



Fourth Session - Thirty-Sixth Legislature

of the

Legislative Assembly of Manitoba

Standing Committee

on

Law Amendments

*Chairperson
Mr. Jack Penner
Constituency of Emerson*



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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Sixth Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON LAW AMENDMENTS

Monday, June 22, 1998

TIME – 10 a.m.

Mr. Dave Martin, Manitoba Building and
Construction Trades Council

LOCATION – Winnipeg, Manitoba

Mr. John Doyle, Manitoba Federation of Labour

CHAIRPERSON – Mr. Jack Penner (Emerson)

WRITTEN SUBMISSION:

VICE-CHAIRPERSON – Mr. Ben Sveinson (La Verendrye)

Bill 43–The Victims' Rights and Consequential
Amendments Act

ATTENDANCE - 11 – QUORUM - 6

Ms. Valerie Price, Manitoba Association for Rights
and Liberties

Members of the Committee present:

MATTERS UNDER DISCUSSION:

Hon. Mrs. McIntosh, Hon. Mr. Radcliffe

Mrs. Driedger, Ms. Friesen, Messrs. Helwer,
Mackintosh, Ms. Mihychuk, Messrs. Penner, Reid,
Mrs. Render, Mr. Sveinson

Bill 8–The Real Property Amendment Act

Bill 26–The Teachers' Society Amendment Act

Bill 34–The Public Schools Amendment Act

Bill 39–The Highway Traffic Amendment Act (2)

Bill 43–The Victims' Rights and Consequential
Amendments Act

APPEARING:

Hon. James McCrae, Government House Leader
Hon. Vic Toews, Minister of Justice
Mr. Kevin Lamoureux, MLA for Inkster

Bill 53–The Apprenticeship and Trades
Qualifications Act

WITNESSES:

Bill 26–The Teachers' Society Amendment Act

Mr. Ian MacIntyre, Manitoba Teachers' Society

Mr. Chairperson: Would the Committee on Law
Amendments please come to order. This morning, the
first item on the agenda is the election of a Vice-
Chairman.

Bill 34–The Public Schools Amendment Act

Mr. Garry Draper, Fort la Bosse School Division
No. 41

Mr. Edward Helwer (Gimli): Mr. Chairman, I would
like to nominate Mr. Sveinson, the MLA for La
Verendrye.

Bill 43–The Victims' Rights and Consequential
Amendments Act

Ms. Kim Futch, Private Citizen
Mr. Bob Hatch, Citizens Against Violence

Mr. Chairperson: Mr. Sveinson has been nominated.
Any further nominations? Seeing none, Mr. Sveinson,
you will then take the Vice-Chair.

Bill 53–The Apprenticeship and Trades
Qualifications Act

Mr. Ken Pearn, Winnipeg Construction
Association

This morning, the committee has a very significant
list of bills before it. I would suggest, first off, that the
first bill that is on the list, Bill 2, be set aside till
Tuesday. It is my understanding that the Premier (Mr.
Filmon), who is responsible for this bill, is not able to

be here until Tuesday. Is it the agreement of the committee that we set it aside till Tuesday? Agreed? [agreed]

There are four bills that have presenters, and I will name those. Those are Bill 26, The Teachers' Society Amendment Act; Bill 34, The Public Schools Amendment Act; Bill 43, The Victim's Rights and Consequential Amendments Act; and Bill 53, The Apprenticeship and Trades Qualifications Act. There are presenters there.

Is it the will of the committee that we deal with those bills first?

Hon. James McCrae (Government House Leader): Mr. Chairman, with one exception. I would ask for consideration to be given to dealing with Bill 8 up front. The honourable minister has other commitments this morning, and I understand Bill 8 would not call for any lengthy deliberations, and that if we got that cleared away, then we could hear the presentations. If there would be agreement for that, I would appreciate it very much.

Mr. Chairperson: Thank you, Mr. McCrae. Is that agreed? [agreed]

Okay, we will deal with Bill 8 first then, and then I would suggest that we deal with Bill 34 next. There is an out-of-town presenter there, and it has been customary that the committee has heard out-of-town presenters first. So we will ask that the minister come forward, and we will deal with Bill 8.

We should establish this right up front. We need to establish whether we should put time limits on presentations. Is it the will of the committee to do, as we normally did, 10-minute time limitations for presentations, five minutes for hearing? Agreed? [agreed]

I think that concludes the business that we have before we start the proceedings. Is that correct? Thank you.

Bill 8—The Real Property Amendment Act

Mr. Chairperson: Let us then deal with Bill 8, The

Real Property Amendment Act. Does the minister have any opening statements?

Hon. Mike Radcliffe (Minister of Consumer and Corporate Affairs): No.

Mr. Chairperson: Does the opposition critic have any opening statements? No. We will proceed then into clause-by-clause consideration, and, as normal, the preamble and the title will be set aside until we have finalized the consideration of the bill.

Clauses 1-3—pass; preamble—pass; title—pass. Bill be reported.

Thank you, Mr. Minister. I thank the committee.

Mr. Radcliffe: Thank you very much, Mr. Chairman. I would like to thank all members of committee for accommodating me today.

Bill 34—The Public Schools Amendment Act

Mr. Chairperson: Now can we deal then next with Bill 34.

Committee Substitution

Mr. Edward Helwer (Gimli): Mr. Chairman, with leave of the committee, I move that the honourable member for Rossmere (Mr. Toews) replace the honourable member for River Heights (Mr. Radcliffe) as a member of this Standing Committee on Law Amendments effective June 28, 1998, with the understanding that the same substitution be moved in the House to be properly recorded in the official records of the House.

Motion agreed to.

Floor comment: We have a wrong date here.

Mr. Chairperson: Wrong date. I am sorry. The 22nd.

Floor comment: Twenty-eighth. That is okay.

Mr. Chairperson: Agreed? Thank you.

We will then proceed. I call now Mr. Garry Draper. Is Mr. Garry Draper here? On Bill 34. Mr. Draper,

have you a presentation for distribution for the committee?

* (1010)

Mr. Garry Draper (Fort la Bosse School Division No. 41): Yes, I do. I have 15 copies here.

Mr. Chairperson: The Clerk will distribute.

Mr. Draper: Okay, I have two parts to my presentation—

Mr. Chairperson: As soon as the Clerk gets here, I will let you proceed. Thank you very much, Mr. Draper, for your patience. You may proceed.

Mr. Draper: Thank you, Mr. Chairman.

Mr. Chairman and honourable members of the committee. I have two parts to my presentation. One is on behalf of the Fort la Bosse School Division No. 41, and one is on behalf of—I am a regional director for nine western school boards and I have a presentation on both of those. I will start with the Fort la Bosse presentation.

Thank you for the opportunity to appear before the legislative committee on Bill 34. We would, however, like to express our dismay at the manner in which such hearings have been scheduled. Had it not been for a communication from the Deputy Minister of Education on June 12, we would not have been aware that this legislation committee had been formed and was about to sit to consider presentations on Bill 34.

The issues addressed in Bill 34 are of serious concern to school trustees in our division and possibly all of Manitoba. We would have preferred an opportunity to discuss these issues with our colleagues in other school divisions as well as our municipal government partners and other interested parties. The point we wish to address to the committee today is the conversion of trustee terms of office to four-year terms. First, allow us to inform the committee that at our most recent annual convention of the Manitoba Association of School Trustees a resolution in favour of longer term of office for trustees was defeated. We understand the advantage that can accrue to urban divisions and to the

City of Winnipeg, but we cannot justify such an amendment for rural school divisions. Simply, we do not experience the same problem that the urban areas have in relation to cost and elector turnout.

Voter turnout has not been a concern in our school division. We have been fortunate to experience voter turnout in the area of 30 percent or greater. A recent conversion from two-year to three-year terms did not result in any noticeable difference in voter turnout in the one ward involved. Seven of our current complement of trustees are serving their second or more three-year term; only four trustees are serving their first year of a three-year term. It becomes a very serious question for our longer-term trustees when faced with a new term of four years, rather than three. We expect we would have several trustees opt not to stand for re-election.

We question, too, whether trustees would be willing to serve two four-year terms back to back for a total of eight years versus the current six years. Eight years sounds like a very long time. In this case, we expect trustees probably would only serve one four-year term and then retire. This would have the effect of increasing potential for elections, thus election expenses.

It follows from the above comment, that we possibly could see the entire board turn over at one election time. This cannot be good for school divisions in the term of long-range planning and continuity. We fear that the four-year terms will serve as a deterrent to the recruitment of citizens willing to run for office. A lack of candidates and interest could result in a board of trustees having to seek out individuals who would have to accept a nomination or an appointment. This is not an ideal situation and causes much disruption in the normal operation of the school division with having to wait to search for willing individuals and then appoint them and assign them to committee work. Valuable time would be lost to this effort.

A further consideration is the additional cost that could accrue to school divisions if trustees do not complete their four-year terms and by-elections are necessary. We have but once in the past 10 years or so had to replace a trustee in midterm. We fully expect this would become more frequent with longer terms of

office. Election costs are minimal in this school division at present. We do not expect to experience any savings for elections due to four-year terms; rather, we expect election costs to increase due to the reasons given above.

A list of electors for school divisions is not the same as those for municipalities, nor provincial or federal elections. Residency requirements which establish eligibility are different, and thus, the lists cannot be shared between these jurisdictions without significant amendment. Thus, there is no cost advantage to be had there. We will, however, begin to use the federal registry this year as a check against our locally prepared list, but the Elections Canada officials have informed us that they cannot give us an accurate list when it comes to the properties on the borders of our division.

We respectfully request that you reconsider Bill 34 as it specifically applies to the school trustees' terms of office and perhaps consider amendments that would allow rural divisions to maintain the status quo. In this way, urban centres could be well served and rural areas remain unharmed. Thank you for the time to be heard on that.

Mr. Chairperson: Thank you. You may proceed with the next one.

Mr. Draper: Okay. The next one is a presentation as a western regional director representing Antler River School Division No. 43, Beautiful Plains School Division No. 31, Birdtail River School Division No. 38, Brandon No. 40, Fort la Bosse No. 41, Pelly Trail No. 37, Rolling River No. 39, Souris Valley No. 42 and Turtle Mountain No. 44, in total of 89 trustees of the provincial 486.

All western school divisions are dismayed at the way Bill 34 is being railroaded through and the frustration at the lack of consultation between government and school boards involving legislation that could have negative effects on the school division.

At our March conference, the following resolution was put forward by the Winnipeg/Suburban Region: Be it resolved that MAST request the Minister of Education and Training to ensure that the terms of

office of school trustees coincides with the term of office of municipal councillors.

Their preamble alluded to the four-year terms instead of three. This resolution was soundly defeated. No further action was taken at the time because no one imagined that the government intended these changes without consulting the school divisions. I also understand that the rural municipalities opposed Bill 32.

Our western region has the following concerns with Bill 34. Some boards have trouble filling current two- or three-year terms. Some seats have been filled by appointment, while in most cases acclamation is the norm. Some boards must have by-elections or have their seats sit empty. By-elections cost money and empty seats do not serve the people. So, in summary, many divisions all over Manitoba now have a problem attracting good, qualified trustees for two- or three-year terms. Four-year terms would make it much more difficult to attract new trustees.

Four years is a long time to commit to, and even though lots of trustees do seek a second or a third term of two or three years, a second term of four years is a lot longer, therefore there is a greater fear that a whole board could turn over at one time. Even if one or two current members would remain, there could be as many as seven to 10 new members, and that would create and place a great deal of extra pressure and stress on those remaining. If a whole board changed, the senior administration of the school divisions would be under a great deal of pressure. This would not be a good scenario for a school board to continue its education planning for their communities.

The thought of using one central voters list may work in large cities, but in rural Manitoba it would not. All divisions have their own voters lists because of the residency requirements for school divisions, where in municipalities you need only be a landowner. Some divisions also encompass many towns, villages and municipalities within their borders; some, as few as two or three, some more, and some as many as 10 or 12 or even more. Federal election officers cannot guarantee an accurate list of people who live on the borderlines of these divisions. The thought of streamlining to

provincial or federal lines is definitely sending the wrong political message to those considering being a trustee.

