved in 2003, but it was not. That was a two-year process to come up with those recommendations.

As a result of that rejection, there remains a perception of some architects that there is ambiguity in the interpretation of the building codes and some necessity to litigate, as evidenced by the injunction. It is APEGM's position that no ambiguity exists. However, in order to clarify the situation and place responsibility for resolution of jurisdictional issues on the joint board in accordance with both acts, we feel that an exclusion clause for professional engineers, acting in conformance with The Engineering and Geoscientific Professions Act, must be added by amendment to The Architects Act. This has been done in the Bill 7 that you have in front of you.

Such an exclusion already exists in The Engineering and Geoscientific Professions Act for the benefit of architects and others. This action is not only simple and fair with respect to reciprocity, as is the case in Saskatchewan and Nova Scotia, it is also consistent with the Law Reform Commission report and, importantly, with The Architects Act in other provinces of Canada.

\*(23:00)

On page 2 of what I handed you, I have pulled out a few excerpts from the Law Reform Commission, and many of you are probably familiar with it, so I will just read a couple of them. The No. 1 says, "The purpose of the occupational regulations should be to protect the public from harm resulting

from the improper performance of an occupational service. It should not be used for the benefit or a reward of practitioners." Obviously, this last portion of the recommendation is relevant since there has been no evidence submitted by MAA that the public is at risk, and the use of the act to regulate or enforce turf issues is in clear contravention of this consideration.

Number 13 says, "The practitioner specializing in one or only a few tasks should be permitted as long as these tasks would be adequately performed without the need to be able to perform other tasks."

Number 15 says, "To account for the differences in providing service, it should be permissible for a licensed or certified service to be administered by more than one administrative structure, for the practitioner to choose to belong to one or the other of these regimes," and "that overlapping scopes of practice should be permitted."

The last one is No. 25, which says, "Anti-competitive elements in the practice standards should be discouraged and should not be permitted unless they are demonstrably necessary for public protection."

So that is it for my prepared speech. As a second piece of that, I did want to give you this, which is actually the Manitoba Association of Architects' code of ethics. I do not want to go through the whole thing for you, but I do want to highlight a few things here because, as you probably saw in the paper, there was like a half-page ad taken out by the MAA when they were talking about safety and how important that is and that this bill is somehow going to threaten that safety. Well, I will tell you that you can look at this piece of paper and you will not find public safety anywhere on this piece of paper.

Now, that is not to say that these gentlemen do not pay attention to public safety. It is important to them. But, in the engineering act, the code of ethics, it is clearly stated in there that the public safety is our primary concern. So the implications of that ad that was in the paper that says that public safety is at jeopardy, that will not be because engineers will put anyone in jeopardy, because that is part of our code.

One other thing that I will make note on this particular sheet is that at the bottom, too, you see that the architects are concerned about the architect to contractor relationship, and they are concerned about

the architect to architect relationship. But nowhere on this piece of paper does it say anything about the architect to engineer relationship. Nowhere on here does it say that they even need to have any regard for these people whom you have heard already make up a good part of the practice in this integrated approach that they have. So, to me, that is kind of curious, why that would not be in here, and why they would not have that as part of one of their code of ethics.

For the last part here, and I know I am probably getting low on time, but I did want to comment on a couple of the things that have come up so far today. You know, first of all there is the issue of a backlog, because I know there was a question about that earlier. Well, one of the reasons there is no backlog is that the City of Winnipeg has rejected dozens and dozens of plans already. So they are not sitting on the plans examiner's desk as a backlog as you would normally think. They are sitting back in the contractors' offices or the consultants' offices waiting to see what is going to happen out of this bill. So we are looking for some fairly quick action on this bill because there is still a backlog, regardless of whether the City of Winnipeg considers that. I mean, just to say that there is no backlog at the City of Winnipeg, and that is true, but that is why, because they have been rejected and they have been pushed away.

So one good thing about this act and the way it is written in Bill 7 is that there is an ability for those plans to be resubmitted and reconsidered without having to change them. Now some of them will not fall into it. But some of them, if they fall under the new definitions, they will be able to go forward. So that is why it is very important that this happens fairly quickly.

Both Mr. Oliver and Mr. Danelley have indicated that the injunction could be lifted to relieve the pressure. Well, I guess that begs the question, clearly there are no safety issues. If these gentlemen are suggesting that you could lift the injunction and let some more drawings flow through or let more projects flow through, clearly there cannot be any kind of safety issues. If there are no safety issues, then really it comes back to the question of turf. So I think that is where it has always been.

**Madam Chairperson:** Mr. Woods, I am sorry to have to interrupt you, but your time is now expired.

**Mr. Woods:** Okay. Any questions?

**Madam Chairperson:** Yes. Are there questions from the committee? Seeing no questions, I thank you very much.

The committee calls Councillor Peter DeSmedt from the City of Winnipeg.

**Mr. Peter DeSmedt (Councillor, City of Winnipeg):** Good evening, Madam Chair, members of the committee. It is nice to see that the Province is at work while the city is sleeping. It is our hour of levitation right now.

I certainly would like to immediately say how appreciative we are of having the opportunity to make a very brief presentation. I am sure you will appreciate the brevity at this time of day.

The primary reason the City is here is not to take sides. I mean, it is a very difficult position if we have our friends the architects on one side, who I have listened to very carefully this evening, and our friends the engineers on the other. We have friends on both sides that some agree with us and some disagree with us. I guess in the words of a very famous philosopher-raconteur from Newfoundland, John Crosbie, he would say, "I am for my friends." So we would like to satisfy both and that is obviously a very difficult task at the City.

Anyway, I am certainly representing the City of Winnipeg and, essentially, really, the Province of Manitoba with what we are trying to implement this evening and, as such, the interests of all the citizens of our province. Our concern is for the safety of our citizens and to that end ensuring that all buildings in Winnipeg and in the province are designed and built in accordance with the Manitoba Building Code. The City of Winnipeg believes that the proposed legislation does this and therefore is in full support of Bill 7 as it is written.

We do not have any vested interest as to which profession is responsible for the construction of buildings. In fact, based on our experience, either engineers or architects are professionally capable of designing buildings that satisfy the requirements of the Manitoba Building Code and assure public safety.

Before I go on, I would like to express our gratitude to the representatives of the Department of Labour, who have regularly consulted with us throughout the development of this legislation.

Now, I should quickly point out, as most of you know, I am not an architect, I am not an engineer,

and I do not think I could answer specific technical questions, although I do have two members of the staff who could address any questions that you may have should some come up.

Throughout the process, we have focussed on protecting the interests of our citizens, and we are confident that the proposed legislation will protect the safety of the public by requiring all buildings to be designed and constructed in accordance with the Manitoba Building Code, while at the same time facilitating timely and efficient development. We are also confident that the legislation will ensure that buildings will continue to be designed by competent professionals and constructed in accordance with those designs.

I think as some of you may know, in our efforts to facilitate timely and efficient development in the city of Winnipeg, we have undertaken the Permits X-Press project, with the goal of issuing permits in a more predictable and timely manner. To pick up on the previous delegation's assertion about delays, I simply wish to say to you that, since the injunction has taken place, we have had to issue around 125 notices to people that they now require an architect, and since that particular time, at the outset of this injunction, it is on average from four to five a day of notifications that we are sending out as we receive applications for building permits.

So, while there is no backlog, as Mr. Woods quite correctly stated, sitting on the desk of the inspector and plan reviewer, there is a backlog in the industry and we hear of this continuously, that currently this injunction has created somewhat of a difficulty for the people who are making significant economic investments in our province.

To provide customer perspective to this project, the City has worked with representatives from various industry groups, including the Manitoba Association of Architects, the Association of Professional Engineers and Geoscientists of Manitoba and the Winnipeg Construction Association. We have identified a number of improvements aimed at improving the overall process, thereby facilitating development. These improvements have been very well received by the building industry, and our focus continues to be on providing efficient and effective service to our customers through transparent and predictable processes.

