

Third Session - Thirty-Eighth Legislature
of the
Legislative Assembly of Manitoba
Standing Committee
on
Legislative Affairs

Chairperson
Mr. Daryl Reid
Constituency of Transcona

Vol. LVI No. 8 - 6:30 p.m., Monday, June 6, 2005

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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Eighth Legislature

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AGLUGUB, Cris	The Maples	N.D.P.
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OSWALD, Theresa, Hon.	Seine River	N.D.P.
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LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON LEGISLATIVE AFFAIRS

Monday, June 6, 2005

TIME – 6:30 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Daryl Reid (Transcona)

VICE-CHAIRPERSON – Mr. Tom Nevakshonoff (Interlake)

ATTENDANCE - 11 QUORUM - 6

Members of the Committee present:

Hon. Messrs. Bjornson, Rondeau, Selinger, Smith

Mrs. Driedger, Mr. Hawranik, Ms. Irvin-Ross, Messrs. Loewen, Maguire, Nevakshonoff, Reid

Substitutions:

Mr. Eichler for Mr. Loewen at 7:52 p.m.
 Mr. Martindale for Mr. Selinger at 9:42 p.m.
 Mr. Loewen for Mr. Eichler at 10:15 p.m.

APPEARING:

Mr. Leonard Derkach, MLA for Russell
 Hon. Jon Gerrard, MLA for River Heights
 Mr. Jack Penner, MLA for Emerson
 Mr. Kevin Lamoureux, MLA for Inkster
 Mr. Glen Cummings, MLA for Ste. Rose

WITNESSES:

Bill 51 – The Labour-Sponsored Investment Funds Act (Various Acts Amended)

Mr. Bernie Bellan, Private Citizen
 Mr. Paul Sveinson, Private Citizen
 Mr. Chris Christensen, Private Citizen

Bill 33 – The Planning Act

Mr. David Rolfe, President, Keystone Agricultural Producers

Mr. Larry Schweitzer, President, Manitoba Cattle Producers Association

Mr. Chris Fulsher, Manitoba Municipal Administrators' Association

Mr. John Bannister, Executive Member, Dairy Farmers of Manitoba

Mr. Garry Wasylowski, Vice-President, Association of Manitoba Municipalities

Ms. Cheryl Kennedy Courcelles, Private Citizen

Ms. Carol Clegg, Private Citizen

Mr. Leon Clegg, Private Citizen

Mr. Alan Baron, Private Citizen

Ms. Ruth Pryzner, Private Citizen

Mr. Fred Tait, Private Citizen

Bill 48 – The Teachers' Pensions Amendment Act

Mr. Ray Sitter, Private Citizen

Mr. Ray Derksen, First Vice-President, Manitoba Association of School Superintendents

Ms. Pat Bowslaugh, Private Citizen

Mr. Gordon Henderson, Private Citizen

Mr. James Penner, Interlake Retired Teachers' Association

Ms. Jean Todd, Private Citizen

Ms. Laurena Leskiw, Private Citizen

Ms. Deanna Dolff, Private Citizen

Mr. Doug Kinney, Private Citizen

Ms. Shirley Augustine, Private Citizen

WRITTEN SUBMISSIONS:

Bill 51 – The Labour-Sponsored Investment Funds Act (Various Acts Amended)

Mr. Paul Sveinson, Private Citizen

Bill 33 – The Planning Act

Mr. Joe F. Dolecki, Associate Professor and Chair, Department of Economics, Brandon University

Mr. Rodger Mawer, Private Citizen

Mr. Reed Wolfe, Private Citizen

Ms. Clair English, Private Citizen

Mr. Charles Arklie, Private Citizen

Mr. Larry Powell, Private Citizen

Mr. D. E. (Ted) Ross, Roseisle Creek Watershed Association

Bill 48—The Teachers' Pensions Amendment Act

Mr. Ray Sitter, Private Citizen
 Ms. Judy Goodman, Private Citizen
 Ms. Gayle Robertson, Private Citizen
 Ms. Leota Nelson, Private Citizen
 Mr. Fred Cole, Private Citizen
 Ms. Barbara Teskey, Private Citizen
 Mr. Bob Swayze, Private Citizen

MATTERS UNDER CONSIDERATION:

Bill 33 – The Planning Act
 Bill 48—The Teachers' Pensions Amendment Act
 Bill 51 – The Labour-Sponsored Investment Funds Act (Various Acts Amended)

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Mr. Chairperson: Good evening, everyone. Will the Standing Committee on Legislative Affairs please come to order.

The first order of business is the election of a Vice-Chairperson. Are there any nominations?