Trustees are there for the continued application of the best possible education for Manitoba children, so we in western Manitoba feel that we are made to follow what Winnipeg wants. If within the Perimeter they feel so strong about this, then let them do it, but for rural Manitoba please do what Alberta has done and table this Bill 34 until proper consultation is done and some deep thought is given to its ramifications.

Thank you, Mr. Chairman.

Mr. Chairperson: Thank you very much, Mr. Draper, for your presentation. Are there any questions or comments?

Ms. MaryAnn Mihychuk (St. James): Thank you very much, Mr. Draper. I appreciate your coming out to the committee hearing with fairly short notice and presenting your views. Can you clarify why trusteeship is not, presumably, I take by inference, a cherished position? There is not a scramble for getting on your boards. Why is that?

Mr. Draper: In rural Manitoba, in my past history, I have been on the board for six years, and it is the same in each western division. The exact reason I think is because nobody wants to commit to the time, so those people who do commit are good, qualified people who want to be there, and we feel that going to four years, we are not going to get those quality people who would come out. We may get people who are just there for the job type of thing, instead of the children.

Ms. Mihychuk: What type of time commitment would a trustee in Antler River or Fort la Bosse be required to commit during an average week or month for a trusteeship?

* (1020)

Mr. Draper: In a week or a month, I can give you—the first three years that I sat in the first term, I kept track of my meeting times just to see how it went, and I averaged 76 meetings in the course of one year over the three years, so that is about every three and a half days.

Those meetings could range anywhere from a half hour meeting at the call of the chair of a committee, or it could range to a full-day meeting out of division somewhere.

So it is a commitment as far as time if you are committing to, on the average, 75 or more meetings a year. That is a huge commitment for an individual who happens to be a worker someplace or an individual who owns a business or for anybody.

Ms. Mihychuk: Do you feel that the compensation the trustees receive, in terms of their annual salaries, compensates for the time that they spend on boards?

Mr. Draper: I do not know if I am authorized to comment on that. That is everybody's own decision. I know if you are looking at doing it for the money, no, it is not, but I do not think that is the reason why most trustees are there. I think trustees are there for the children, and it is a commitment that you just make and have to live by.

Ms. Mihychuk: Many rural trustees have told me that it is an extremely stressful occupation, that because of the downsizing and the cuts from the provincial government and the reductions that we have all had to face in school divisions that it has been a very difficult time to look at restructuring and closing of schools in rural Manitoba and that it pits one neighbour against another and that we have to deal with what is the most important to our families, and that is our children's well-being.

Do you find that that is a factor also in terms of the stress level or the interest in taking on these positions?

Mr. Draper: Yes, that is probably one of the reasons, although there are likely lots of reasons why a person chooses to be a trustee. I think, in my own case, I chose to be a trustee because of the want to get involved in shaping the future for our children. Yes, it is stressful, but it also has its rewards too when you see the children graduating out of Grade 12 and going on to other careers or other education. It is a satisfying point.

Ms. Mihychuk: You mentioned that the enumeration or the election lists were different for the school board elections versus the municipal election voter list. Can

you give us some detail? Who does the enumeration then and who incurs the costs?

Mr. Draper: We do ourselves. We do our own enumeration list, and we incur our own costs.

Ms. Mihychuk: One of the arguments for this bill is that a coinciding term would make it more efficient and cost-effective, as we know that the tax bills are issued by the municipality or the City of Winnipeg. Do you see that as a prohibitive factor?

Mr. Draper: We already do have coinciding elections in rural Manitoba now with the three-year terms. The point of our presentation is that we just do not feel a four-year term is appropriate.

Ms. Jean Friesen (Wolseley): You made a suggestion that Alberta had had a bill similar to this and had postponed it after similar issues were raised. Do you have any other information on that and what happened subsequently, what kind of discussion took place?

Mr. Draper: No, I do not. I just understand that they have held it in abeyance until after the next municipal elections to give it further study.

Mr. Chairperson: By the way, for the edification of the committee, I am allowing a bit more time on this one because Mr. Draper is the only present presenter and represents, in my view, a significant jurisdiction in his presentation. So if it is with the agreement of the committee, I will allow the questioning to continue.

Ms. Friesen: I wondered if you were present at the MAST convention where the discussion took place and the vote, and I wondered if you could give us a sense of that discussion, if you were there, and whether you had talked to trustees beyond your jurisdiction in western Manitoba, if you had any sense of what knowledge they had of the bill and of the kind of discussions that might have taken place in other areas. I realize we will also be having presentations from MAST as well, but perhaps from the perspective of somebody who had been at the debate.

Mr. Draper: Yes, I was at the convention. Apparently the resolution that came out of Winnipeg suburban region was not unanimous either. So all the divisions

within the city did not support it. In talking to most rural people outside my own region, it is the same sentiment, that, you know, we have to talk about this before we can do it. There is no MAST presentation either; I will make you aware of that. MAST does not have a position on this because of the time lines that were invoked. This is strictly my school division of Fort la Bosse plus the western region. I have talked to all board chairs, and I have supporting letters from them.

Ms. Friesen: During second reading, we on the opposition side had spoken on this bill on exactly that issue, in a very similar way in which we had spoken on the municipal bill, that we were very, very concerned about the impact on rural divisions of going to four years, as well as on rural municipalities. So we have tried to take a consistent position to a number of bills.

I am interested in your proposal to remove this section for further discussion, and also I think what you are saying an amendment might be possible that dealt with both urban and rural needs. Would you have any wording or any proposals for such an amendment?

Mr. Draper: No, I am not a lawyer-type person. I would not be able to put those words into place. The only thing I can say is just to reiterate what I did say about it. If it does suit the city of Winnipeg, then that is fine, but, in our opinion, in western Manitoba it would not work.

Ms. Mihychuk: What recommendations would you have, or have you given some thought, for a school division like Transcona-Springfield, which crosses the Perimeter and has both an urban component and a rural component?

Mr. Draper: I cannot speak for them. I do not know what they would say.

Ms. Mihychuk: Proportionally, the urban trustees constitute what percentage of trustees in Manitoba?

Mr. Draper: A minority. It would not be a majority. I am not sure offhand. I do not have those figures with me, so I would not want to ballpark it.

Ms. Mihychuk: Was there any sense in MAST that this was a trustee-driven idea or that rather it was a City Hall-driven idea? Perhaps you could just comment on whether there was strong feeling from urban trustees as to the defeat of the resolution. By that, I mean, were they prepared or quite satisfied with the three-year term, or was it their initiation, the four-year term?

Mr. Draper: I think that, if I remember correctly, it was the city of Winnipeg that first initiated the thought of this, and I can understand that if you want to be a full-time politician. But, for trustees who are not full-time politicians, it is not the same. In Winnipeg with the voting lists, perhaps more similar because they are all within the Perimeter, I can see where voting lists would be more similar to them than they are in rural Manitoba.

Ms. Mihychuk: Are you familiar with any full-time trustees in Manitoba?

Mr. Draper: You mean a full-time trustee and nothing else? No. I did not allude to full-time trustees. It was perhaps the councillors of the city of Winnipeg who perceive it as a full-time job.

Mr. Chairperson: Thank you very much, Mr. Draper, for your presentation.

Mr. Draper: Thank you.

Bill 26—The Teachers' Society Amendment Act

Mr. Chairperson: I would suggest that the committee consider the next bill, Bill 26, The Teachers' Society Amendment Act, and we have one presenter there. The presenter's name is Diane Beresford or Ian MacIntyre. Is either Diane Beresford or Ian MacIntyre—I see Mr. MacIntyre is here.

Mr. MacIntyre, have you a presentation for distribution?

* (1030)

Mr. Ian MacIntyre (Manitoba Teachers' Society): Yes, I have copies.

Mr. Chairperson: The Clerk will distribute. Mr. MacIntyre, you may proceed.

Mr. MacIntyre: Good morning, everyone. I would like to thank you for the opportunity to appear before the committee. I am very pleased to be here and that the changes to the Manitoba Teachers' Society Act are now before the committee.

The Manitoba Teachers' Society was founded 79 years ago with 62 members. It now represents over 14,000 members, public school teachers, and less than a dozen of them have opted out of membership from the society. While the services offered by the society have changed somewhat over the years, our basic mission has not. From its birth, the society has worked to improve the economic welfare, the professional development of teachers and the quality of public education in Manitoba.

Recent public opinion polls done by the society show that in the eyes of Manitobans, public school teachers are the most trustworthy source of information on Manitoba's public education system. Each school day parents entrust teachers with the care and education of their children. Teachers do not take this task lightly. They realize the work they do has a direct affect on Manitoba's most important resource, its young people.

The Manitoba Teachers' Society prides itself in the professionalism of its membership. We believe we are qualified to manage our affairs in a professional way and that is why Bill 26 is before you today. These amendments to our enabling legislation were made as a result of a request to the Minister of Education. The delegates to our annual general meeting approved these amendments over a year ago.

These changes will improve the accountability of our organization to our members. Once these amendments are passed, future presidents of the society will be chosen by the public school teachers of Manitoba. Every public school teacher who is a member of the Manitoba Teachers' Society will cast a vote to elect a president. As a result, every public school teacher will have a say in the direction of the organization. This will be good for teachers as well as the public school system.

These amendments also eliminate the position of president-designate, and the position of past president will exist for one year following the changeover of the presidency. These changes will make the composition

of the society's officers similar to other organizations. This legislation will allow our organization to determine how it elects its officers.

The purpose of these amendments is to allow the Manitoba Teachers' Society to manage its internal affairs. Matters which are operational for the society will be decided by our members through the organization's by-laws and policies. We believe these are matters that should not be included in legislation. This will give our members more control over the plans of the organization. In addition, eliminating the need for Manitoba Teachers' Society to request legislative changes for what are basically administrative matters will give MLAs more time to deal with weightier public school issues.

The changes to Section 17 will provide the society with better access to the information it needs to maintain its records. This will improve the efficiency of our organization and enable us to better serve our members. We were previously advised the minister would be tabling amendments to this section today, and we do not oppose them.

The other changes proposed in Bill 26 are merely housekeeping changes which do not directly affect the way the society conducts its affairs, and we are in agreement with these changes. Bill 26 gives the society more control over its organization. The next step for this Legislature is to recognize that the teaching profession is also qualified to set standards and judge the conduct of its members, just as doctors and lawyers do now.

The Manitoba Teachers' Society is hopeful that the next time we appear before you we will be here to endorse a self-governing body which addresses teacher competence, standards, and discipline, matters of great public interest. Thank you.

Mr. Chairperson: Thank you very much, Mr. MacIntyre, for your presentation. Any questions or comments? Seeing none, thank you again for your presentation.

Mr. MacIntyre: Thank you very much.

Bill 43—The Victims' Rights and Consequential Amendments Act

Mr. Chairperson: I call then the next presenters on Bill 43, The Victims' Rights and Consequential Amendments Act. We have three presenters. The first presenter is Valerie Price, Manitoba Association for Rights and Liberties. Is Valerie Price here? Not seeing her, her name will be dropped to the bottom of the list. Mr. Kim Futch, private citizen. Is Mr. Futch—oh, Kim Futch, Ms. Kim Futch. Have you a presentation for distribution? Thank you. The Clerk will distribute.

Ms. Futch, you may proceed.

Ms. Kim Futch (Private Citizen): Thank you. As you all may be aware, I am one of the daughters of the late Walter Futch, who was violently murdered. My family and I have first-hand knowledge of how the criminal justice system assists the victim's immediate family. Winnipeg police officers only informed my sister Brenda and myself of the tragedy. They neglected to tell our other siblings. That was left up to Brenda and me. Brenda drove to our sister Cindy's place to inform her, which was quite incredible, considering the shocked state of mind she was in, and a friend telephoned our brother Lyle who lives in B.C. As well, we were never informed of any victims' rights.

From the time of the accused's apprehension to the time of the accused's sentencing day, which spanned approximately one and a half years, we were told bits of information regarding any events that pertained to the case from Interlake police officers who were involved, but we had to find out the bail hearing dates, preliminary hearing date, and trial and sentencing dates. Presently, we continue to telephone the Manitoba appeals court for information as to when the appeal date is, as we want to attend.