\* (23:10)

Respecting the Manitoba Building Code which is based on the National Building Code and regulates the design and construction of all buildings in Manitoba, we therefore think it is quite logical, if not essential, that the code identify the requirement for the appropriate design professional. The proposed legislation does this by requiring the use of design professionals in accordance with the Manitoba Building Code. It also makes clear that terms such as building area are applied as defined in this code.

Respecting alterations, for the last 30 years, the City has only required a design professional for alteration projects where the character of the work required professional design services or where there was a change in major occupancy. Many alteration projects, however, did not require the involvement of a professional engineer. We are unaware of any safety concerns that have arisen as a result of this long-standing practice.

Now, as a result of the September 16 decision on the injunction, the City has been obligated to require an architect be involved for many more alterations. The proposed legislation will ensure that design professionals are required only when there is a genuine need for their professional skills.

Respecting buildings less than 600 square metres, I think, as a result of the injunction, the City and Province are now required, in accordance with The Architects Act, to have an architect involved for new construction, or additions to buildings between 400 and 600 square metres in building area. This has resulted in increased time and expense for the building community to comply with these permit requirements. Prior to the court decision, the City did not require a design professional for such projects, based on the Manitoba Building Code, which contains prescriptive requirements for buildings less than 600 square metres. Now, the proposed legislation provides congruence between The Architects Act and the Manitoba Building Code. As has been the long-standing practice in Manitoba, buildings less than 600 square metres in building area will not, other than for some specific components, require involvement of a design professional.

Well, in summary, the City of Winnipeg urges the Province to approve Bill 7 as written and as quickly as possible. There are impediments to the industry at this moment, and it is causing a delay. I think we have heard some very practical thoughts this evening that indicate, in the spirit of co-

operation between professionals, there can be an understanding and a way to move ahead. We believe that public safety is maintained by buildings being designed and constructed in compliance with the code, and that timely and efficient development is facilitated through the process of passing this legislation. We think it strikes a proper balance between these competing requirements, and I think it provides a balance between these competing professions.

Then we commend the Government of Manitoba for their leadership in this and that they have shown by introducing this legislation, and we urge passage as soon as possible.

That ends my presentation.

**Madam Chairperson:** Thank you. Mr. Schuler.

**Mr. Schuler:** Councillor, great to see you at committee, and great to hear your comments.

I have two questions for you: I take it your position, then, is to pass Bill 7; and, No. 2, I take it you speak on behalf of the City of Winnipeg. Thus, this is the official position of the City of Winnipeg.

**Mr. DeSmedt:** This is the official city position.

As you know, I sit on the Executive Policy Committee, and that the mayor has asked me to attend this evening to present this position. I am also chair of the Planning, Property and Development Department, the department which is facing these particular impediments at this moment in time.

So, yes, we are anxious to move ahead and, hopefully, to try and see this balanced legislation pass that can bring the two solitudes together. Thank you.

**Madam Chairperson:** Seeing no other questions, we thank you very much for your presentation.

**Mr. DeSmedt:** Nice to see you again. Got friends on both sides of the House here. Very good.

**Madam Chairperson:** The committee calls Guy Préfontaine, private citizen. You can proceed, Mr. Préfontaine.

**Mr. Guy Préfontaine (Private Citizen):** Thank you. Honourable Minister, Madam Chair, members, good afternoon, good evening and fairly shortly, good morning.

I am glad to have been received here and to make this presentation before you. I am Guy Préfontaine. I am a registered member of the

Manitoba Association of Architects. I am also a founding partner of Préfontaine Architecte Inc., Gaboury Préfontaine Perry Architect and GPP Architecture. I am here making representation as a member of the general public in support of Don Oliver and my other peers' positions, to suspend the continued reading of Bill 7 for the following reasons.

Actually, the timing is quite interesting to follow the City of Winnipeg because, seven years ago, the City of Winnipeg embarked on a truly unique adventure. Following the mandate set out by previous mayors, the engineers who designed the Provencher Bridge, Wardrop engineers, were forced to engage an architect, myself, to direct the architectural design of that bridge. Both they and the authorities having jurisdiction at the City did not know how to use an architect on such an assignment, as they had never done so before. The City had never had an architect involved in the very inception or conception of a bridge project.

The City also assembled the Public Advisory Committee, or the PAC, to help to guide the design process. On numerous occasions, I was told by the engineers that they were being wire-brushed by City departments for the ideas that I was presenting. Fortunately, the PAC insisted that I explore ever more unique solutions that gave the public amenity its richness and enhanced the public domain. It is the engagement of an architect and the power granted by the PAC that allowed the bridge to become what it is today.

If we fast-forward to today, you will see a bridge heralded as Winnipeg's newest icon. It has graced the cover of no less than eight public documents, dozens of publications and even more newspapers. It has been featured in four films. It is a bridge that your own Minister Selinger himself, upon its opening, described it as a truly unique bridge of cultures and a treasure for the area. The City of Winnipeg vigorously defended it when Stephen Harper stood on it and attacked it and the city's right to have such a unique statement. It has won numerous awards, including the Winnipeg Accessibility Award, awarded to the architects and landscape architects who ensured that it was the most handicapped-accessible bridge in all of Winnipeg's history. It has made history when the architects' three-dimensional graphics graced the cover of Canadian Consulting Engineer. It has won an international award in the realm of outstanding public consultation process and is nominated for one of Canada's most prestigious design awards. Since its completion, I have received,

or we at the firm have received, countless e-mails from the public and from students thanking us for having invested such a beautiful piece of functional sculpture into the public realm for all to enjoy.

The bridge that we all enjoy came as a direct result of an architect's providing input into an area where we traditionally had not practised. Because of that fact, the aesthetic and the integral quality that we bring to the project can be properly assessed and judged. The value that we bring in defining society can be measured directly by our input to the design of projects such as pont Provencher Esplanade Riel. This is also proof of the fact that the aesthetic value that we bring to bear on the works is quantifiable and important in defining society.

The current proposed legislation would not only discourage this practice, but would further strip architects of practice in areas where they are currently legislated to practise, thereby putting our self-governing laws under the Manitoba Building Code and our rules determined by the exact group that argued that they did not know what the value of an architect would be for Provencher Bridge. Proposed legislation will guarantee that design feats such as that would never occur again in our province.

The city's elected officials were visionary when they, in their duty to the public, in this case, not only for the protection of life safety, but also for the assuring of the quality of the environment in which they live. As architects, we expect the same duty and responsibility from you, our provincial representatives.

When the engineers launched a scathing and misleading campaign, we retained our dignity and allowed our elected officials to do their jobs without untoward pressure, assured that they would reach the right decision. The circumstances of the last several months would cause us to think who exactly is running this government. The MAA has been speaking to the government through the authorities, through the Building Standards Board, through the City of Winnipeg and the Minister of Labour for years, telling them that the law, being the requirements that their government itself has put in and established were being broken.

The government has only been in this pickle right now because it has failed to realize and respond to its own authorities having jurisdiction breaking government laws through the issuance of building

permits, among others. Governments kept on saying, "The two professions need to work it out." The dispute was treated as if it were a dispute between two kids in a sandbox instead of what it was, one profession, architects, trying to get the members of another, engineering, from breaking the government's own law for the sake of the public protection, because that is what The Architects Act and the engineers acts are supposed to be there for in the first place.

\* (23:20)

The MAA tried to deal with this for every way from Sunday, but to no avail, and government was not willing to settle unless the engineers agreed to the resolution. The engineers were not interested in resolving it because for years a small portion of their members were making a substantial living in practising architecture illegally. They had vested interests in delaying reasonable solutions for whatever they could.

When the MAA went to court for a second time, it learned that APEGM had been trying to delay the process. APEGM argued before the courts that all engineers should be allowed to continue practising architecture because they had been doing so for so long. That is part of the official court transcripts and records.

In mid-2004, after an attempt to get government to deal with the problem, the minister initiated what is now known as the Witty process. One of my colleagues will be going more deeply into the Witty process, but its purpose was to be to settle the dispute once and for all. The minister's introductions to Dr. Witty, the man assigned to resolve the problem, were to get the two professions to agree, and if it was not possible, to provide the minister with recommendations on what to do.