*(18:40)

Hon. Scott Smith (Minister of Intergovernmental Affairs and Trade): Mr. Chair, I would like to recommend and nominate Mr. Nevakshonoff for Vice-Chair.

Mr. Chairperson: Mr. Nevakshonoff has been nominated. Are there any further nominations?

Seeing no further nominations, Mr. Nevakshonoff is elected as Vice-Chairperson.

This evening, the committee will be considering the following bills: Bill 33, The Planning Act; Bill 48, The Teachers' Pensions Amendment Act; Bill 51, The Labour-Sponsored Investment Funds Act (Various Acts Amended).

We do have presenters registered to speak to bills 33, 48 and 51. It is the custom to hear public presentations before consideration of bills. Is it the

will of the committee to hear public presentations on these bills? Agreed? *[Agreed]*

Does the committee wish me to read the names of the persons that are registered to speak this evening? It is quite a considerable list.

Some Honourable Members: Dispense.

Mr. Chairperson: Thank you.

For members of the public that may wish to check the list just to make sure your names are registered if you wish to speak, please check the list with the Clerk at the back of the room. If there is anybody that has not registered, not on that list, you can also see the Clerk to have your name added to that list.

Just a reminder for those folks that are making presentations here this evening, we would require, if possible, 20 copies of your presentation. If you require assistance with photocopying, please see one of the clerks and we will assist you with the photocopying for your copy of your presentation for committee members' use.

I also understand that we have some out-of-town presenters in attendance this evening. These names are marked with an asterisk on the presenters' list. Is it the will of the committee to hear from out-of-town presenters first? If yes, in what order?

Mr. Tom Nevakshonoff (Interlake): Yes. Mr. Chair, I look at the list, and I see there are only four presenters for Bill 51. So I would suggest that we hear all presentations on Bill 51 first, beginning with the out-of-town presenter or presenters, and then move on to bills 33 and 48 respectively, again, hearing from out-of-town presenters for both of those bills first before getting into the main list.

Mr. Chairperson: It has been recommended, or suggested, by Mr. Nevakshonoff that we start with the Bill 51 with four presenters and then proceed with Bill 33 and then Bill 48.

Mr. John Loewen (Fort Whyte): Mr. Chair, again, what this really speaks to is just the total incompetence of this government. To have these three bills come before one committee on the same

night is just a complete disregard, in my belief, for the process that brings us to this committee in the first place. This government has known that these bills, in particular bills 33, 48, were going to have a lot of presenters.

We have got a room jam-packed full of people, people who are going to be asked to be here until midnight and possibly come back tomorrow, people who are going to have to stand through this process, there is absolutely no reason for this other than the fact that the government of the day wants to do everything possible to avoid public scrutiny on the bills.

It would be far better, in my belief, for the government, first of all, to have, you know, scheduled a committee for each particular bill, so that people could have made presentations in a time that was reasonable and in a setting that had some reasonability to it. To ask, now, to deal with all three of these bills and to ask people who are here to have to stay until, you know, midnight and possibly come back tomorrow, I think is a complete disregard for the process that brings us here in the first place.

Having said that, you know, I guess what I would do, then, is move that we deal with Bill 33 tonight, because I notice, of the out-of-town presenters, that primarily the majority of them are from out of town. Some people may have come from long distances and need to get home. There are out-of-town presenters for Bill 48 that we agreed to hear those tonight.

You know, if people do want to stay on those two bills until very late at night who are not from out of town, I would leave it up to them to make that decision, and we would be glad to hear it, provided we do not go past twelve o'clock, and that we apologize to the four presenters here that are in Bill 51, but that we, possibly, hear the out-of-town presentation on Bill 51, if the presenter so desires. Otherwise, we move Bill 51 to a separate date.

Mr. Chairperson: Mr. Loewen, for clarification, are you making this by way of motion? If that is the case, I would need to have such a motion in writing.

Mr. Loewen: Just for clarification, the previous member just spoke to it. I would be happy just to put

it on the record in terms of something the committee should consider, and, hopefully, will agree to. We will leave it at that.

Mr. Chairperson: Thank you, Mr. Loewen. I take that as a suggestion, then, versus a motion.

Mr. Smith: Mr. Chair, I think the committee was established the latter part of last week. Obviously, you do not know the amount of people who will sign up for bills. Obviously, the bills were put on, members could have made a comment at that time. It certainly makes good sense, as Mr. Nevakshonoff has mentioned, when we have the bills as they are scheduled in front of us here tonight, to look at the four names of the people that are here to present. It does make good sense to me and this side that there are four people on this bill. On the others, there is a multi-number of people on the bills. Obviously, in consideration of the four people on the bill, certainly on the Crocus investment, it makes good sense to have those people present, the out-of-town persons first. Give them the consideration to make their presentations and then deal with the others that are quite numerous.