Because we needed a sense of closure to our father's murder, we attended all court sessions. Besides going through the ordeal of facing our dad's killer and hearing all the grisly details of his death, we were still left shaking our heads regarding how much we were left out of the whole court process. As well, we were not allowed to read out our victim impact statement. The prosecutor read only a line or two out of the entire statement, and the real meat of it was left out.

The following is a compilation of what must be changed and/or included in Bill 43. For serious and/or violent crimes, the respective police agencies in the case should seek out the immediate family members and obtain their names and addresses. This information should then be transferred to either the Victims Assistance Program or Victim Services. One of these agencies should then mail out a victim rights package or visit the victim's family. The victims' rights package should include the name, address, telephone number and business hours of that particular agency. As well, it should outline the rights that victims are entitled to, these rights being information about investigation, charges, plea bargaining, bail, court hearings, presentence reports, sentencing, victim impact statements, custody, any leaves of absence from custody, the release and conditions, and, more importantly, parole hearings, all of which the victims should have a say in the decision making, if they so desire.

Regarding the victim impact statement, it is imperative the victim read it in court, if so desired. If, as was in our case, the accused showed no remorse and the victim reads a victim impact statement, it might have some bearing on the accused; and, if that can prevent the accused from reoffending, then it was worth it. As well, a victim reading his victim impact statement will show the accused that he had caused pain to the victim's family, and that family can, at the very least, take some comfort in knowing that all was said and done for the sake of their deceased loved one.

* (1040)

Lastly, a position must be created for a crime victim investigator at an outside agency such as the Ombudsman's office. The crime victim investigator will handle all complaints from victims whose rights have been violated. It does not make sense to have a director from the criminal justice system handle complaints of rights violation when it was the criminal justice system which violated the victim's rights in the first place. People should know that there is someone they can go to if their rights are violated, this someone being a crime victim investigator.

I would like to say that I am very serious about being here today to take part in Bill 43. This is not just a last-

minute decision. My sister and I have been enrolled in a criminology course since just after the trial to learn more about our criminal justice system, and the changes and additions I have stated will make a difference for the better. Thank you.

Mr. Chairperson: Thank you very much, Ms. Futch, for your presentation. Are there any questions, comments?

Mr. Gord Mackintosh (St. Johns): Thanks for coming forward, Ms. Futch. As a victim, it is important that victims speak first-hand about their views of the criminal justice system. I am just wondering, you focus a fair bit on the victim impact statement and your inability to have presented orally the victim impact statement at the sentencing hearing. How did you feel? I mean did you ask whether you could present orally, and were there any reasons given as to why you could not present orally? How did you feel when you could not present the statement orally?

Ms. Futch: We had asked the Victims' Assistance Program if we can write up a victim impact statement and read it out, and we were told that we cannot. We cannot read it out. If anything, the prosecutor would read from it, and like I said in my speech, that he read only a line or two, and we felt cheated. We felt cheated. We wanted to let the accused know how we felt. It was obvious that he was not showing any remorse, and we felt as if we were to tell him the whole impact statement that it would at least give us a sense of comfort knowing that we had told him how we felt. Regardless of whether he would have felt remorse or not, we wanted that off our chest.

Mr. Mackintosh: One other question, I presume you have looked at Bill 43. Is it your sense that things will be different as a result of Bill 43, and if so, in what way, or does it look like there will be very little difference? What is your view on the bill overall? Does it look like this is a leap forward, or what in your view would you think about that bill?

Ms. Futch: No, I thought that part about the victim impact statement was awfully vague. I do not think it would make any difference whatsoever if it was to remain as it is. As a victim myself, I really believe that the victims should have a right to read the victim

impact statement in court. What is in Bill 43 right now as it stands is not really much different. It was very, very vague.

Mr. Chairperson: Thank you very much, Ms. Futch, for your presentation.

Hon. Vic Toews (Minister of Justice and Attorney General): Thank you very much, Ms. Futch. I appreciate you coming out here today. I just wanted to draw something to your attention which you may not be familiar with. You understand, of course, that victim impact statements are governed by the federal Criminal Code, do you not?

Ms. Futch: No, I am sorry, I did not.

Mr. Toews: You did not. Well, one of the problems in the issues in dealing with this type of legislation—I feel very strongly the same way that you do in terms of ensuring that victims have a voice—that we face is that the provincial government does not have constitutional authority, the right to pass certain types of legislation. One of the types of legislation that we cannot pass is legislation that would contradict the federal Criminal Code or that would interfere in criminal process or proceedings.

Some of the concerns that you might have, that you have identified very well, may well be as a result of the federal government having the jurisdiction. So your comments, while they are very important, we, as a provincial government, not having authority over criminal law, have quite a bit of difficulty in accommodating what you want.

I just wanted to draw that to your attention. I do not think your comments are lost on us. We will continue to deal with the federal government to ensure that the Criminal Code is changed to accommodate some of your requests. That is an ongoing matter, but I do want to thank you very much for coming out and expressing your concerns.

Ms. Futch: Okay. Thank you.

Mr. Chairperson: Thank you very much, Ms. Futch, for your presentation.

I call next Bob Hatch, Citizens Against Violence. Have you a presentation for distribution?

Mr. Bob Hatch (Citizens Against Violence): No, I do not.

Mr. Chairperson: Thank you very much, Mr. Hatch. You may proceed then.

Mr. Hatch: Am I close enough to be heard?

Mr. Chairperson: Yes.

Mr. Hatch: All right, fine.

This particular bill that I wish to speak to, I want to point out to you the general rights of victims are already rights that everyone has. It says in the Crown attorney's handbook, under Section 3(a), (b), (c), (d), (e), not (f), but (g), all of those things are included in the Crown attorney's handbook, and if they were being followed, this bill would not be presented in the first place. The fact is that the Justice minister simply does not ensure that his Crown attorneys do the job that they are supposed to do.

A victim coming into the justice system comes in with the expectation that the Crown attorney is going to be on his side. He is soon to be disillusioned. The fact is that the Crown attorney, it has been pointed out to me a number of times, does not act for the victim. That is an important concept to understand. The Crown attorney does not act for the victim. He acts for all the people of Manitoba, including the criminal. It has been pointed out to me a number of times. You may understand that there is a vast difference between what the victim, who has been paying taxes, say, 30-40 years, comes to the justice system feeling he has done his part and finding out that the Crown attorney is acting for the perpetrator. What the Crown attorney does on behalf of all the people of Manitoba is what is cheapest and easiest. He tries to get a plea bargain so that that will facilitate the court case going through as quickly as possible at the minimum possible expense. The best way to do this? The man has committed 50 break and enters, he will plead guilty to two, good deal for him, good deal for the justice system. Victims? Well, not so good. You have gotten the shaft a couple of times already. You have been paying your taxes, you got no service, might as well one more time.

Through my involvement, I have been fighting with the justice system for eight years now, and I have been involved with Citizens Against Violence under different names for seven years. I would say that I have had considerable experience dealing with victims. The primary complaint that victims have is that their wishes are ignored, that they personally are ignored. Which is it now? Oh, yes, in (a): to be treated with courtesy, compassion and respect for their dignity and privacy. Well, forget it. The Crown attorneys are—you can have your choice, whether they are overworked or they are incompetent. Really, that does not make any difference, and it does not make any difference to the victim. When you go to McDonald's, you order a burger and you get sawdust on a bun, you could not care less whether that guy is overworked or he is incompetent. You know that you did not get what you paid for, and that is the feeling that a victim gets coming into the justice system. He did not get what he paid for. He gets absolutely no representation from the Crown. The Crown is simply doing what is best and easiest for them.

As I said, I have perhaps the most experience dealing with victims of anybody in this room. It is important to know that I have also put forward many complaints, both based on my own experience and on members of our group. People that have come to us felt that the justice system has treated them unfairly—it is really the kindest way I can phrase that. It is not what they say, but—treated them unfairly, let us say, and brought the complaints forward to various ministers. Mr. McCrae was here. It is a shame Mrs. Vodrey could not be here because I have dealt with all of them.

The fact is that lawyers are never going to admit that they messed up, that they made an error, that for whatever reason they did not handle a case properly and thoroughly, and Justice ministers, it appears, and deputy ministers whom I have had slightly more experience dealing with, are simply going to cover up. That is our primary objection to the bill.

In addition to the fact that it is merely a pre-election ploy giving people rights that they already have, thank you very much, the fact that the director who will investigate these complaints is going to be appointed by the minister and will serve at the minister's pleasure leads me to believe that this, plus my past experience

with the prevarications of various lawyers whom I have dealt with, leads me to believe that it will be more of the same.

* (1050)

You can make any complaint that you wish, and it will be duly considered and then dismissed, in a fair and rational manner, of course. I understand the Spartans have a similar program. If you feel that one of the Spartans has violated your rights, you can go to the Spartans and say, look, this guy has treated me unfairly, and they will say, well, you know, it is nothing personal, buddy; it is just business.

That is what it is with the Justice department and the Crown attorneys. It is nothing personal, it is just business, but the result is exactly the same. You wind up with your rights as a Canadian citizen being violated. You are simply not protected from criminals. The proliferation of crime in the city I believe is primarily due to the fact that the Justice department does not deal with crime. They continually let people off time and time and time again, and they continue to commit crimes. Why would they not? It is profitable, it is easy, and the Justice department is intent on seeing that that will continue.

As far as the statements go, now, Mr. Toews is quite correct. It says in the federal law that statements must be made in writing and in advance. Well, now, that is dandy but what happens is you are a victim. No one tells you when your court date is going to be. Two days, maybe a week, if you are really, really lucky before, but usually two days, the Crown attorney calls you up and says your court date is such and such and that is it. You walk into the room maybe 15 minutes, maybe half an hour before the alleged trial is going to take place, and the Crown attorney says, well, we have decided to plea bargain this out. For assault and battery, we have decided to call this mischief. The guy is going to get a \$7 fine, seven years to pay that fine, so we will not need your victim impact statement because he is pleading guilty. If you say to the Crown attorney, well, you know, I would like to get a chance to say my piece—that is a big thing for victims.

I cannot emphasize to the members of the committee how important it is to victims. Ms. Futch mentioned it.

If the victim can stand up and say you son of a gun, you really did a lot of damage here. You beat up my daughter, you scared my wife, you broke into my house, you are a total jerk. That would go a long way to make victims within the justice system happy, and it would not cost the justice system anything, and any lawyer could get it in. He could call you as a witness and say so what happened and how have you felt subsequently. People would get to make their statements. It would be easy, it would be cheap and it would be effective. Victims would at least feel better.

If you are going to steal from us, if you are going to cheat us out of our rights, okay, you are government, we understand that, but surely to goodness you can give us a chance to speak. Thank you.

Mr. Chairperson: Thank you very much, Mr. Hatch, for your presentation. Are there any questions?

Mr. Mackintosh: Thanks for coming down today, Mr. Hatch, and congratulations to you and your organization for giving a voice to victims in Manitoba. I mean, it is a voice that is really needed, and I hope that the voice is heard.

Just today on that, the issue of the victim impact statement is one that has been talked about today, although, of course, it is one of many, many parts of this bill. Now, as we know, the Criminal Code says that the victim impact statement shall be prepared in writing in advance, and the opinion of victims groups across Canada is that that does not prevent oral victim impact statements whatsoever. In fact, I understand that oral victim impact statements have been allowed in Manitoba and have been a part of the system, but it is only on a hit-and-miss basis. Are you yourself aware of any victim impact statements that have been read orally by a victim in person?

Mr. Hatch: No, in fact, I can cite a couple of occasions where the Crown attorney has expressly forbidden victims to state the impact that a particular crime has had upon their family, usually because they want to get a plea bargain through and get it dealt with as quickly as possible. They do not want to be confused with facts.

Mr. Mackintosh: As I recall, I think I am right in saying that Bev Frey, I think a member of your

organization who has been active in organizing the group, was allowed to make an oral victim impact statement in the sentencing of a matter involving her son. But, yes, this is just one example, and I am sure there may be others out there. I am just wondering, Mr. Hatch, though, what your views are on this bill as a whole. You said earlier these are rights that the victims already have, but of course these rights are not enforced right now, they are not lived up to, as you say. Do you see anything in this bill that gives you hope that these rights now will be enforceable and victims will enjoy now their rights that are supposed to be recognized?