The Witty process took place. In the end, the two professions did not agree, and Dr. Witty delivered his own report. The MAA, though unhappy with the number of recommendations, supported the minister's original intention to resolve the issues based upon the Witty report recommendations. The engineers summarily rejected the Witty report and alleged that Witty had been biased in favour of the architects, although they had originally supported his installation.

The result: the minister had proved that her initiatives were nothing more than sabre rattling by not implementing the report. After that, the minister

wrote both professions and advised them that she wanted them to, again, try to resolve the dispute and that, in the event it becomes apparent that one or both associations are unable or unwilling to work together to reach a mutually satisfactory solution, we will undertake further discussion with Dr. Witty and determine non-legislative steps government may reasonably take to address the long-standing dispute.

Then a court released the decision, the City of Winnipeg case; the engineers lost their bid. The courts reaffirmed that engineers were not allowed to practise architecture. The response? The engineers demanded legislative changes. The engineers' president was even quoted as saying they refused to discuss a resolution until government had amended The Architects Act.

Next step, today we are battling an ill-conceived amendment to The Architects Act, despite the fact that two months earlier the minister had indicated that there would not be legislative changes. What is finally the most worrisome is the sheer number of total about-faces in the minister's position, coupled with the outrageously bizarre nature of the proposed legislation. It truly makes one wonder who is running the process.

The proposed changes are completely devoid of logic or reason or a precedent, are so completely contrary to the resolutions of this issue in similar jurisdictions throughout Canada that have faced the same issues that one cannot help but question the type of pressure that must be at play here to result in a proposal of such illogical and dangerous recommendations. It makes no sense whatsoever and is dangerous to the people that the government has sworn to serve and protect. The fictitious danger of the permits backlog dealt with, there is no reason to push legislation through.

Madam Minister, I am a registered member of the Manitoba Association of Architects. I have been licensed to practise architecture in the province of Manitoba, not because I say I am competent, but because I have fulfilled the specialized educational requirements and the internship requirements which are a prerequisite to the practice of this profession. I have completed nine years of building-specific design education and internship. I have been tested on building-specific design principles and have satisfied the national qualification standards which are at every jurisdiction in this country if you want to practise architecture.

I am accountable for my profession, professional regulatory board and thereby to the public. When you see "Registered Architect" beside my name, it is your assurance that I am qualified to design a building, even a bridge. When you look no further to assess whether I am qualified in that field, "Registered Architect" is your assurance that I am. You can count on a registered architect. As you have promised, we need to return to the good work done by Witty as a basis to move forward in this province and not backwards.

Respectfully submitted to you.

**Madam Chairperson:** Thank you. Are there any questions for the presenter? Seeing no questions, we thank you very much for your presentation.

The committee calls Gareth Simons, private citizen.

**Mr. Gareth Simons (Private Citizen):** Good evening.

**Madam Chairperson:** Good evening. You can proceed, Mr. Simons, whenever you are ready.

**Mr. Simons:** Firstly, I would just like to start off saying that I generally agree with the positions of other registered members of the MAA. Personally, I am an intern member. I moved over from South Africa, where I did my undergraduate degree. I moved here to Winnipeg, where I finished off my education by doing the graduate degree, the Master of Architecture, and I currently have enrolled into the internship process. I am enjoying it very much, I am learning very much, but as you can imagine, there is quite a bit of consternation about what is going on.

So, now, much of what I was planning on saying has already been said, so I am just going to highlight on some key concepts that have bothered me.

Firstly, I feel that what has happened does not sufficiently address the differences between the two professions. As we have already heard, engineers look very much at specialized systems using maths, physics, chemistry and all of that kind of thing, whereas architects take a much more general and broader kind of approach to buildings. They look at things like social issues, environmental design, historical issues, aesthetics, acoustics, worker productivity, the site, all of these very important factors in building design. These are things we are being trained to do, and they are extremely important to contrast to what engineers are trained to do. I feel that has not been sufficiently addressed.

The second thing that bothers me is that there is not enough emphasis on the difference in education. Again, you know, architects have to endure this very protracted and demanding educational process. You know, just for example, it is typically a minimum of 10 years for the average person. Very few graduates go through in the minimum amount of time. Many actually take many more years to complete their education. So, typically, a minimum of 10 years of our lives, thousands and thousands of dollars we spend, essentially many, many hours invested so that one day we can eventually wield an architect's stamp.

We are very passionate about this, and so it is very disheartening for us interns to see that people who have clearly flouted the law in the past are now, through political maneuvering, being rewarded for having done so. So that is the second main thing that bothers me, personally, as an individual.

Lastly, I think that what is happening here, if it goes ahead in its current form, is going to be a very bad precedent in general. I think we need to understand that Canada does play a role in terms of its representation around the world. I come from South Africa where they essentially copied the constitution to a large degree, as far as I understand. They look at many Canadian court cases and such to decide some of their own precedents. We have to understand the influence that these kinds of things have. I am not sure what it is going to mean for the rest of Canada or the rest of the world. Most are not sure what it is going to mean for other professions like pharmacists, doctors and whether they are going to have disputes about these kinds of things. I am not really an expert there, but it does make me wonder.

Lastly, I think that the whole process has been rather hasty, rather questionable and I would therefore agree, like with Mr. Don Oliver, that we do need to take more time to consider what is being proposed. We do need to think much more carefully before we make these drastic changes.

Thank you.

**Madam Chairperson:** Thank you very much. Are there any questions for the presenter? No? Seeing no questions, we thank you very much.

**Mr. Simons:** Thank you.

**Madam Chairperson:** The committee calls Harold Funk. You can proceed, Mr. Funk.

**Mr. Harold Funk (Private Citizen):** Minister Allan, Chair, members of the committee, architects

and engineers collaborate together on buildings on a daily basis and are good friends in the process. These same engineers believe in the collaborative relationship between us but hesitate to so speak out. Therefore, my comments are not meant to malign my fellow engineers, but to simply point out the night-and-day differences between us, particularly the educational difference, because it is this difference in our educational backgrounds that the legislative acts, both architects and engineers, came about in the first place.

Based on educational backgrounds, altering the existing relationship between us is indeed illogical. The changes that Bill 7 proposes are draconian steps to take because they challenge the existence of the architectural profession as we know it. The government is, in effect, opening up the doors for engineers to practise architecture.

\* (23:30)

Surely, we are not going to yield to the outcries of engineers, contractors and developers who have nothing but self-motivated interests and objectives in mind, no interest in equally preserving and respecting the individual acts as they exist. To preserve the equal role of the professions of both architects and engineers, especially in the rapidly growing landscape of buildings, is in the best interests of the public. This should and must be the high aim of the legislators.

The P.Eng. degree engineers receive after a four-year university program assumes that it can equally perform any task presented in either engineering or architecture. Stepping from one specialty into another in engineering is a problem with the association of engineering, admitting and paying lip-service to it but not fixing it. Stepping into the field of architecture and practising architecture is total alien to their training. I know that engineers appearing before you will say otherwise, but if you compare our backgrounds, it is clear they cannot.

The training of an engineer is strictly and entirely about engineering systems. For example, ground pressure, reinforced concrete, structural loading, electrical systems, mechanical systems, heating ventilation, land drainage, aerodynamics, bio-engineering, et cetera. Only about 100 out of the 4400 *Free Press*-mentioned engineers are directly involved with the building itself.

The following is a long list of some of the things that an engineer does not obtain in his engineering

education. I urge the committee to review the differences between the faculties of Architecture and Engineering educational programs. No design courses involving space planning, behaviour of space, form giving; no classes in the humanities dealing with human behaviour, aesthetics and philosophy; no courses in design methodology, ideology of the world of architecture; no courses on the history of architecture going back into the past, notably Greek; no courses having to do with the understanding of the building as a whole, the bringing together of the components for a cohesive whole; no courses on the principles of pattern, order, proportion, scale, solid-void intersections, erosion of objects, making objects, use of materials, architectural detailing, et cetera; no courses that fundamentally concern itself with space making that measure up to the levels of delight and exhilaration that we as members of the public demand of buildings.