Mr. Leonard Derkach (Russell): Mr. Chair, it is unfortunate that we have to waste this much time in wrangling about the procedures, but there are many out-of-town presenters on other bills, as there are on 51. These are people who have to journey home tonight. I would agree with Mr. Loewen that we should be hearing the out-of-town presenters on Bills 33, 48 and 51 if that is going to be possible tonight, and at least let those people have their say because they have travelled a distance, and then, perhaps, leave the rest of Bill 51 to another sitting.

Hon. Jim Rondeau (Minister of Industry, Economic Development and Mines): Mr. Chair, it makes sense that because there are only four speakers on one bill and, again, multiple numbers in other bills, it would probably make sense to not wait, the four for the thirty, but have the thirty take time and hear the four, because there are only four presenters on Bill 51. We can have that done.

We do not have to do the clause by clause till the end, so we do not have to inconvenience the people presenting on the bill; but, if we did the four people, heard all the speakers, then it would be over and those four people can go. They do not have to wait

for both other bills, which have numerous speakers. It seems best to not inconvenience the four while they wait for the thirty in both the pension act and the other act.

Mr. Larry Maguire (Arthur-Virden): I would just like to put on the record, Mr. Chairman, that I think that actually inconveniences the out-of-town people for bills 33 and 48, where the majority of out-of-town people have come, by putting them back at least another hour by hearing Bill 51. I would agree with the recommendation that we move ahead with the out-of-town presenters on bills 33 and 48 tonight, and that we reschedule Bill 51 for the committee meeting scheduled for tomorrow and Wednesday as well. We can hear that there. I am not even sure we would get through all of the out-of-town presenters on these other two bills tonight, but if we did, we could hear some of the town presenters on 33 and 48 tonight as well.

Mr. Nevakshonoff: Mr. Chair, I thought my original suggestion was pretty straightforward and reasonable, so I did not realize that it would generate such a debate here. I think the fact that there are just four people here, one of them from out of town, I think it is reasonable to deal with this expeditiously. In fact, without this discussion, we probably could have heard from a presenter by now.

* (18:50)

So, therefore, I will move, seconded by the Member for Gimli (Mr. Bjornson), that the committee hear from all the presentations on Bill 51 first, beginning with the out-of-town presenters, and then hear presentation on bills 33 and 48 respectively, hearing from out-of-town presenters first on both bills before addressing the full list. I have it written.

Mr. Chairperson: It has been moved by Mr. Nevakshonoff, seconded by the Member for Gimli, that the committee hear from all of the presenters of Bill 51 first, beginning with out-of-town presenters, and then hear presentations and bills 33 and 48 respectively, hearing from out-of-town presenters first on both bills before hearing the full list.

The motion is in order. Any debate? The question has been called.

Is the committee ready for the question?

Some Honourable Members: Question.

Mr. Chairperson: The question before the committee—do you wish to have the motion read back?

Some Honourable Members: Dispense.

Voice Vote

Mr. Chairperson: All those in favour of the motion, signify by saying yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, signify by saying nay.

An Honourable Member: Nay.

Mr. Chairperson: In the opinion of the Chair, the Yeas have it.

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Mr. Loewen: Just for clarification, because I am sure there are a number of presenters on Bill 51, I am not sure that everyone will be here. They may have been told by the Clerk's office that they would be the third bill, so I would just like to make sure that when their name is dropped to the bottom of the list that, after all the other presenters, they do have an opportunity to come back if they are not with us right this evening.

Mr. Chairperson: It has been suggested that any names that may be called for the first time would drop to the bottom of the list, but their names would not drop off the list. Is that agreed?

Some Honourable Members: For tonight, yes.

Mr. Chairperson: For tonight. *[Agreed]*

Thank you. Then we will start with the bills.

I would first like to inform all presenters that are here this evening that in accordance with our rules, a time limit of 10 minutes has been allotted for presentations and 5 minutes for questions from committee members. As well, in accordance with our rules, if a presenter is not in attendance, their name

will be dropped to the list but as I have indicated, their name will not be dropped from the list totally.

I would also like to inform the committee that several written submissions have been received. First, for Bill 33, Charles Arklie, private citizen, Larry Powell, private citizen, and Ted Ross, Roseisle Creek Watershed Association, have presentations. I believe members of the committee may have received as well.

Bill 48: Barbara Teskey, private citizen; Bob Swayze, private citizen; Gayle Robertson, private citizen. Copies of these briefs were presented to committee members.

Is it the will of the committee to have these presentations appear in the Hansard? *[Agreed]* Thank you.