Mr. Hatch: I would think that this act might be valuable if an independent outside person were to adjudicate; however, through my extensive dealings with the Justice department, I have absolutely no faith that a lawyer is ever going to say that a lawyer has violated your rights. They can colour it any way they like, but it is simply not going to happen.

Mr. Toews has to appoint someone from outside for it to have any effect whatsoever. As it stands, it is just totally worthless. It seems to me that this is something to go into an election with, saying: look at the wonderful thing I have done. You have to understand that victims have very little experience with the justice system, usually none, and they usually expect that the justice system is going to be on their side when they get there. It does not happen. They have no idea what their rights are, and if somebody says, well, look at all these rights we have given you, people will be happy simply because they have not experienced it.

Fortunately, for our side, the way things are going, you will see that one out of four Canadians gets to be a victim of crime every year so that should include everybody by the time, if not this election, but next election rolls around.

Mr. Toews: Thank you very much Mr. Hatch for coming down. I certainly appreciate your comments, as I have appreciated our discussions, or at least on one occasion when we had a chance to meet and discuss some of your issues. I know that you will continue to advocate for victims, you and your organization, and I think that is very important that you continue to do so. Thank you very much.

Mr. Hatch: Thank you.

Mr. Chairperson: Thank you, Mr. Hatch, for your presentation.

I call for the second time, Valerie Price. I understand that she is not in attendance. She has left a written presentation to be asked to be distributed to the committee. As well, I would ask for consent that the submission be recorded in Hansard. Is there agreement to that? [agreed] Thank you.

Bill 53—The Apprenticeship and Trades Qualifications Act

Mr. Chairperson: I call then the next bill, The Public Insurance Corporation Amendment Act, Bill 53. Sorry, I need to correct what I indicated a little while ago. It is Bill 53, The Apprenticeship and Trades Qualifications Act instead of The Manitoba Public Insurance Corporation Amendment Act. I understand that we have three presenters for this bill. The first presenter is Ken Pearn. Have I pronounced that correctly? Or Werner Beckmann, and they are here instead of Mr. Gervin Greasley. Which one of you—[interjection] Ken Pearn, Winnipeg Construction Association. The Clerk will distribute your presentation. Mr. Pearn, you may proceed with your presentation.

Mr. Ken Pearn (Winnipeg Construction Association): Thank you. Mr. Chairman, the committee. The Winnipeg Construction Association is the province's largest and oldest organization representing the nonresidential sector of Manitoba's construction industry. Our interest in Bill 53 is based on the following facts: (1) Our members employ 17,300 Manitobans which represents 64 percent of the industry; (2) Our work encompasses all 19 construction-related trades that are designated under The Apprenticeship Act; (3) According to the latest figures received from the Department of Education, there are approximately 1,500 apprentices in trades related to our industry.

It appears to us that Bill 53 addresses the number of recommendations made by the Apprenticeship Task Force following its public hearings throughout Manitoba, and we will address the new act from that direction.

* (1100)

Apprenticeship Board. Given the growing number of apprenticeship designations and the expanding number of trade occupations, the WCA has supported an expansion of the number of members of the Apprenticeship and Trades Qualifications Board in order to provide access for representatives from apprenticeship-related sectors. We are also pleased to see that the board will be increased to 12 people under Section 4.1.

Mr. Vice-Chairperson in the Chair

In our industry, by far the majority of our employees are not members of an employee association or a union. In recent years, we have asked the government to recognize that fact when it is making its appointments in various areas. Now that the employee representation on the board is to be expanded to five members, we look to the government to ensure that this body of employees is also represented on the board. We are also satisfied to see that the government has declined the suggestion by the Apprenticeship Task Force with respect to setting up a special operating agency system but has instead strengthened the board and its position of reporting directly to the Minister of Education.

Trade Advisory Committees. The task force and Bill 53 support the continuation of Trade Advisory Committees as subcommittees of the board and with responsibilities for recommending that such items as certification, curriculum and training needs and apprenticeship. The WCA supports this structure and looks for the government to begin increasing the activity level of these Trade Advisory Committees.

Under Section 19.1, the Trade Advisory Committees have recommended to the board a compulsory certification of a trade. The board will have the criteria to use in evaluating a request. The minister will have the final approval. This proposed system appears to have reasonable checks and balances while permitting appropriate applications to proceed. We are also pleased to see that Section 19(4) appears to offer some flexibility for grandfathering when a trade is to have compulsory certification.

Consolidation of fees, Section 25. The task force recommended a single-wicket approach through which all job-related licence fees would be collected by the Apprenticeship Branch and be part of an apprenticeship training fund. Section 25 of the bill enables fees of this nature to be collected by the department. However, it is our understanding that the co-operation of other fee-collecting departments will be necessary, and we recommend that the minister pursue this co-operation.

The task force also recommended tuition fees for students, and it appears to be enabled under Section 25. While the WCA supports the requirement for apprentices to pay tuition fees, we feel strongly that apprentices should not pay any greater portion of their course expenses than those that are paid by university students. We also recommend that not only the tuition be a student tax deductible expenditure, but that the government pursue also the cost of books and tools as also tax deductible.

Education requirements. Bill 53 outlines no specific criteria for education standards. We presume that these will come forward in the regulations. A release of the Department of Education indicated that Senior 4 high school will be a prerequisite education level of all Apprenticeship Programs.

Our industry is not unified on this matter. Many feel that students who leave school at Grade 11 or Senior 3 for economic or family reasons will be lost to our industry Apprenticeship Programs at a time when we are experiencing a shortage of skilled workers in many trades. Others feel that the apprentices do now need a senior high level of education in order to handle the new technology in the industry.

We would recommend that if Senior 4 is established as the prerequisite, that some flexibility be provided through which Senior 3 students can enter the Apprenticeship Program by upgrading in one or more individual courses related to the work, for example, Senior 4 mathematics.

The Employers Task Force and the public releases by the Department of Education have referred to changes in the Senior 4 curriculum in order to allow apprenticeship at the Senior 4 level. This is not specifically referred to in Bill 53. We expect that these

will come forward through regulations, and we request the Department of Education to consult with those employer sectors that have apprenticeship, prior to finalizing the regulations.

Similarly, program delivery, covered in the report recommendations, are not defined within Bill 53, and our similar concerns with seeing drafts of regulations would apply to this topic as well.

We strongly support the continuation of apprenticeship training in community college facilities rather than decentralizing them to a variety of educational institutes—our experience with colleges has been positive and we see no need for changes.

Marketing. The throne speech and the Department of Education release made reference to a professionally developed marketing and promotional strategies with respect to apprenticeship.

Recent independent surveys taken for the WCA indicate that not only is there a lack of awareness among students in academic schools relative to applied skill occupations, but that those schools do not generally promote applied skills occupations as part of the career choices for their students.

Similar surveys taken of the general public indicate that there is a large lack of awareness with respect to the wide variety of career choices in the applied skills fields, the good compensation available in most of these fields, and the benefits to the community in having individuals with those skills.

The Province of Alberta and the Province of Nova Scotia have both undertaken public awareness promotions to change attitudes toward applied skills occupations, and we recommend that the Province of Manitoba review these programs when arranging for a professional design of a Manitoba promotional program.

Recertification. The apprenticeship advisory committee originally recommended that the Trade Advisory Committees be permitted to recommend renewable certification with annual recertification fees.

WCA agrees with those who are convinced that a journey person certification is a life-time certification and should not be subject to annual renewable fees. However, we also fully support the voluntary efforts of apprentices to upgrade themselves in specific areas and to have some system of which upgrading is recognized.

In summary, given the changes in funding for apprenticeship announced by the federal government two years ago, and the subsequent shifts in control of funds, the Winnipeg Construction Association is pleased the province of Manitoba has reacted to the many presentations made to it directly, and through the public hearings of the Apprenticeship Task Force, in order to maintain what has been an important and effective training system in Manitoba.

Our association looks forward to continued dialogue and co-operation between the department and ourselves, particularly with respect to the development of practical regulations to implement fairly and effectively the changes that will begin with the coming into force of the new Apprenticeship Act. Thank you.

Mr. Chairperson: Thank you very much, Mr. Pearn.

Hon. Linda McIntosh (Minister of Education and Training): Thank you for your presentation. I appreciate not just the points you are making here about regulations, but the input that you, as your association, provided into the drafting of the bill.

I would like to just indicate that you have made some very solid and good suggestions for regulations. We intend to be fulfilling in terms of the regulations, when they are developed, the points that you have raised here. Some have already begun. For example, we have already written to Ottawa to see if we can get tools to be tax deductible. We made a decision that our own student will be tax deductible here, and the things that are needed in Ottawa we have written to address. In terms of the Senior 4 prerequisite, there will be exceptions for mature students, and, as well, students will be able to come back and take the one course, if they need Grade 12 mathematics, for example, for carpentry or some other trade, to give the flexibility that you are looking for here.

We have indicated that the community colleges will be playing a vital role in the course delivery. It will not be exclusive, but it will still be the main deliverer. There will be some training that can take place in the workforce with certain companies able to deliver that training. So we will have some flexibility, but we see the community colleges as being still the strong place where these are delivered.

We will be embarking—it has been universally requested—on a massive marketing campaign to heighten awareness of apprenticeship for students. That has come from every quarter, so we are accepting that. It is not part of the bill, but I think it is needed. I noticed, for example, even in doing the apprenticeship task force, or the apprenticeship announcement, that there was very little coverage in the media. They just did not seem to pick it up as a significant story when it is probably one of the most significant things we have done in this year's work. It just did not attract any attention because I think people are not aware of the importance of trades and trades training.

* (1110)

As well, your comments on recertification are well taken, and we will be looking in the regulations to try and address all of these points you have made. They are not really applicable to the act, but they are very good points. You have brought them forward, and others have brought them forward enough, to convince us that the regulations do need to reflect these very valid points you have made. So I thank you for bringing them to the committee's attention and for the interest you and your organization have shown in assuring that there are qualified people to take up the opportunities for trades. Thank you.

Mr. Chairperson in the Chair

Mr. Chairperson: Thank you very much, Mr. Pearn, for your presentation.

Ms. Jean Friesen (Wolseley): I had a couple of questions. Thank you very much for a very interesting presentation that raised certainly some issues that had not been raised elsewhere. I wondered, under the section Consolidation of Fees, you make the point that apprentices should not pay any greater portion of their

course expenses than are paid by university students for their courses. I wonder what kind of number you had in mind, because there is a wide range across universities as well as within universities. Did you have a kind of an ideal number in mind? I know I do not mean to pin you down on that, but there must have been something that you were thinking of.

Mr. Pearn: It is my understanding, it was when I went to university anyway, that technically I paid for approximately 20, 25 percent of my fees, my tuition, and the taxpayers of Manitoba picked up the rest. If it is the same now, then we would be looking at a similar arrangement for an apprenticeship where he or she is responsible for paying a portion of their fees and the rest would be covered by the taxpayers.

Provinces like Alberta, Nova Scotia, New Brunswick, are now charging tuition fees of approximately \$200, I believe the number is \$200 in all three cases, per course level for the apprentice. So we would be looking for something similar in Manitoba.

Ms. Friesen: You make the point about the continuation of apprenticeship training in community colleges rather than decentralized in a variety of education institutes. I wonder if you could elaborate on that for me. What are your concerns there? Do you see that happening now? What in the bill needs to be watched that might enable that tendency of decentralization that concerns you?

Mr. Pearn: We have had a working relationship for 20-25 years with the colleges. We are very happy with that relationship. What we are concerned about is, and I do not mean to slander any of these other institutions, but private colleges taking up the delivery of the programs. We are concerned that it will not continue to maintain the standards, the Red Seal standards that were set down by the Canadian Federation and the Canadian Construction Association. So we are just concerned that as long as we have the dialogue with the community colleges and the rapport that is already there, we would like to maintain that, rather than starting again with six or eight different individual business colleges trying to train the same thing.