The single most important educational challenge and goal of the entire body of courses and studio work undertaken in the Faculty of Architecture is to teach and instil in the students and future architects the ability to visually imagine and inherently interpret the essentials of the assumed building in the designed process before it is finally built. This is fundamental to practicing architecture. An architect training today is a minimum of nine years, as already mentioned. On top of this, yearly mandatory continuing education courses regulated by the Manitoba Association of Architects is required. With the rapidly changing professional requirements, i.e., building standards, constantly new liability issues appearing on the horizon, et cetera, our feet as architects are continually held to the fire.

The architect is concerned with the building as a whole. It is his training and his design ability to incorporate all the individual systems, engineering and otherwise, into the fabric of the building as a whole so that the building functions as a whole and not as unco-ordinated parts of a whole. What is meant by the whole is better explained with the concept of holism: more than the sum of the parts. In this effort, the architect also becomes directly involved in how the mechanical system is weaved into the fabric of the building, what the design character of the structural elements are, what the character of lighting should be in the building and so on.

There is this undernourished view held within the engineering community that all that architects do

is dress up buildings. This, of course, is fundamentally naive. Architects work with the whole of the building both inside and outside. Take, for example, the church as a building type. If the concern in a church is comfort, one very unique planning shape comes to mind. If it is the concern of acoustics, another very different shape comes to mind. Believe me, the two suggest totally opposite spatial environments and characteristics. This is not an engineering problem, it is an architectural problem. It is a design problem that takes the best architectural skills possible to bring together into one space the two totally opposite spatial intentions. Even the engineers we work with on a daily basis agree that the majority of engineers simply do not know what architects do.

The engineer is not trained to translate concepts of feeling, exhilaration, appropriate shapes, emblematic statements of corporations and companies, idea, et cetera, into building form and space, which buildings are essentially all about.

Secondly, they want to impose their own belief system into the profession of architecture without the necessary training. We need to raise the level of discussion between us from a dumbed-down practical level only up to a philosophical level. There was, indeed, a larger, higher purpose in mind when the two acts were initially enacted. The current APEGM crusade along with the land developers and contractors is potentially very destructive to the future of the building industry. Preserve the full strength of the act including its rightful scope of work.

To the grandfather clause: The Architects Act has existed since 1914. The act is the architects' domain and should continue to maintain its integrity as it currently does. It was meant to serve a purpose. When did this purpose change? The rulings of both Justices Denoon and McCawley clearly stated that the engineers had crossed over into the territory involving The Architects Act for the past 20 to 30 years and that this practice had to stop immediately. The message was clear: Engineers are to concentrate on engineering; architects on architecture.

To grandfather a small number of engineers into the act is completely alien to the act. It is unconscionable to think this is even an option and already part of the first two readings of Bill 7. To introduce it into the act is to say that it was okay to disregard the act in the first place. It has the

appearance of being a reward instead of a penalty, as the misdeed Justice Denoon ruled it was in 2000. It will open up the door for more future fights with the engineers. Do not introduce this grandfather clause into The Architects Act. Rather, do it as other provinces have done, through a jurisdictional framework. The agreement reached between architects and engineers in British Columbia is an example. More time is required to reach an agreement that best reflects the professional training of both architects and engineers.

If you say that we are taking away the livelihood of these engineers who have been practising architecture, then what about the small number of architects in Manitoba whose livelihood was taken away from them in the process? The small architectural practices are hurt the most by the actions of the engineers. If engineers want to involve themselves in architecture, then study architecture or minimally meet the standard of testing other provinces require of engineers.

Members of the committee, the engineers have been very aggressively expanding their definition and scope of work to the point where it is impacting the field of architecture. This must be stopped. We also need more time to jointly agree on amending both our acts to the complete satisfaction of the MAA and, hopefully, to the complete satisfaction of the APEGM. If the backlog of processing permits can continue as before with a court injunction so that a better agreed upon framework is reached, so be it. Let us not make hasty mistakes in this great rush to amend both acts, especially The Architects Act, which cannot easily be corrected in the future.

Finally, somebody has eloquently said that "Engineers count," but that "Architects design." Why not just simply come out and say it: "Engineers count more." Thank you.

**Madam Chairperson:** Thank you. Are there questions?

**Mr. Maloway:** Mr. Funk, you mentioned that new liability issues are arising or developing. I would like you to tell me how engineers are going to get the necessary malpractice insurance and the required bonding to do work that they are not qualified to do. How are they going to do that?

**Mr. Funk:** Yes, I am thinking about the question. I do not know what kind of insurance system the engineers have. For a long time it was not required

that they have one. I think it is just recently that they have had to obtain insurance policies in the association.

**Mr. Maloway:** Well, the truth of the matter is that they are not going to be able to get the required insurance policies and the required bonding to do these projects that you are saying they are going to do if they are not qualified. So it is a moot point here. They are not going to be able to do these projects that you are worried about unless they get better upgraded, take more courses, and are accepted by the insurers.

\* (23:40)

**Mr. Funk:** I agree. That is right.

**Madam Chairperson:** Thank you. Seeing no other questions, the committee thanks you for your presentation.

Committee members, I have just received a request from Maiya Uprety for her presentation to be included as a written submission to Bill 7, copies of which have been distributed. This committee grants its consent? *[Agreed]*

Just for your information, Ms. Uprety is listed as No. 85 on your presenters' list. Please strike this name off your list.

The committee calls Bruce Pauls, private citizen. You can proceed, Mr. Pauls.

**Mr. Bruce Pauls (Private Citizen):** Madam Chair and members of the committee, thank you for staying up late and making time for this important issue.

My name is Bruce Pauls. I am a student at the Faculty of Architecture at the University of Manitoba. I support the position of my colleague, Don Oliver, and call upon the minister and this committee to delay Bill 7 from proceeding to third reading. I would like to elaborate on my position of support.

With my colleagues in the profession of architecture, I share a deep conviction that the design of our built environments has a profound impact on our physical, psychological and emotional well-being. This conviction is reflected in the completion of an intensive course of study spanning a minimum of five years in addition to education and training in the professional environment.

Due to this deep conviction, I am committed to this profession as well as to this province. I am a

lifelong resident of Manitoba. My family is here, my roots are here, and I believe that my professional future is here. However, I am troubled by some of the proposed legislation that will harm the profession and even the province to which I am committed.

After completing a lengthy academic program, I am now about to receive the degree of Master of Architecture. Throughout this course of study, I relied on a team of highly educated and qualified instructors in the Faculty of Architecture to determine and to assess my level of competence for a future in the profession.

Now, I will depend on a professional association, namely the MAA and/or another provincial association, to regulate my activities within this profession. I entrust that the established internship program will further my education and that I will not be eligible for professional registration until such time that certain objectives in education and professional training have been satisfied. In other words, I am not, nor shall I ever be in a position to perform self-assessment that would declare my own competence to perform the duties of a registered architect.

The point that I am attempting to make should be very clear. Regulatory bodies have been established in order to ensure that individuals who wish to practise architecture in Canada are entitled to do so, but only after providing enough evidence that they are indeed qualified.

We rely on our elected officials to act in the best interests of the public whom they serve. It is their duty to uphold and to validate the authority of the professional associations charged with protecting those same public interests.

In much the same manner, I rely on the Manitoba Medical Association to govern the activities of its members and to define the scope of practice among specialists in this field. A podiatrist's knowledge of anatomy would not entitle her to perform a procedure for which a cardiologist has been specially trained and qualified. We have already heard some colourful medical analogies tonight, and the practice of medicine is an example with obvious ramifications of life safety.

Let us consider another example. We collectively entrust our established public school systems to administer a certain standard of education to our children. Would it make sense for a school teacher, while certified in the province of Manitoba,

to teach a subject for which he or she is not suitably educated? Is a mathematics specialist qualified to instruct English at the high school level? We concede that in certain circumstances this may occur, but should it be condoned simply because it is not posing an immediate risk to life safety? We entrust the Province to act in concert with the public school divisions and the Manitoba Teachers' Society to ensure that children receive the quality of education to which they are entitled as residents of this province.

I wish to state that I am opposed to any legislation or amendments that will remove the scope of practice from The Architects Act. I am also opposed to legislation that would enable an individual to practise architecture based on self-assessment of competence and without being regulated by the Manitoba Association.

Collectively, Manitobans take pride in their significant buildings. Numerous edifices are protected by Heritage Manitoba due not only to their historical significance, but also because of the demonstrated excellence or innovative nature of their design. It is encouraging that the Province of Manitoba recently sought a consultant to propose a series of design guidelines that will foster sustainable development in the proposed Winnipeg neighbourhood of Waverley West. This solicitation demonstrates that the Province of Manitoba is committed to environmental and social policies that will promote responsible development. It is somewhat ironic that the same Province will now consider legislation that limits the scope of practice of the architect, the very professional who is qualified to conduct such work. If the scope of the architect is restricted to issues of public health and safety, then the extent of our education and training need not be more than a course in the interpretation and application of the National Building Code. The scope of the architect reaches far beyond issues of health and safety.

With respect to alterations, it is my opinion that alterations to an existing building pose a special challenge for the design professional. It is important to consider that buildings are most often designed to suit specific functional requirements and that to alter a building to suit a different set of requirements demands a high degree of skill. This can, in fact, be much more challenging than designing a new building and, therefore, it is illogical to suppose that such building projects should be undertaken without

the expertise of the architect, who is qualified for this task.

I also wish to state that I am opposed to any proposed legislation that will permit additions to or alterations of any building intended for public occupancy without the involvement of a registered architect. Almost on a daily basis, I work in cooperation with professional engineers who are qualified specialists in their field of practice. They do not wish to interfere with our scope, nor would I presume to make decisions on their behalf. Our collaborative efforts are based on a relationship of mutual respect and, while I respect their specialized knowledge and training of certain building systems, I do not believe this entitles them to engage in the practice of architecture. If they insist on so doing, they should be required to undertake the same training as a registered architect.

In closing, I would just say that provincial regulatory bodies have been established to determine qualifications for individuals who wish to conduct the practice of architecture. This is standard procedure in Canada and I see no logical reason that the Province of Manitoba should find it necessary to depart from this practice.

**Madam Chairperson:** Thank you very much. Are there any questions for the presenter? Seeing no questions, we thank you very much for your presentation.

The committee calls Connor Beach Nelson. For a second time, the committee calls Connor Beach Nelson. Seeing that Connor Beach Nelson has not come forward, this individual's name will be dropped to the bottom of the list.

Ed Calnitsky? You can proceed with your presentation.

**Mr. Ed Calnitsky (Private Citizen):** Minister Allan, Madam Chairperson, members of the legislative committee, my name is Ed Calnitsky. I am a registered architect in the province of Manitoba. Since 1986 I have practised architecture in the province of Manitoba as principal of a firm that includes architects, interior designers and architectural technologists.

I should point out that my father was a professional engineer and I am trained and practised both as a registered architect and a professional interior designer. I am a full member of the Manitoba

Association of Architects, the Royal Architectural Institute of Canada, the Professional Interior Designers Institute of Manitoba and the Interior Designers of Canada.

Our practice is unique in that we practise in a number of jurisdictions in Canada including British Columbia, Alberta, Saskatchewan, Ontario, New Brunswick, Nova Scotia and North Dakota in the United States. Our work includes schools, arenas, recreation centres, hotels, hospitality projects and housing.

\* (23:50)

My training is very different than that of my father. I have spent a total of nine years in university and two years in internship for a total of 11 years in preparation for my profession.

Approximately 75 percent of our practice is dedicated to projects in rural Manitoba, rural Ontario, northern communities in Canada and remote locations in northern Manitoba and Canada.

In terms of our own projects, no project that we undertake is done without the input of a professional structural engineer, mechanical engineer, electrical engineer, civil engineer or, for that matter, a professional interior designer.

My training has specifically prepared me for the design of buildings that are specifically designed for human activity, buildings where human beings congregate, work and live. Engineers are trained for the design of building systems, be they structural systems, mechanical systems or electrical systems. Both architects and engineers are vital and necessary contributors to Manitoba's economy.

I would like to address a few key points. Other jurisdictions that our firm works in, British Columbia, Alberta, Ontario, New Brunswick, North Dakota, for instance, identify the requirements for both architect and engineer. Only in Manitoba do we find the term architect or engineer. The legislation in these provinces and North Dakota prescribes the role of the architect which is reiterated in the Building Code. In other words, the regulation of architecture is part of The Architects Act in these jurisdictions and is reproduced in the Building Code. It is not the Building Code that defines the role of the architect; it is The Architects Act.

Knowledge of the Manitoba Building Code does not qualify an engineer to design buildings. They do not have the training for that. Again, their training is

specific to the systems of a building, either the structural systems, the mechanical systems or the electrical systems. Taking professional development courses in the code at Red River community college, as was pointed out earlier this evening, is very commendable. However, it does not qualify an engineer to design buildings. I know, as I am currently taking these courses at Red River community college as part of my ongoing continuing education.

It is important to remember that the Manitoba Building Code only stipulates the minimum levels that must be adhered to in the design and construction of buildings. A qualified professional, with the appropriate training in the design of buildings, will ensure that a comprehensive approach, integrating all considerations will be undertaken. If knowledge of the Manitoba Building Code was the main criteria for establishing the qualifications to plan and design buildings, then, certainly, John Frye, the former chief plan examiner of the City of Winnipeg would be the most qualified person in the province of Manitoba to plan and design buildings.

Engineers are qualified to prepare engineering drawings and specifications and oversee the installation of engineering systems. Architects are qualified to prepare architectural drawings and specifications and oversee the construction of buildings. Engineers are not qualified to prepare architectural drawings and specifications.

Bill 7, as proposed, and I would like you to refer to Table 2.1.7, would allow, at the discretion of the authority having jurisdiction, engineers alone, without the involvement of an architect, to design major additions and renovations, not only to Victoria General Hospital, which was mentioned earlier this evening, but to landmark buildings in this province such as the new Millennium Library, the Concert Hall, Red River College, the Manitoba Hydro building, the Bay building and even this building, the Manitoba Legislature building.

Bill 7 clearly undermines the role of the architect in this province and diminishes unequivocally their importance and value in our built environment. Bill 7 as proposed would allow a Building Standards Board to regulate the profession of architecture, which is unprecedented in North America, with the Building Standards Board consisting of only one architect and 11 industry stakeholders. Manitoba architects of the 19th and 20th centuries have left behind a wonderful

architectural heritage for our city and the citizens of Manitoba. Bill 7 as proposed would have a devastating impact on the architectural heritage we will leave behind for our children. I would like to reiterate that today's buildings are tomorrow's architectural heritage. This is our legacy; do not destroy it.

Bill 7 as proposed would allow engineers alone, without the involvement of an architect, to plan and design major additions and renovations to our stock of heritage buildings. An example of this would be an industrial occupancy, operating within a heritage building in the Exchange District. Conservation and restoration work under Bill 7 as proposed, again section 217, would allow this important architectural work to be undertaken by an engineer alone without the involvement of an architect. This issue is too important to the future of our province to be hastily addressed because of a perceived backlog. The economies of Ontario, B.C. and Alberta have not been affected by requiring the services of an architect. Please think this through carefully before you proceed.

I would like to now comment on some specifics of Bill 7 specifically retroactively changing the scope of practice. My comments involve those provisions of Bill 7 which purport to retroactively alter the restricted scope of architecture, particularly the proposed amendments to subsection 15(2) of The Buildings and Mobile Homes Act and most of the amendments in Part 4 relating to validation and retroactive enactment. From these provisions it looks like government has two objectives. The first is to deal with buildings which are en route. The second is to ratify the building and occupancy permit issued for buildings where no architect was involved although the law required one.