Ms. Friesen: Is there anything in the bill that particularly would lead to that kind of decentralization

that we should be aware of, or are you thinking more generally of changes in the provisions in post-secondary education just generally apart from this bill? Is there something in this bill that we should be aware of?

Mr. Pearn: I do not think there is anything specific in the bill. It is just something that we are concerned about with loading of school costs and taxes.

Ms. Friesen: You made some points about the representation of employees, the boards and committees, and you look to the government, you say in your presentation, to ensure that this body of employees is also represented on the board. Do you have any advice for government on how they should proceed in making those appointments?

Mr. Pearn: No, but I believe at the present time that the board is represented by union employees and employers and nonunion employees and employers and Winnipeg representatives and rural representatives. We are just hoping that the four areas are still represented. I know it is a very difficult task to try and get all these people represented, but that is what we are concerned about, because half our members are union, half are nonunion, some live in the city, some live in the country. We just want to make sure that everybody is still represented and that they are all treated fairly.

Ms. Friesen: Thank you. You also, and, of course, one of the significant aspects of this bill, apart from now charging fees for apprenticeships, is the opportunity for compulsory certification of a trade, and you welcome that. Do you have any sense of which trades are likely to be, or which trades you would recommend be certified in the first round? Do you have any sense of where that is going from the experience you are talking about of Alberta and Nova Scotia?

Mr. Pearn: No, the WCA does not want to recommend certain trades. There are things like electricians and plumbers who are already compulsorily certified, but we would prefer it be left up to the Trade Advisory Committees of each trade, for them to make their own decision as to whether or not they need compulsory certification.

Ms. Friesen: Thank you. I wanted to ask you about something you had not raised in your brief, but it is on the designation of trades. It is Section 15(1) of the bill, and it says: "Subject to the approval of the minister, the board may by regulation designate, for the whole or any part of the province, a trade as a designated trade, and establish or approve objectives, standards and requirements", et cetera. I wondered if you had looked at that section and if it had raised any questions in your mind, if you had any concerns about it. I am particularly looking at the area which says "for the whole or any part of the province", that is, creating designated trades for a part of the province.

Mr. Pearn: I am not totally sure what you are referring to here. The way I interpret this particular section, I would assume it would deal with things like First Nations reserves, and, yes, we are concerned about that, that, again, without any slight to anybody, the standards coming off some of these reserves are not high enough to reach the commercial building code.

I know some of them in the carpentry trade and the plumbing trade, they have their own one-year or two-year programs, and then that is strictly for work on the reserve, but when these people come off the reserve, as they do come into the larger centres, we are concerned that the training that they have at that time is not at a high enough standard to meet the current building codes. We expect that they would be granted a level of certification as a first-year or a second-year apprentice and then have to continue from there to get their journeyman papers.

Ms. Friesen: You had raised one other point that I wanted to follow up on, and you said the co-operation of other fee-collecting departments will be necessary, and we recommend the minister pursue this co-operation.

Can you elaborate on that for me? What other agencies did you have in mind there, and how is this a change?

Mr. Pearn: Well, it is my understanding that everything used to be under the Department of Labour. Now we have taken the Apprenticeship Program and moved it into the Department of Education. But there are some things—like, I understand I may get my

apprenticeship under Education, but now I have to go to the Department of Labour to get a licence to do the work, okay? We are just asking that everything be brought together back under one umbrella, and, hopefully, it is easier to regulate that way.

* (1120)

Mrs. McIntosh: I just sort of highlighted a response to your brief, but just for your knowledge, we have already indicated that we have accepted the single-wicket approach, and we have begun dialogue between and amongst the various departments that are concerned, the Department of Labour, the Department of Education, the Department of Environment, et cetera, to co-ordinate that, to get the single-wicket approach in place.

In terms of the tuition fees, we have indicated to the field already—it was part of our announcement, but nobody paid much attention to our announcement unfortunately. Hence, we are going to proceed with the marketing thing, that our tuition fees we expect will come in around 10, 10.5 percent. It should be about the \$200 that was referenced with other provinces, and that is being shared with the field when we did our reaction to the task force.

So just those two additional bits of information might be useful for you to have, and I will conclude there. Thank you, Mr. Chairman.

Mr. Chairperson: Thank you very much. Mr. Reid, with one final question.

Mr. Daryl Reid (Transcona): Thank you, Mr. Pearn, for your presentation here today. There is part of your presentation, an issue that has been brought to my attention by people who are involved in apprenticeship training, and this deals with the advisory board and the TACs, the Trade Advisory Committees.

Under this legislation here, and I guess what I am going to be asking from you, sir, is your experience dealing with the representatives who would be involved with the TACs, but under this legislation here, it proposes that if you sit on the advisory body or you are appointed by the minister to sit on that body—and I am not sure how we are going to select the chairperson for

that particular body yet—it says that you can serve for two terms of three years each and then be off for one term of three years and then be reappointed for a further two terms. But if you are on a Trade Advisory Committee, you are only allowed to be on for two and then off again forever.

I am wondering, sir, what your experience is with respect to finding people to sit in on the Trade Advisory Committees, if you are experiencing any difficulties or whether or not it is advisable to leave this particular section in the act and what your experience would be with respect to the Trade Advisory Committees.

Mr. Pearn: Unfortunately, my experience with the Trade Advisory Committees has been pretty limited and I suppose negative because for a lot of these cases—for instance, the carpenters and the drywallers whom I work for, the Trade Advisory Committees have not met for a long time, a period of 15-20 years. They have not been active, so we are hoping that with this new legislation that these people will become active again, start meeting, and we can start going forward again.

With regard to the board members, I do not think I have any real opinion on it. I do not have the experience at this time anyway to deal with that.

Mr. Chairperson: Thank you very much, Mr. Pearn, for your presentation.

I call next Dave Martin and Frank Thomas, Manitoba Building and Construction Trades Council. Mr. Martin.

Mr. Dave Martin (Manitoba Building and Construction Trades Council): Good morning.

Mr. Chairperson: We will wait for the Clerk to distribute. Mr. Martin, you may proceed.

Mr. Martin: Thank you, Mr. Chairman, and good morning to you all. The brief of the Manitoba Building and Construction Trades Council is fairly short. I should not take up too much time. We have tried to highlight some of the issues of the act or proposed act that are most significant to our industry.

The Manitoba Building and Construction Trades Council includes 16 affiliated craft trade unions which

are actively involved in the Manitoba construction industry. Additionally, our council represents all the crafts that work in the industry and the construction journeymen who are trained through the apprenticeship system. We believe The Apprenticeship and Trades Qualifications Act should provide clearly for the recognition of compulsory certified trades and designated trades by additional regulations under Section 24(k).

The act should ensure protections for Manitobans who choose to enter a construction trade as an apprentice. Under the Trade Advisory Committee, Sections 11(3), (4), and (5), this language seems to restrict the continued contribution of advisory members who have served the trade well and who provide a valuable resource to that trade. The language that exists in Section 6(4) of the original act seems to more fairly address this concern. At the very least, wording proposed in Section 4(4) re: term of office for board members should also be equally applied to future trades advisory committee members.

Under the section, apprenticeship agreements, Section 16 should be a mandatory provision. Wording should be “shall” rather than “may,” and provisions should be included to provide that an employer and an apprentice shall enter into an apprenticeship agreement within 90 days of commencing employment in the designated trade. The purpose of designating a trade is to ensure practitioners of that trade are trained under an apprenticeship agreement. To allow permanent employees within a specific trade to continue employment without an agreement is an exploitation of the individual and allows for some employers to avoid their responsibility of training future journeypersons.

Under Section 17, termination of agreement, an apprentice makes a substantial investment of time and money. We are all aware of the tuition fees that have been enacted for the upcoming years, including the requirement to purchase tools necessary to learn his trade, and in some trades that is an extensive amount of money. This act should not allow an employer to arbitrarily terminate an apprenticeship agreement without demonstrating sufficient cause. Termination should be by mutual agreement or by approval of the director where good and sufficient cause therefore is shown to the director by one of the parties thereto.

Section 19(1), compulsory certification of the trades. Subject to the approval of the minister, the board shall by regulation specify for whole or in part of the province that a designated trade recognized by the Canadian Council of Directors of Apprenticeship, Interprovincial Standards, the Red Seal Program, is a compulsory certification trade. This amendment will ensure the established trades can move quickly towards achieving national standards, training and qualification within our province.

The amendments to Manitoba regulation 64/87 outlines the registration, examination, tuition and other fees that future tradespersons shall pay. This additional cost to apprentices will further dissuade any individuals from entering into an apprenticeship program. With the requirement of compulsory certification, the apprentices will then have the assurance that their considerable time and expense of attaining journeyman qualifications will be duly recognized by government and industry. There is little incentive in participating in an extensive apprenticeship if upon completion of the program you are displaced by a noncertified worker.

That concludes our presentation, Mr. Chairman.

Mr. Chairperson: Thank you very much, Mr. Martin. Are there any questions, comments?

Mr. Reid: Thank you for your presentation this morning. I had a couple of questions that I hoped to ask of the previous presenter, but they also apply equally to the current presenter. I would like to ask those questions. I see in the beginning of the presentation here it references Trade Advisory Committees with respecting terms of office. Would you recommend to the minister and to members of this committee that this Bill 53 be amended to allow for equal terms? I take by your presentation that would be the advice that you would give to the minister with respect to this bill.

Mr. Martin: In respect to the Trade Advisory Committees, the experiences that we have had within the building trades and that I have had personally is Trade Advisory Committees are sometimes difficult to man. Under ideal conditions I suppose, where there is a wealth of individuals and tradespeople to participate, possibly the proposed legislation would be suitable. In

practical terms, you will see individuals that sit on Trade Advisory Committees making valuable contributions, very knowledgeable of the trade and much appreciated, I believe, by the Apprenticeship Branch and the apprentices who are participating. I think we would be doing a disservice to the apprentices in particular and to the industry as a whole by not having some of these dedicated workers that sit on Trade Advisory Committees allow to continue their work until such time as others are found or suitable replacements are made. I think what we have there now is a situation where you are going to be on the committee for this one term, I believe, and then you are removed. I do not think that, given the length of time that changes in the apprenticeship system take, that is a workable solution or even an advisable one.

* (1130)

Mr. Reid: Are you also aware that, if I interpret this new act correctly, there may not be unless it is the minister's intent to put it into regulation, any provision in this act that, where you have a Trade Advisory Committee and a person changes status, in fact, for example, changes trade or becomes part of management or leaves the province, there is no mechanism within this legislation that would allow for the removal of such an individual from the Trade Advisory Committee, and therefore there could be problems in the future with respect to quorum of those Trade Advisory Committees?

Mr. Martin: We did not pay particular attention to that particular issue, but it is one that would be of concern. Many of us such as myself that represent trade organizations and unions in this province who speak on behalf of workers often change jobs, and I think similarly with our employer representatives who are in the industry and move on to other industries. So it is not serving the apprentices or the system well by having no means of replacing those individuals. I think the previous act addressed that issue, and it is something that needs to be back in this particular act.

Mr. Reid: With respect to the appointments of the Apprenticeship and Trades Qualifications Board, it is my understanding, if I interpret this correctly, that the minister will have the ability to appoint members to that board, including, I believe, the chairperson. Would it

be your advice to the minister and the department that the chairperson should perhaps be a candidate that would be selected perhaps with consensus from the stakeholders of the apprenticeship board rather than having the minister appoint that individual?

Mr. Martin: I believe those are some of the practices of other jurisdictions in other provinces where in fact the board members themselves elect or appoint their chairperson, and I certainly would welcome that change, even a co-chair scenario from employers and employees. I believe the chairperson has a valued role to The Apprenticeship Board in its direction and its work that it does. I think the industry players who are at the table as appointees to that board would do a welcome and admirable job in filling the role of chair and probably lead that board in the right direction. So I would agree with that statement.

Ms. Friesen: I wanted to ask you a similar question to that which I asked the previous presenter, and that dealt with the ability of the Trade Advisory board to designate for the whole or any part of the province a trade as a designated trade and the same is true for certified trades. Do you have any concerns about that part of a province? You talked about the importance of national standards, et cetera.