These objectives can and should be done without endorsing the skill or competence of those people who for years and years were doing work that constituted architecture, people who have been breaking the law by illegally practising architecture. Aside from the fact that the idea of going back and endorsing what these people did illegally is repugnant, it is negligent. Who deemed these people qualified? Not the MAA, which is the only body responsible for assessing the qualifications of people who want to practise architecture in Manitoba. How were these people tested? Because the buildings they designed illegally did not fall down? Is that the test? Is that how government would assess whether

someone was competent to practise medicine if they had been caught after 10 years based on whether the patient was dead? Can you diagnose a person just by looking at them? If they are not dead, does that prove they are healthy?

**Madam Chairperson:** Mr. Calnitsky, you will have to have your concluding statement.

**Mr. Calnitsky:** Bill 7's retroactive scope provisions are dangerous, paragraph 23(2)(b), 23(1), 24(3) must be removed. The problems of these provisions are just some of the extensive problems inherent in Bill 7.

I am a registered member of the Manitoba Association of Architects. I have been licensed to practise architecture in the province of Manitoba, not because I believe I am competent but because I have fulfilled the specialized education requirements and the internship requirements which are a prerequisite to practise this profession.

**Madam Chairperson:** Thank you. Are there any questions for the presenter?

**Mr. Gerrard:** You have practised architecture in quite a number of jurisdictions, and it is quite clear to you, based on what you have practised and seen happening elsewhere, that Bill 7 would be very, very different from all the other jurisdictions where you have practised.

**Mr. Calnitsky:** It is the only jurisdiction, as far as I know, where we see architect or engineer. In every other jurisdiction that we have practised in, the architect is a valued member of the building community. It is shocking to me.

**Madam Chairperson:** Thank you. Seeing no other questions, we thank you very much for your presentation.

The hour being twelve o'clock, what is the will of the committee?

**Some Honourable Members:** Committee rise.

**Madam Chairperson:** Committee rise.

Before rising, can I ask the committee members—oh, Mr. Schuler.

**Mr. Schuler:** Just for those in the audience who are here, committee is going to sit again tomorrow for 3—

**Madam Chairperson:** Yes. We are going to do that.

**Mr. Schuler:** Yes. Just one moment, please. It is going to sit, and I just wanted to assure that how long

it takes, we will make sure that we hear everyone, and even if your name dropped to the bottom, we will ensure that those people get called again. The minister and I have spoken about this. We want to ensure that those who are not here tonight might have said they will come tomorrow. Whatever the case may be, it is the intent that we do hear everybody, if that means we sit for another day or two or three. So be it, but it is the interest of this committee to hear everyone.

**Madam Chairperson:** Thank you. Just before the committee rises, can I ask committee members, first of all, to leave all their copies of the bills on the table so that the Clerk can reuse them tomorrow morning, and I want to thank you very much for your assistance in that matter.

Just a reminder to everyone present, three other meetings of this committee have been announced so far, and if there are additional meetings that are required, they also will be announced. The committee will be meeting again tomorrow morning from nine o'clock until noon, from three o'clock until five, and then once again commencing at six o'clock.

So thank you very much for everyone who stayed until midnight, and we look forward to seeing you tomorrow.

Committee rise.

**COMMITTEE ROSE AT: 12:01 a.m.**

**WRITTEN SUBMISSIONS PRESENTED  
BUT NOT READ**

Re: Bill 7

I write as a private citizen and an out-of-province architect registered in Manitoba. I want to express my concern about Bill 7, The Architects and Engineers Scope of Practice Dispute Settlement Act.

Please convey my communication to the Committee to whom the bill will be referred on November 22, 2005.

I relocated from Manitoba to the Northwest Territories in 1993 to take employment with the Government of the Northwest Territories (GNWT) as a project officer with the Department of Public Works and Services. Before relocating, I had resided in Winnipeg for 23 of the previous 26 years, was a graduate from the University of Manitoba in 1970 and became a Registered Architect in Manitoba in 1976. After retirement from the GNWT, I am contemplating returning to Manitoba.

Three aspects of Bill 7 have given me pause in my plan to return to the flat prairie of the Red River Valley of the North where I grew up.

1. Scope of Practice Removed from the Act

I understand there is no other profession in Canada whose scope of practice is define outside the act that provides them self-regulating status.

As a recent councillor on the recently-formed Northwest Territories Association of Architects, I had the occasion to prepare a research paper on the topic of by-laws in the NWT association could adopt for the purposes of disciplining its members. In that research, I reviewed the disciplinary procedures of the three prairie provinces, Alberta, Saskatchewan and Manitoba, and two of the smaller jurisdictions, Newfoundland-Labrador and Prince Edward Island. I became familiar with the Newfoundland-Labrador research paper, *Challenging Responses to Changing Times: New Proposals for Occupations Regulation*, <http://www.gov.nl.ca/publicat/gsl/occreg.htm>. This is one of the most advanced studies on legislation governing self-regulating professions.

The paper, *Challenging Responses*, does not even consider the astounding idea of denying a profession the right to define its own scope of practice. A legislature might as well deny that group professional status outright. Certainly, every self-regulating association is faced with a potential conflict between service public interest on the one hand and advancing the interests of its members on the other. The degree to which that potential conflict of interest is resolved shows both the health of the professional association and the health of the public interest served by the profession. In the matter of discipline of members, the Manitoba association has, in my opinion, the most effective procedures and practices of the five provinces whose acts and by-laws I studied.

I ask you to consider how, in your judgement, the public interest of Manitobans has been sorely dealt with by the Manitoba Association of Architects. How have Manitobans been injured by Manitoba architects that you would consider to deny them the ability to say what it is that they do? Who would better be able than a professional to state the scope of their own professional practice?

Have the Manitoba association's disciplinary practices been lax or corrupt or venal? And further, how would you rate the disciplinary practices of the

other members of the Building Standards Board, to which definition of the scope of architectural practice would be relegated by Bill 7, among them the APEGM, the Manitoba Home Builders' Association and the Winnipeg Construction Association. Have those organizations served the public interest to the same degree as has the Manitoba Association of Architects? And if they have not, why would you dilute the crucial definition of scope of practice to a board of 12 members, 11 of whom would not be architects? How could this be fair and democratic?

## 2. Alterations to Existing Buildings without an Architect

Alterations are generally more complex than new buildings. They need to consider the complexity of existing built conditions, the complexity of the new conditions and the manner of going from one state to the other, often while the existing facility remains in use. This in itself is reason to retain architects in the lead role, co-ordinating the work of the multi-disciplined design team generally required. As generalists, the architects are trained and able to do this, besides knowing the art and science of building.

To leave a decision as to the requirement of an architect's involvement in an alteration to an authority having jurisdiction, outside of legislation, is to invite bribes, influence-peddling, favouritism and other corrupt practices.

Better to stick to the tried-and-true current method. Leave issues of life-safety, structure, exiting, fire separations and the like to the legislated purview of architects.

## 3. Size of Buildings Exempt from The Architects Act

Suffice to say that a building of 1800 sq. m., done without an architect, is too significant to risk having the public's interest not served by an architect's concern for such aspects as aesthetics, handicapped access, quality of space, environmental sustainability and so on. Design concerns such as these are not frills, but have been proven to increase worker productivity as well as to benefit human health and enhance human life.

Industrial occupancies also benefit from architectural involvement. I doubt that the Province wants to return to the standards of the early days of the Industrial Revolution or to the days of

unrestricted monopoly capitalism, toward which eliminating architects from industrial occupancies would push society.

In conclusion, I think enacting Bill 7 would be a big mistake. What I know of it appears, on its face, vindictive and driven by short-term greed. I do not think Manitoba should move in that direction.

Philip Kienholz, B.Arch, MAA, NWTAA, PMP

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Re: Bill 7

The Association of Manitoba Municipalities (AMM), as an organization representing all incorporated municipalities in the province of Manitoba, would like to take this opportunity to submit our views on Bill 7, The Architects and Engineers Scope of Practice Dispute Settlement Act.