Mr. Martin: Our first inclination would be to say that our trade should be designated province-wide. It would be my hope that any industry board that is directing apprenticeship in the future would take that view. I am sure in respect to compulsory certification of trades, that also would be the case.

There is, however, I believe some recognition that we have remote communities that may have some difficulty attaining tradespersons in their particular jurisdiction where designation of trades may not work. I believe that it is sort of like a half a pie is better than no pie, and if we are moving in the right direction of getting designated trades and compulsory trades, there may be some acceptance to recognizing we do have areas of this province that are remote and have difficulty attracting tradesmen at this point. So there may be something to that.

Ms. Friesen: So your anticipation is that it would be used for remote communities, that would be the intent of the bill?

Mr. Martin: The other often considered issue around designated trades and compulsory certified trades, in particular, is within specific companies, such as possibly the mining industry or a mill scenario or a manufacturing setting. I see no value in carving out those industries. I think if the trade falls within the scope of the particular trade, whether it is a machinist or an electrician or what have you, that there is no value in carving out those industries apart from a compulsory or designated trade.

Mr. Chairperson: Thank you very much, Mr. Martin, for your presentation. I call next Mr. Rob Hilliard, Manitoba Federation of Labour. Mr. Rob Hilliard. Mr. Hilliard, have you a presentation for distribution?

Mr. John Doyle (Manitoba Federation of Labour): Yes, unfortunately, Mr. Hilliard is not able to attend today. My name is John Doyle, and I am an employee of the Manitoba Federation of Labour.

Mr. Chairperson: Thank you, Mr. Doyle, you may proceed.

Mr. Doyle: The Manitoba Federation of Labour is pleased to be given the opportunity to share our views with you on amendments being proposed to The Apprenticeship and Trades Qualifications Act as outlined in Bill 53.

As many of you are aware, the MFL is the only central labour body that has as its jurisdiction all of Manitoba. Our structure is based on grassroots democracy in that regularly scheduled conventions and conferences decide our aims and objectives and how to attain them. These decisions are made by delegates elected by their fellow union members and workplaces. At our last general convention, delegates debated and passed resolutions dealing with apprenticeship training that reflect our deep concern about the future of the program and some of the aspects of its current transition.

We are greatly disappointed that the federal government has chosen to sacrifice apprenticeship training on the altar of deficit and debt reduction. We believe that whatever savings accrue to the federal Treasury as a result are a false economy. We believe that the Canadian people, workers, the economy, and

the public Treasury would all be better served in the future if our young people and workers in transition from one career to another had easy access to high-quality skills training.

In our view, the long-term benefits are far more substantial than the short-term savings. Intended or not, the federal government's action put national standards, worker mobility and co-ordinated planning at risk. By turning responsibility for apprenticeship training over to the provinces, it is inevitable, in our view, that differences will creep into the program as each jurisdiction grapples with its own fiscal and social challenges.

The government of Manitoba is on record as being committed to the long-term viability of apprenticeship training. In fact, the minister responsible has committed the government to doubling the number of working people in apprenticeship training programs in the near future. These are ambitious and laudable goals. However, we urge the government to plan carefully and ensure that all Manitobans have easy access to this training.

One element of Bill 53 empowers the minister to set tuition levels and charge for textbooks, a marked departure from past practice. It is our understanding that tuition levels will be set at \$200 per year, as of the coming academic year, and students will be required to pay for their textbooks. We fear these policy changes will establish a systemic barrier to low-income working people, the group most in need of access to higher-paid jobs that apprenticeship training leads to. It may be an even more formidable barrier to aboriginal workers who are currently seriously underrepresented in the workforce. According to demographic projections, aboriginal workers are likely to make up a much higher percentage of the workforce in the near future.

Recent fee increases authorized by cabinet only serve to make that systemic barrier higher. In addition to tuition fees of \$200 and book costs of potentially up to several hundred dollars over the life of the program, fees such as \$50 to register an apprenticeship agreement, \$75 for a practical examination, \$100 for a prior learning assessment and recognition test, \$250 for a trades qualifications assessment examination, \$75 for a re-examination, \$75 for a review and validation of

credentials and others, make the financial burden substantial. We fear access to apprenticeship training by disadvantaged groups may simply be impossible.

To a casual observer, \$200 seems to be a modest fee for apprenticeship training. But it establishes a threshold for training that did not exist before, one that is easily increased in the future as governments search for new or larger sources of income. These policy changes have been defended by some as creating conditions for apprentices that are no more onerous than those imposed on university and college students. Such a comparison, in our view, is not valid.

Since the average age of apprentices is in the mid-twenties, most apprentices are no longer residents of their parents' home with access to parental resources. Many are already in the workforce, albeit low-income jobs, with monthly financial obligations that must be met or with family obligations of their own. Often apprentices voluntarily accept lower pay in order to get into apprenticeship programs. They are already making a financial sacrifice in order to have a better future, and this sacrifice should be regarded as their tuition.

We urge the government to keep apprenticeship training programs as accessible as possible and not allow them to become as inaccessible as university and college education programs have become.

We believe the changes to the structure of the apprenticeship board that are proposed in Bill 53 are an improvement. Proposing that five members come from labour, five from business, two community representatives, with a neutral chair, seems to ensure balance. We believe that the two community-based appointees should directly represent the interests of women and aboriginal workers in apprenticeship training. The number of apprentices from these equity groups have historically been low, pointing out the need for representation and proactive planning.

We note that there is a time limit governing Trade Advisory Committee membership tenure, two three-year appointments. At the same time, there is no practical limit governing how long members of the apprenticeship board may sit. There seems to be no apparent reason for this difference. We recommend that the provisions governing how long members of

Trade Advisory Committees may sit be amended to match the provisions applied to apprenticeship board members.

* (1140)

Another TAC consideration is the failure of Bill 53 to address situations that arise from time to time. We recommend that there be provisions governing the removal of TAC members when their circumstances subsequently change. For example, worker TAC members may be promoted into management ranks, or they may open their own business, becoming employers themselves. TAC members may move from Manitoba, they may die while in office, or they may stop working in the trade that they are advising on. There needs to be a process to remove such individuals from Trade Advisory Committees and reappoint more appropriate representatives.

In our view, making provision for designating some trades as requiring compulsory certification is a positive step forward and helps ensure the long-term viability of quality training and high-skill workers. It signals to apprentices that their sacrifices now will be rewarded with realistic employment opportunities later on. It also has a positive implication for public safety and consumer protection, particularly when consumers are not well placed to properly judge the quality of goods or services provided.

We do have one area of concern: Section 19(4) allows the director to exempt some workers and employers from their requirements of compulsory certification. There may be a circumstance when that is appropriate, but the director's decision should be accountable to the stakeholders. Bill 53 does not allow an appeal of this decision, and it appears to us that this may be a very large loophole that undermines the entire section.

An aspect of Bill 53 that causes the MFL some concern is Section 17(6) which deals with the termination of apprenticeship agreements by either party without the consent of the other party. Currently, termination requires mutual consent. The change creates insecurity for apprentices and removes the onus of just cause from the employer. We are unaware of what difficulties that exist that have led to this

amendment, and urge the government to leave things as they are. If there is a valid reason to terminate the apprenticeship agreement, then surely it can stand the test of the light of day in open review.

Another aspect of the apprenticeship agreement provisions that concerns us is related to the period of time that can elapse before an employer is required to register the agreement with the apprenticeship board. It strikes us that it is in the best interests of the apprentice to make this a short period. Under the current act, the parties are given 30 days to register an apprenticeship agreement, a period that we feel is too long. Bill 53 appears to contain no time limit at all. We can think of no valid reason for there not to be a time limit, perhaps on the order of 10 working days. This ensures that apprentices will get the benefit of the regulations governing the program and credit for work and learning that they do.

We are concerned that the provisions in Bill 53 create inconsistencies and the possibility of the denial of justice. Section 21 limits appellants to six specific grounds for appeal of the director's decision plus decisions specified in regulation. This is a change from the current Apprenticeship Act which allows an appeal of any decision made by the director. A situation mentioned earlier concerning the director's ability to grant exemptions from compulsory certification is a good example of this weakness. Section 21(1)(f) allows an appeal of the director's decision to deny an exemption for compulsory certification, but it does not allow an appeal of a decision to grant an exemption. This anomaly does not make sense to us, nor does it provide confidence that there is a fair and open process for the stakeholders to seek redress if mistakes are made.

The MFL supports the idea that individuals ought to have access to an appeal mechanism for any decision made by the director. At the very minimum, Section 21(1) should be amended to allow for an appeal of any decision the director may make concerning compulsory certification.

Overall, the MFL considers Bill 53 to be an improvement to The Apprenticeship and Trades Qualifications Act. We urge this committee to consider the relatively few amendments that we have suggested

and pass them in order to make the act more improved. A vibrant apprenticeship training structure that results in highly skilled, qualified workers in Manitoba is essential for Manitoba enterprises to remain competitive with other jurisdictions inside and outside Canada. There are already signs of skill shortages occurring here and there, and many Manitobans with the ability and the desire to improve themselves and to make a greater contribution to our economic prosperity. The Manitoba government should marry those needs for the benefit of all Manitobans. Thank you.

Mr. Chairperson: Thank you very much, Mr. Doyle, for your presentation.

Ms. Friesen: I am sorry. I do not have a written copy of your presentation. It came only with the three pages, so I am sorry if I will—

Mr. Doyle: I have an extra copy in my briefcase.

Ms. Friesen: Okay, thanks. I wanted to ask you about the designation of trades for the whole or part of the province and wondered if you had had any discussion of that or any concerns about that.

Mr. Doyle: No. The only concerns that I have been aware of have been expressed by Mr. Martin previous to me, and that is, from time to time, there might in fact be a practical reason to limit the scope of a designation in order to accommodate a situation that has no other remedy.

Ms. Friesen: Did you attach amendments to this particular brief? You mention amendments in your presentation and particularly the ones dealing with appeals on Section 21.

Mr. Doyle: No, this is the only reference to apprentices—amendments rather.

Mr. Chairperson: I am sorry, Mr. Doyle, unless I recognize you, your mikes are not going to be turned on, and you will not be recorded for posterity. So, if you can allow me that I can identify or recognize you, then we will make sure that the record is clear.

Mr. Doyle: I am with you.

Mr. Reid: Thank you, Mr. Doyle, for your presentation here this morning. I note that, in the earlier part of your presentation, you reference terms of office for the Trade Advisory Committees when compared to the Apprenticeship and Trades Qualifications Board, and I share your concerns in that regard. With respect to the overall training program, and I look back to comments made by previous presenters as well, there appears to be more that we can do to promote the apprenticeship training programs in our province. What would be your comments or recommendations to the Department of Education and Training with respect to their activities to try and encourage more people to become involved in apprenticeship training? Should the department be making greater efforts to advertise the apprenticeship programs that may be available? Should we be concentrating our efforts in the high schools or junior highs in our province to encourage young people prior to their leaving school to become involved? What recommendation or advice would you give to the department in regard to those types of apprenticeship training programs?

Mr. Doyle: The Manitoba Federation of Labour would support any advertising or promotion program that promotes the use of apprenticeship training as a way to obtain a better future and, indeed, to remove some of the perhaps stigma that may be attached to a trades career as opposed to that of a rocket scientist.

Mr. Reid: With respect to fees, because the minister has referenced—I think \$200 was the figure that she mentioned with respect to apprenticeship training—you reference in your presentation here this morning that those types of fees are easily increased. I take it then that you would compare this to a user fee that can be adjusted by the department through regulation. What recommendation would you give to the Department of Education and Training with respect to these fees to make sure that they are not escalated continually over a period of time? How would you put in place a reasonable fee if that is your wish? If so, how would you make sure that that is controlled?

* (1150)

Mr. Doyle: The MFL is very aware, very acutely aware, of the pressures that have been placed on not

only Manitoba but all provinces by what we feel is the federal government's ill-advised decision to withdraw financial support for apprenticeship training across the country. We feel that it has created a condition where some provinces are better placed to fund and come up with the money that is necessary to have a high-quality apprenticeship training program. Other provinces will have a much more difficult time to meet this challenge and may, in fact, feel forced into setting a fee structure that is very aggressive and will amount to be what we feel is a systemic barrier. We think that as much as possible the financial support for apprenticeship training should come out of general revenue or some other mechanism that does not close the door and make it impossible for some low-income earners to enter apprenticeship training programs.