The recent ruling in the case against the City of Winnipeg has created the need to have this issue revisited and we appreciate the willingness of the Province to review this immediately and to promptly make the changes needed.

With the infrastructure deficit facing Manitoba communities, it is imperative that costs are controlled and municipalities are allowed to employ only the professional needed to complete projects. The strict interpretation of the old act would have had serious financial costs for municipalities if they were required to hire architects for all projects.

Municipalities understand the importance of both professions and this new legislation will allow municipalities to employ the professionals most appropriate for the task at hand. By amending the building code, Bill 7 clarifies the prime consultant for projects and which buildings each profession must plan. By clearly laying out the professional designations needed for each project, Bill 7 will remove any confusion and allow municipalities to move quickly with projects once funding has been secured.

We are pleased to see that Bill 7 will grandfather projects currently in the works to ensure progress made will not be lost. As well, we are pleased to see that Bill 7 includes a mechanism for engineers and architects to deal with disputes in a timely manner, should they arise.

If Manitoba is to continue to grow, it is essential that the process is clear and not unnecessarily burdensome for those undertaking major projects.

Manitoba communities face serious challenges when it comes to local infrastructure and it is imperative that any unnecessary obstacles are removed to maximize limited resources.

We believe Bill 7 addresses these concerns and we urge the Provincial Legislature to move quickly to pass and enact this bill to ensure Manitoba continues to prosper.

Ron Bell, President.

Association of Manitoba Municipalities

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Re: Bill 7

I am writing this letter in full support of the Manitoba Association of Architects stand against Bill 7, The Architects and Engineers Scope of Practice Dispute Settlement Act. I would like my support for the MAA's position to be recorded in the minutes of this week's committee meetings.

I graduated from the University of Manitoba in 2000 with a master's degree in Architecture. I subsequently spent four years as an intern, and wrote nine licensing exams in order to become a Registered Architect in this province. In short, I have spent 10 years of my life training in order to legally practise architecture.

This 10-year process is a rigorous ordeal for prospective architects, but it is one that I was happy to undertake, because I understood how important it is for our profession to be accountable to the general public. Just like other professionals, we are tasked with the safety and the well-being of the public, and we take that responsibility very seriously.

Bill 7 will allow a number of engineers to practice architecture without requiring the same level of training and education.

Bill 7 will allow those same engineers to practice architecture without being regulated.

Bill 7 will effectively remove the ability for architects in Manitoba to manage their own scope of services.

Bill 7 will eliminate the need for architectural services on a wide range of building types and sizes.

In its unaltered form, Bill 7 will have an incredibly negative impact on the profession I have

worked so diligently to join. In its unaltered form, Bill 7 sends a strong message to young architects such as myself that we are not only unwanted, but unnecessary. I request that Bill 7 be withdrawn.

Kevin Humeniuk

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Re: Bill 7

I am making representation on Bill 7 as a Chair of the Partners Program, Faculty of Architecture, University of Manitoba. This Program is intended to foster strong linkages outside the university for mutual support and enrichment. This initiative promotes communication between students, educators, industry and professionals to ensure that graduates are needed by society and industry and are in demand. Enclosed are partial brochures on the Partners Program and the Faculty of Architecture. The scholarship and service objectives of the Faculty are based upon an interdisciplinary study program which includes architecture, city planning, environmental design, interior design, landscape architecture and joint research and study initiatives with Engineering, Medicine and Commerce.

Bill 7 as proposed undermines the fundamental principle of interdisciplinary collaboration by permitting a specific building type to be designed by either an architect or engineer. Each and every professional discipline brings special knowledge to a project. Best practice principles are based upon an inclusive approach, not exclusive. Currently, all sustainable design projects mandate extensive collaboration between multiple disciplines and stakeholders in order to be certified as achieving standards for energy conservation, resource management, et cetera. Globally, buildings consume approximately 40 percent of all energy supply, 60 percent of all raw materials and contribute over 30 percent of the greenhouse gases.

The present status of the building industry is not sustainable. The future requires a sustainable built environment which will require a collaborative team approach not only of engineers and architects, but all of the design disciplines, scientists and stakeholders.

Therefore, this representation is a plea that Bill 7 be given a sober second thought. Bill 7 addresses building practices of the past. It fails to recognize the future challenge by its interdisciplinary program and collaborative student projects. Bill 7 undermines the

university's program by negating, unintentionally, the benefits of a collaborative design approach.

Jim Yamashita

B.Arch., FRAIC, CFM

Chair of the Partners Program

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Re: Bill 7

Please accept this written submission for inclusion into the Bill 7 hearing transcript, as I am unable to attend Monday, November 21.

My name is Ryan Fidler. I have been a Professional Engineer for a little over a year and an EIT before that. I would like to start by saying I understand the ruling due to the fact that it applies to the acts as they are written. However, in practise, I would strongly disagree with the principle of the ruling.

During my years of practise I have been involved in numerous projects, projects such as vehicle dealerships, cold storage warehouses, Hutterite colony schools, workshops, churches and dining halls, office/workshops, retail stores, residential buildings and livestock housing facilities. These projects have ranged in size from 200 m<sup>2</sup> to 4000 m<sup>2</sup>, some of which were expansion, alteration or new construction. In general these projects were of simple floor plans (office attached to a workshop for example) and with straight forward elevations and roof plans.

For the above noted projects, I was either professional of record or worked directly under him, with my personal responsibility being the structural design and part 3 code analysis with other engineers responsible for mechanical and electrical. I was charged with the responsibility of determining such things as limiting distance to property lines or adjacent buildings, fire separation placement and design, fire fighter access, determining number of washrooms, specifying barrier-free design, et cetera.

It is my opinion that the public's and owner's interests were well-served by the service of our engineering team. We were able to complete projects in a timely manner and meet all standard and code requirements. It would have been unnecessary from the standpoint of design, life safety and financial issues to have an architect act as an overseer of these projects. There would be no value added by

including an additional professional, such as an architect, to these projects.

The company where I am employed has recently arranged for an architect to work out of our office building and consult directly on our projects. With this service available to us, he has worked on our more complicated projects as one of the team members, with our engineers remaining as the project leaders. Having an architect working on the projects has had its positives. It has allowed us to have one more specialist working on our projects, taking some of the work load off our other team members as well as providing to our clients a more experienced team.

To conclude, I would like to emphasize that there are numerous projects which you cannot complete without an architect. However, there are equally, if not more, engineering projects that do not require the additional input of an architect. I feel that it is important that the two associations in conjunction with this bill come together to create a document that clearly defines the roles of engineers and architects. It should not be solely based on size, but should address the project as a whole.

Ryan Fidler, P.Eng.

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Re: Bill 7

My name is James Weselake, and I am a registered member of the Manitoba Association of Architects.

I have practised architecture in Winnipeg and Manitoba for over 35 years, primarily as a principal of Smith Carter. Our multidisciplinary practice of architects, engineers and interior designers has exemplified the true worth and participation of all these professions in contributing to the built environment. We have never excluded the professional input of all related professions and value their continuing contributions.

I support the position of my colleague, Don Oliver, and call upon the minister and this committee to delay Bill 7 from proceeding to third reading.

Without further review and consideration, Bill 7 will be a backward step for the development of Manitoba as a world-class place to live. More and more, we are competing with British Columbia, Alberta, southern Ontario and the United States for our best and brightest young people. The quality of

our overall built environment is one of the key determinants for people making choices in where to spend their lives. I believe the Registered Architects and the buildings they design are one of the essential ingredients for the provision of a city and province which can compete on a world level. We need to ensure this contribution continues at the highest level.

I further believe we are on the cusp of placing Winnipeg in the top ranks of mid-size cities for providing an exemplary quality of life. We need to be doing everything possible to ensure this quality improves and does not stagnate. The only important thing 10 to 20 years from now will not be how expedient we have been in enacting Bill 7, but what quality of life has resulted from the guidance provided by the bill.

I urge you to carefully consider what effects this bill will have on future generations and the resulting built quality of Winnipeg and Manitoba.

James Weselake, registered member of the Manitoba Association of Architects

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Re: Bill 7

My name is Jennifer Reynolds, and I am a student at the Faculty of Architecture at the University of Manitoba.

I support the position of the MAA and Don Oliver and call upon the minister and this committee to delay Bill 7 from proceeding to third reading.

If there is a "backlog" or any other crisis, which I do not believe that there is, it can be accommodated by asking the court to temporarily suspend its order in the City of Winnipeg case, in order to allow government, with the assistance of the MAA where possible, to address any outstanding issues.

Bill 7 creates more problems than it purports to solve. The need to protect public health and welfare in the built environment is too important to allow this legislation to rush through without resolving those problems.

I aim to be a member of the Manitoba Association of Architects.

I would strive to be licensed to practise architecture in the province of Manitoba, and if I do so it will be because I will have fulfilled the

specialized education requirements and the internship requirements which are a prerequisite to practise the profession. I will have completed nine years of "building specific" design education and training. I will have to satisfy the national qualification standards to practise architecture that are required by every jurisdiction in this country.

I hope to be a registered architect someday. It is a serious profession and I am spending long, difficult hours to learn the skills I will need to practise competently. I will then spend years as an intern further developing professional skills and ethics. During that period I will undertake hours of testing of my professional knowledge and complete thousands of hours of experience which must be logged in various areas of professional development. I take my future serious, I hope you will as well.

Submitted by Jennifer M. Reynolds, Winnipeg, Manitoba.

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Re: Bill 7

The practice of architecture has a long and honoured history. Bill 7 threatens the vitality and viability of the profession. The current draft of the Bill is an over-kill strike against the architectural profession. Minister of Labour and Immigration Nancy Allan has presented "The Architects and Engineers Scope of Practice Dispute Settlement Act" in the Manitoba Legislature. This bill will be the subject of public discussion starting yesterday, November 21. Manitoba Architects hope that Bill 7 will be delayed to allow for careful consideration of the issues. A quick, bad solution is no solution at all.

Manitoba Architects have won court victory after court victory in their battle to protect the public and the jurisdictional boundaries of the practice of architecture. Two legal decisions clearly support the MAA. The public could lose this protection as Bill 7 'grandfathers' or empowers engineers to stamp and seal building designs. The engineers will not have to attain the education or technical knowledge benchmarks that are mandatory for Manitoba's architects. Bill 7 empowers an unspecified number of engineers with the legislated right to design buildings unfettered by the regulations and restrictions of the architecture profession.

For years, government planning offices would accept engineer-stamped building drawings enabling developers, drafting services or contractor to obtain a

building permit without an architect. The engineers argue that this allows the consumer to save paying architect's costs. The housing industry, real estate developers, and building contractors have lobbied to reduce the involvement of architects in construction projects presumably to reduce their costs. This is wrong and short sighted. Recently the architects took the City of Winnipeg Permits Department to court to stop granting engineer-stamped building permits. The courts did so.

Manitoba engineers, contractors, and developer have fought a well-financed, powerful public relations offensive alleging a "crisis in the construction industry." The Manitoba Government was quick to react. Minister Allan references the need for quick action to resolve this "crisis" in her introduction to Bill 7. Is there a "crisis in the construction industry"? Certainly in the weeks after the September Court judgment there were projects 'in process' awaiting a building permit. Some of these applications were delayed for reasons other than a lack of an architect's involvement. The City of Winnipeg has for the most part worked out their permit backlog.

Manitoba architects are very concerned that Bill 7 strips away from The Architects Act the power to define the profession's scope of practice and transfers large chunks of their jurisdiction to the engineering profession.

This power to define the architectural profession's scope of practice is to be transferred to the Department of Labour's "Building Standards Board". The Building Standards Board has in the past ignored issues raised by architects. It appears to "rubber stamp" the government's staff recommendations. The Department's staff advises the Board. The Department of Labour employs a number of engineers and no architects. Appended to Bill 7 is a "scope of practice" table that seems to have magically appeared without the participation of architect Josef Nejmark, the MAA's representative to the Department's Building Standards Board. The 'draft' table conveyed by the Minister on November 9 drastically increases in the scope of practice of the engineering profession at the expense to that of the architectural profession. The legislation should be delayed until there is consensus in the construction industry and meaningful mechanisms defined for the architecture profession to be taken seriously by the Department of Labour.

Several provinces have joint practice boards, which deal with issues related to architectural and

engineering professions. Manitoba architects want defined professional jurisdictions between architects and engineers similar to that of B.C., Québec, Alberta, and Ontario.

Dean David Witty, the respected urban planner and University department head, most recently chaired Manitoba's Joint Architectural and Engineering Joint Board. David Witty was selected by both professions to mediate a solution. In the recent past, Minister Allan's Deputy Minister had committed to both engineers and architects that the Department of Labour would abide by the recommendations of mediator David Witty. APEGM chose to disagree with the mediator's recommendations when it was released earlier this year. Manitoba architects are very concerned by a proposal, which removes the heart of The Architects Act and places it in the hands of a board comprised of interest groups. Bill 7 could easily be modified to address its deficiencies. The Government of Manitoba should not act in haste. The solution must protect the public, as well as the engineering and the architectural profession.

Canada's Constitution Act make the regulation of building the responsibility of Provincial legislatures. The government has a duty to ensure that the rights of the consumer, in this case the people who occupy buildings are considered. This provincial duty became very apparent in 1988 when the Barret Inquiry in to the Quality of Condominium Construction in British Columbia looked at the protection of and accountability to consumers for faulty condominium construction. Both government and industry took the blame for B.C. faulty condo construction. Over the past few decades construction has become more concerned with marketing and business finesse than the practice of good architecture. The industry appears more concerned with the bottom-line costs. Architects have the training and a very well-defined professional duty to deliver on the substantive issues of building quality, workmanship, long-term performance, and technical merit as well as build beautiful buildings.

The enthusiasm of the Manitoba government to remove any possible roadblocks for the construction and property development industry is laudable. Property developers, engineers and contractors have presented their case to government that the consumer needs to be able to choose the lowest cost of service and that architects are expensive. This need for initial economy should be balanced by our government with a need to set minimum standards of building design and construction that are found in Vancouver,

Calgary and Toronto. Should Provincial Building Design motto be, "build 'em fast and build 'em cheap"? Does Winnipeg have to be a city that celebrates the architecture of the big-box store with a twenty-year lifespan. This will make a very dreary city.

Effective regulation should balance the needs of the consumer. It is important that this legislation proceed with the consensus of the architectural profession. Manitoba architects contribute their expertise ensuring that Manitoba's buildings are durable, functional, and beautiful. The current legislation undervalues the role of the architect.

Mr. John White

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Re: Bill 7

Madam Chairperson, I am here to express disapproval to the proposed amendments to The Architects and Engineers Scope of Practice Dispute Settlement Act, or Bill 7.

This amendment cannot be acceptable to the citizens of Manitoba because our province will have buildings designed, altered and added by 3500 professional engineers like chemical engineers, computer engineers, bio-systems engineers, aerospace engineers, electrical engineers, industrial engineers, marine engineers, civil engineers and geoscientists who have great education and training in their specialization but not in building designing.

They may interpret the Manitoba Building Code and will meet code requirements in design as authority with jurisdictions permitted to do so, inappropriately, but psychological, social, spiritual human needs will not be present in buildings designed by professional engineers. Economical, healthy environments and safety-calculated buildings will be like golden apples.

Architects are educated and trained to deeply analyze and incorporate scientific aspects like physical health, safety and economy, as well as psychological health aspects like society, belief, spirit in building designing. The Manitoba Association of Architects has mandated all registered members to meet the same qualification, experience and continuing education requirements as other provincial architects' associations in Canada and all North American architects' associations.

Authority should take appropriate steps to stop some of the professional engineers engaged in designing buildings and also should have plans to increase numbers of architects according to the service requirement of the province.

If government is not interested in having quality buildings in the province, CTTAM members' service will be more economical than professional engineers' service in designing buildings.

Maiya Uprety  
Winnipeg, MB