Perhaps if fees were absolutely necessary, they should reflect only the real cost of administering the paperwork that is entailed by the various tests and kinds of activities that fees are associated with, the idea being to make apprenticeship training as accessible to as many people as possible.

Mr. Chairperson: Thank you very much, Mr. Doyle, for your presentation.

That concludes the list of presenters that I have before me this morning. Are there any other persons in attendance who would wish to make a presentation that I have not been apprised of?

Seeing none, is it the will of the committee to proceed with clause-by-clause consideration of bills, and if so, in which order do you want to proceed with the bills?

Mr. Edward Helwer (Gimli): Mr. Chairman, I wonder if we could proceed with the justice bills, Bills 39, 40 and 43, at this time.

Ms. Friesen: We would like to delay Bills 53 and 34 since both of those came with proposed amendments from presenters who are here, and some of the amendments may well indeed be acceptable to the minister. We would like to delay those for the moment.

Mr. Chairperson: If we accept, Ms. Friesen, the recommendation of Mr. Helwer, then we would delay

them till at least later on today and/or maybe tomorrow. That would seem to be the agenda here today. If that is agreeable, then can we proceed then on that basis? [Agreed]

Thank you. If it is the will of the committee then that we would proceed with Bills 39, 40 and 43. Is that agreed? [agreed]

Could we decide then when this committee wants to adjourn? Do you want to adjourn at twelve o'clock, 12:30? Twelve o'clock? [agreed]

We will then adjourn at 12, and the committee will then reconvene at three this afternoon.

We could deal with one of the bills clause by clause, I would suspect, before we rise for lunch. Agreed? [agreed]

Bill 39—The Highway Traffic Amendment Act (2)

Mr. Chairperson: We will proceed then with Bill 39. Does the minister have an opening statement? No? Does the opposition critic have an opening statement?

Mr. Gord Mackintosh (St. Johns): The minister has been provided with two proposed amendments, and I trust that he has now had the ability to look over those amendments to see if they are acceptable to the government.

I first of all want to have the minister address a couple of questions. I know the minister was engaged in some apparent puffery with this bill saying it was the first of its kind in North America. It actually looks like a seizure law of vehicles to deal with prostitution has been something tried and tested across North America in a number of jurisdictions. Those jurisdictions are either local ordinances or state laws in the United States. The puffery aside, I am just wondering as a result of that finding, did the minister not review the experiences in those other jurisdictions at all?

Hon. Vic Toews (Minister of Justice and Attorney General): I understand that the staff has not only examined North American jurisdictions but jurisdictions outside of North America. We are familiar

with one jurisdiction in North America that may have similar aspects, and that is California. That one is a state law.

Mr. Mackintosh: In light of that, I am wondering why the minister then proclaimed to the media that this legislation was the first of its kind in North America.

Mr. Toews: If you compare the legislation, I think there are substantive differences between the two types of legislation. If you want to go through the two types clause by clause, we can.

Mr. Mackintosh: The fundamental aspect of the legislation is, of course, taking vehicles from johns, and that is the subject of legislation across the continent. I am just wondering why the minister would make a statement that was certainly misleading to the public.

Mr. Toews: Mr. Chair, I mean, this is a member who came to the House the other day, made announcements in respect to The Victims' Rights and Consequential Amendments Act, said that the government was eliminating certain categories of compensation for victims when his office, in fact, had contacted my office, had asked, in fact, whether or not this was to be continued. The office advised him that it was to be continued, and then he comes to the House and indicates that it was not continued.

You know, for this member to deal in this kind of attack, which he does on a fairly frequent basis, frankly, is simply not acceptable. As I indicate, if, in fact, he feels that there is a substantive similarity between the two in California and Manitoba, then I stand corrected.

Mr. Mackintosh: The changes to victim compensation will be dealt with under that legislation, and, of course, there are classes of compensation that are eliminated under the new legislation. In fact, it was discussions with staff that led us, in part, to the conclusions. What will happen in regulations, who knows, Mr. Chairperson?

But my second question is then, what new resources, if any, does the minister plan to make available to law enforcement officials pursuant to the enforcement of this legislation?

Mr. Toews: Well, Mr. Chair, one of the issues that does need to be looked at is how the law is to be administered. One of the goals of the particular legislation was to make it as administratively simple as possible, and that is why it was drafted in the manner that it had been drafted.

So, Mr. Chair, the enforcement of legislation is a police duty. I think we worked very closely together with the police in respect of the johns school and now the janes school that is being set up. We have worked close together to ensure that there is representation made by the police to ensure that these laws can be enforced.

I was very familiar with the implementation of the legislation back in 1989 dealing with the seizure of motor vehicles for suspended drivers. The way the legislation was designed was to ensure a measure of administrative efficiency, so that the work could be conducted in conjunction with the criminal proceedings so as not to cause additional workloads for the police that could not otherwise be accommodated.

So those are issues that my staff, no doubt, will continue discussing with the members of the police force, and our intention is to ensure that the legislation is effectively carried out.

Mr. Mackintosh: I know the act contemplates fees, and I am wondering what the fee schedule is that the minister has in mind that will be set out in regulations.

* (1200)

Mr. Toews: Well, those fees are yet to be determined, but I think some of them will bear a strong resemblance to the fees that are levied in respect of the seizure of motor vehicles for suspended drivers. That is an issue separate and apart from the issue of the forfeiture of the motor vehicles.

Mr. Chairperson: Is it then the will of the committee to consider the setting aside of the title and the preamble as normal and shall we pass Clause 1 to Clause 3—pass; title—pass; preamble—pass.

Mr. Mackintosh: Mr. Chair, where is Clause 3 here?

Mr. Chairperson: On page 12, I believe, of the bill, if you look, Mr. Mackintosh, the end of the bill.

Mr. Mackintosh: We have not gone clause by clause through the bill.

Mr. Chairperson: We went past Clause 1 to Clause 3.

Mr. Mackintosh: No, there was no vote, even on Clause 1, Mr. Chair. We have amendments to this bill, and I advised you earlier.

Mr. Chairperson: Oh, I am sorry.

Mr. Mackintosh: The minister has these amendments—

Mr. Chairperson: Clause 1—pass.

Clause 2.

Mr. Mackintosh: Mr. Chair, I have an amendment to Clause 2 after subsection (8).

THAT section 2 of the Bill be amended by adding the following after the proposed subsection 242.2(8):

No release if offence involves a child or a previous offender

242.2(8.1) A vehicle shall not be released in the circumstances mentioned in clause 8(b) if

(a) the offence for which the vehicle was seized was committed in relation to a child; or

(b) the alleged offender has a previous conviction under section 211, 212 or 213 of the Criminal Code (Canada) or has been dealt with by way of a program of alternative measures authorized under clause 717(1)(a) of the Criminal Code (Canada).

[French version]

Il est proposé que l'article 2 du projet de loi soit amendé par adjonction, après le paragraphe 242.2(8), de ce qui suit:

Remise de véhicule interdite

242.2(8.1) *La remise d'un véhicule dans les circonstances prévues à l'alinéa 8b) est interdite dans les cas suivants:*

a) *l'infraction qui a entraîné la saisie du véhicule se rapportait à un enfant;*

b) *le présumé coupable a reçu une condamnation antérieure sous le régime de l'article 211, 212 ou 213 du Code criminel (Canada) ou a suivi un programme de mesures de rechange autorisé en vertu de l'alinéa 717(1)a) du Code Criminel (Canada).*

Motion presented.

Mr. Mackintosh: I will speak to the amendment, Mr. Chair.

We support very much the purpose and principle of this legislation; indeed, we believe we have a part to play in it having actually come to see the light of day in the Legislature after a commitment was made to this kind of legislation in the '95 election campaign.

Now there are two concerns that we do have with the details of the bill, and this addresses the first one. That is that in effect the legislation in no small way decriminalizes johns, particularly—and I am concerned about the effect it will have by treating johns of child prostitutes and repeat offenders the same as other kinds of johns. We think that, well, the johns school is an important addition to consequences. We have concerns that the legislation allows for a john of a child prostitute or a repeat offender to avoid criminal sanctions and a record by attending johns school just the same as other johns.

Now we understand at the administrative level the johns school is not supposed to be taking in johns of child prostitutes or repeat offenders. Whether that in fact is occurring or not, I am not sure. I understand that every john that was charged last year went to the john program so I wonder if the right questions were asked as to the nature of the offences for which there were alternative measures. But, by having the hammer of vehicle seizure and forfeiture, there is no doubt in my mind that any john in his right mind would agree to go to the alternative measures.

That being the case, I think it is important that the alternative measures not be a substitute for criminal sanctions for johns of child prostitutes and repeat offenders. I know the minister has had an opportunity to look at this amendment. I am wondering if it is acceptable to the government then that this change be made in order to ensure in law, not just at an administrative level, that the criminal sanctions not be avoided by the alternative measures here for johns of child prostitutes and repeat offenders. After all, we have to get serious and very serious about child prostitution in this province; it is a very serious offence. We have to look at innovative and different ways of dealing with that problem. Insofar as this bill goes, we think it is important that those kinds of offences be dealt with differently and, again, for repeat offences.

As well, we want to just add that we have no problem with john schools being available to those kind of offenders, and we think that is very important. At the same time, it should not be made available to the exclusion of criminal sanctions and a record being recorded.

Mr. Chairperson: I am wondering what the will of the committee is, whether you want to continue the debate on this bill till we finalize this bill, or whether you want to adjourn as you had previously indicated. What is the will of the committee? Do you want to continue the debate until we have made final consideration of this bill? Is that the will of the committee now? [agreed] Okay, then we will proceed in that manner.

The item before us is the amendment to Section 2 of the bill and proposed subsection 242.2(8).

Mr. Toews: Mr. Chairperson, the earlier comments of the member are very helpful to explaining why the government did not include measures such as these cited at this time, and there are other reasons as well. Firstly, I should indicate that the federal government now has passed legislation relating to child prostitution which will enhance the ability of police to deal with child prostitutes. We feel that that type of legislation needs an ability to work to see how the impact is to be made.

In respect of making these particular amendments, first with respect to subsection (a) where the vehicle

seized was committed in relation to a child, there are serious administrative difficulties that arise as a result of that. I am advised of that by staff. So we feel that with the federal amendments now relating to giving child prostitutes a greater measure of protection by authorities will go a long way to addressing some of the concerns that the member has raised.

The other point is that the legislation, generally, speaks to all prostitutes, not just child prostitutes, so the legislation already relates to child prostitutes. We feel that the manner in which we have passed this legislation, given that the province does not have the jurisdiction to pass criminal law, this is in fact the most effective way of doing this. I am not saying that the amendment is without merit but, as indicated, this is, if not the first, certainly one of the first laws to this effect in North America, certainly in Canada. In the United States, we can always point out that the Americans do not have to worry about the criminal law issue because each state has the criminal law jurisdiction, which the province does not.

So I am very concerned for administrative, constitutional and other reasons that this amendment not proceed. I am not saying that it is not a worthwhile consideration, but I think one of the things that our government has ensured is the success of some of these past legislative endeavours, both the seizure of motor vehicles for suspended drivers and the administrative .08, is the fact that it has been administratively easy to implement, and I want to ensure that that, in fact, occurs.

* (1210)

With respect to the other measure, I am not saying that, again, there is not some merit to considering that. That is, in fact, the way the program is being run, that they are first offenders, and the program has been very, very successful. I do not want legislation at this time interfering with the success of that program.

If, in fact, the member can demonstrate the program is not being run in accordance with the guidelines that are made, I think, fairly clearly, then we can consider this at a later date. But my concern right now is to ensure the administrative efficiency of the act and,

secondly, that we do not run into problems with the criminal law. So, at this time, I could not support this amendment.

Mr. Chairperson: Mr. Mackintosh, to close debate on the amendment.

Mr. Mackintosh: Well, I regret that position, but then I am required to ask and to seek the minister's assurance on the record that offences involving a child or a previous offender will not result in the vehicle simply going back to the offender and the person avoiding the sanctions by an alternative measures scheme. Can you make that assurance?

Mr. Toews: Just one final comment. What one has to understand is what the member is proposing is that innocent owners would be deprived of getting their motor vehicle back. So, for example, if someone borrowed the member's car, and someone else used that motor vehicle, propositioned a child prostitute, and even if that can be proven subsequently, and even if that can be determined at the beginning, what the member is saying is that an innocent owner cannot get their motor vehicle back.

So what this legislation presently does is to ensure that motor vehicles are returned on a timely basis. That was my understanding of that section. I do not want to create any difficulty for someone. If my interpretation of that is wrong, I will stand corrected, but at this time I can indicate that the reason we are taking this position is because I want to ensure the constitutional integrity of the statute and the administrative efficiency of the statute. I am not saying that we cannot consider these if practice does not indicate that the right things are being done.

Mr. Chairperson: Shall the amendment pass?

Some Honourable Members: No.

Some Honourable Members: Yes.

Voice Vote

Mr. Chairperson: All those in favour of the amendment, would you say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, would you say nay.

Some Honourable Members: Nay.

Mr. Chairperson: I declare the amendment lost.

Mr. Mackintosh: On division.

Mr. Chairperson: On division. The amendment is defeated on division.

* * *

Mr. Chairperson: Now, Clause 2—pass.

Mr. Mackintosh: The next amendment is actually at the end of Section 2, so it is part of Section 2 of the bill.

Mr. Chairperson: We will hear the proposed amendment for Section 2.

Mr. Mackintosh: That the following be added after Section—it is 2.1. No, it is 2.1, sorry.

Mr. Chairperson: Item 2 is accordingly passed. Now, I will hear the amendment.

Mr. Mackintosh: I move

THAT the following be added after section 2:

2.1 Section 264 is amended

(a) by adding the following after subsection 1.1—dispense.

Automatic suspension for prostitution related offences 264(1.1.1) If a person is convicted of an offence under section 211, 212 or 213 of the Criminal Code and a motor vehicle was being operated in the course of committing the offence, that person's licence and his or her right to have a licence is hereby suspended.

(a) in the case of a first conviction, for a period of one year; and

(b) in the case of a second or subsequent conviction, for a period of 5 years.

(b) in subsections (1.2), (2), (3), and (15), by adding "or (1.1.1)" after "subsection (1) or (1.1)" wherever it occurs; and

(c) in subsection (3), by adding "or clause (1.1.1)(a) or (b)" after "clause (1.1)(a) or (b)".

[French version]

Il est proposé d'ajouter, après l'article 2 du projet de loi, ce qui suit:

2.1 L'article 264 est modifié:

a) par adjonction, après le paragraphe (1.1), de ce qui suit:

Infractions se rapportant à la prostitution

264(1.1.1) Quiconque est déclaré coupable d'une infraction que vise l'article 211, 212 ou 213 du Code criminel voit son permis de conduire et son droit de détenir un tel permis suspendus si un véhicule automobile a été utilisé pour commettre l'infraction. La durée de la suspension est:

a) d'un an dans le cas d'une première condamnation;

b) de cinq ans en cas de récidive.

b) dans les paragraphes (1.2), (2), (3) et (15), par substitution, à "paragraphe (1) ou (1.1)", à chaque occurrence, de "paragraphe (1), (1.1) ou (1.1.1)";

c) dans le paragraphe (3), par substitution, à "ou (1.1)a) ou b)", de ", à l'alinéa (1.1)a) ou b) ou à l'alinéa (1.1.1)a) ou b)".

Motion presented.

Mr. Mackintosh: The legislation makes an important step forward, but we think that the step is a sure step if we add an additional sanction. What we are proposing by this subsection is that not only might one have their vehicle seized and forfeited on conviction, but on conviction one can also lose their driver's licence. We think that in a scheme, for example, where someone

can essentially buy out the sanction, that is, if an offender simply pays the value of the vehicle, they can get the vehicle back immediately. That does not speak loudly enough. In that case money talks and money talks alone. We think it is important that another sanction be available as well.

We also know, as the minister does, that this legislation may well, if it is indeed enforced, face constitutional challenge on two grounds, the first being that it may or it may not be federal jurisdiction in the sense of criminal law as opposed to property and civil rights or administrative scheme; second of all, just the sanctions that may come to bear before one is convicted. We agree with the government; we should damn the torpedoes and go ahead with this legislation. We think there are serious consequences for neighbourhoods continuing unless this kind of legislation is brought in, but we think that the loss of driver's licences would be more constitutionally acceptable in the event of a challenge, even more so than the legislative scheme as it is now of taking vehicles.

Licences are directly given to Manitobans as a privilege. We think that if that provision is put in there, not only is there more serious sanction available, but the legislation will be stronger constitutionally at least in one way.

Mr. Toews: Well, again, for the two reasons I cited on the previous amendment, I cannot support this amendment. First of all, this creates very, very serious administrative difficulties, and I do not want it difficult for the police or my department to administer. As indicated earlier, this is one of the first, if not the first, such statute in North America, and given that in Canada we do not have the criminal jurisdiction, there are also issues of constitutionality. So the focus here has been very similar to the process that we set up on the seizure of motor vehicles for suspended driving.

I want to see how this legislation works. We believe it is constitutionally sound, and, again, if in the future there are additions that can be made, we will make those if they are seen in the public interest. But, again, for the reasons of administrative feasibility and constitutional concerns, I cannot support this particular piece of legislation. We have seen in past legislation,

with the seizure for suspended drivers, that we have made additions as the program has developed and our constitutional position has been made clearer.

I do not support the member's position that—I think his words were darn or damn the torpedoes. I do not support that. I think our position is very carefully, constitutionally crafted in order to ensure that this will be upheld. So I am willing to look at this in the future, but I cannot support it at this time.

* (1220)

Mr. Mackintosh: I do agree with the minister that we think that this will pass a constitutional test, although we recognize that challenges may lie ahead. The belief of this side is that the taking away or the automatic suspension of driver's licences is actually constitutionally stronger than other aspects of the legislation.

Finally, we just wanted to put it on the record that we believe that this is not administratively difficult, particularly for the police, because this will be administered by the motor vehicle people, the administration of the Province of Manitoba, and not by law enforcement officials. It follows on other kinds of schemes, whether it be for failure to abide by maintenance enforcement orders or involvement in such offences as auto theft and vandalism. So we put on record our disappointment that the government has not seen fit to strengthen the legislation in this regard.

Mr. Kevin Lamoureux (Inkster): Mr. Chair, I just had a question that I want to maybe pose regarding the amendment, just to get some sort of feedback. Given that this is relatively new legislation that is being introduced, I think it provides a tool for our law enforcement officers and the courts to be able to address a real problem that society has. It seems to me that what you want to do is that you do want to come in very hard on this particular issue.

I look at the issue of prostitution, and I think it is a little more complicated than John drives up with his car, picks up a prostitute, now John loses the car. A lot of prostitution, from what I understand, is delivered where it is a taxi driver. A taxi driver will go and pick up a prostitute and deliver the prostitute to a John. It seems

to me that this particular tool has a good opportunity to address the issue, but I think it is only one tool to address the broader issue. It seems to me that this particular amendment wants to continue to use the vehicle of a John, and I am wondering if in fact we are establishing somewhat of a two-tiered system in the sense that for the individual who solicits prostitution through a vehicle, in particular, his own vehicle, compared to someone who has it brought in or uses a taxi driver or something of this nature, that individual is not going to be penalized nowhere near the same.

I look at this legislation as a positive step forward, something which we need to learn by and modify in time. I am wondering if the member for St. Johns (Mr. Mackintosh) would agree that before we get overly excited about making the law too heavy on the disposition side of it that in fact it is not in our best interests to see how it is going to be developed over the next one or two years because I think there are going to be other things that will come up that could have an impact on amendments such as this bringing forward.

In other words, are we going too overboard on something which is just one tool to fight prostitution?

Mr. Chairperson: I want to remind committee members that we had an agreement that we would rise at 12. It was the opposition members that indicated we wanted to rise at 12, and we are now at 25 minutes past that. I just want to indicate that the next time we have a time limit established in committee, I will adhere very strictly to that time limit once it has been established.

I am willing to sit and listen to the debate to end the debate on this bill and pass this bill, if that is the will of the committee, but I would suggest that we do that within five minutes or else I will adjourn committee at 12:30.

Mr. Mackintosh: Just to follow up on those remarks—by the way, Mr. Chair, I have no further remarks after that—we certainly agree and we said on the second reading that this bill addresses only one aspect of prostitution and that is street prostitution. It is not our job to defend the bill, but we say that we certainly agree that street prostitution is a very, very serious aspect of prostitution that is really affecting

neighbourhoods and people and small children in their communities, the communities that we represent and other communities.

So what we have urged the government is that it recognize that this bill is only one small response that is required. Look at the Child and Youth Secretariat report, for example, look at the issue of gangs on a comprehensive basis and deal with the big picture as well. In terms of street prostitution in our neighbourhoods, I say, if we are going to get serious, let us get really serious, and that is why we propose this amendment.

Mr. Chairperson: Shall the amendment pass?

Some Honourable Members: No.

Some Honourable Members: Yes.

Mr. Chairperson: On division?

Voice Vote

Mr. Chairperson: All those in favour of the amendment.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, would you say nay.

Some Honourable Members: Nay.

Mr. Chairperson: I declare the amendment lost on division.

Clause 3—pass; preamble—pass; title—pass. Bill be reported. Thank you.

I just want to remind the committee before we rise that this committee will again meet at three o'clock. Committee rise.

COMMITTEE ROSE AT: 12:25 p.m.

WRITTEN SUBMISSIONS PRESENTED BUT NOT READ

Submission on Bill 43, The Victims' Rights and Consequential Amendments Act

The Manitoba Association for Rights and Liberties (MARL) is a provincial, nonprofit, nongovernment volunteer advocacy group. MARL seeks to promote respect for and observance of fundamental human rights and civil liberties in Manitoba.

June 22, 1998

The Manitoba Association of Rights and Liberties has some concerns regarding this proposed legislation. Access to the justice system is an important part of any democracy. Equally important (or even more so) are the rights of the accused, which must be protected against emotions which can unduly inflame prejudice. In this context, we have the following concerns:

Section 3 sets out "general rights of victims." Our concerns lie with subsections (c) and (d), which allow complainants to have their views considered and have those views or concerns brought to the attention of the court. We believe that while victims ought to be kept informed of cases which affect them and ought to have access to the justice system, that access cannot come at the expense of the accused. It is the accused alone whose liberty is at stake. To consider what a victim has lost or suffered could unfairly impact on the accused's rights. At this stage, the accused is still innocent until proven guilty, and therefore must be protected to the fullest extent of the law.

Section 4(2) provides free independent counsel to complainants whose personal information is being sought under s.278.3 of the Criminal Code. Our preference would be to grant complainants access to Legal Aid when the appropriate circumstances arose.

Section 9 speaks of victim impact statements. We are concerned about the potential prejudicial effect these statements can have in dealing with an accused. A

concern is that offenders in cases which have attracted media attention or which involve especially vocal complainants will be treated more harshly than those who have committed comparable crimes with little or no media attention or with few family members to prepare impact statements. An offender should not be treated more harshly merely because his or her victim has a more vocal family than another.

Section 10(2) provides various information to victims concerning offenders. Clause (d) provides the general destination of an offender on an authorized absence or release. This provision can make it more difficult for a released offender to get on with his or her life. If the public becomes aware of the destination for any or all offenders, it can make the transfer back to public life all the more difficult. The

concern with clause (f), which provides "any other

information," is simply too broad, and should be restricted further, or preferably eliminated.

Our final concern is s.11, which provides victims the right to meet with an offender. While we fully support this concept, our concern lies in 11(2), which directs a facility head only to consider the offender's willingness to participate in this meeting. We feel for the intent of this kind of provision to be fulfilled, the offender must be willing to co-operate. To force a meeting with agreement would, at best, be counterproductive.

Thank you for your consideration of this matter.

Ms. Valerie Price
Manitoba Association for Rights and Liberties