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

**Bill 51—Labour-Sponsored Investment Funds Act
(Various Acts Amended)**

Mr. Chairperson: Thank you for your patience.

We will now proceed with public presentations, starting with Bill 51, The Labour-Sponsored Investment Funds Act (Various Acts Amended).

The individual, first on our list of out-of-town presenters, is Chris Christensen, private citizen. Is Chris Christensen in the audience this evening?

Next name on the list is Bernie Bellan. Is Bernie Bellan, on the list, here this evening?

Good evening, sir. If you could just give me one moment, please. I would like to ask for consideration by those that are in attendance here this evening.

Anyone that has a cell phone, could you please turn off your cell phone to make sure that our proceedings here are not disrupted? That applies also for members of the committee.

Mr. Bellan, do you have copies of your presentation, sir?

Mr. Bernie Bellan (Private Citizen): No, sir. It is an oral presentation only.

Mr. Chairperson: Okay, you may proceed whenever you are ready.

Mr. Bellan: Mr. Chairman, members of the committee, thank you for this opportunity.

I might say, in reference to some of the comments that were discussed before, the notice that was given to the people who might have presented at this committee was relatively short. In fact, it was exceedingly short. I have the opportunity to correspond with over 400 individuals who belong to something known as the Crocus Investors Association, which is an ad hoc group formed to protect the interests of Crocus shareholders. I was just able to e-mail them last night. Most of them who would have been willing to present said that they certainly did not have enough time. So I think it is exceedingly outrageous that this meeting is obviously designed to give short shrift to the interests of Crocus shareholders.

That being said, I want to deal with the substance of the amendments that are proposed by stating, at the outset, I do not know how many of you are familiar with something called the Sherman act, but it was an act written in the United States to deal with the problem of trusts around the turn of the century. I would say you should re-entitle your bill the anti-Sherman act, because it seems to me it is nothing less than a bill designed to prevent the kind of outrageous acts that we saw committed by principals in the Crocus fund. It was severely harmful to the interests of Crocus shareholders.

Every single aspect of this legislation is something that should have been implicit in the legislation that had existed. There was no need to add these kinds of embellishments to The Crocus Fund Act saying we should protect shareholders from this and from that, and I will go into detail.

If people in the government had been doing their duty, they would have known that the kind of breaches of the act that were occurring, and that apparently these various proposals are meant to prevent in the future, could have well been prevented in the past. So, to me, this is so much window dressing, designed to protect the government from any further attacks on its credibility.

Notwithstanding anything I just said, though, I want to deal with some of these particular proposals. One is, for instance, in section 3(2) of the amendment to The Labour-Sponsored Investment Fund Act. It says section 3(2) is being amended to state: "Fund must carry on all material aspects of its business with a view to earning a return for its shareholders."

It seems to me that the corollary of that is that the fund was designed not to return anything to its shareholders. Why on earth would that have to be put into legislation? If shareholders had thought that the Crocus Fund was not intended to earn them a return, what shareholder in his or her right mind would ever have invested money? It is an insult to think that this kind of legislation has to be written now, years after the horse is out of the barn.

Turning to another proposal, section 4(1)(c) provides that the board shall consist of four members who are labour appointed and four who are elected by the Class A shareholders, also that the government can expressly not have a seat on the board.

It seems to me that what you are saying is that the previous structure was flawed. If so, is the government prepared to admit that it was flawed and in that case, was it working against the interests of shareholders?

There is a recurrent theme in these proposals. It seems to me that it is implicit in the very nature of this whole charade that it is clear that the government is admitting that it was not doing anything to protect the interests of shareholders by saying now, we should do this, we should do that. We should provide this protection, that protection. What were you doing years ago when you had a chance, when obviously officials in your departments were raising all sorts of red flags?

As we saw in the Auditor General's report, these proposals are way too late. Another proposal that the

fund invest only in, let me see, section 11(2) will prohibit the fund from investing in any entity that is engaged in selling or promoting the sale of shares in a fund, obviously intended to address the problem of Wellington West, making an investee company of Crocus at the same time as it was the lead broker, a problem that the government was well aware of, years ago, did nothing about. If you had concerns, why did you not do anything now? Do you need an Auditor General to bring it to your attention?

Another point, section 13(2) will regulate where the money from the fund can be invested. Most particularly, they will be invested in Manitoba to produce jobs for Manitobans. This could be called the Umlah clause. We saw now that Mr. Umlah was travelling all over the world, raising money supposedly for firms that were investing their money, who knows where, in what jurisdictions. Why do we have to have this kind of protection? It should have been implicit.

* (19:00)

Another section, section 4 is being amended to allow the board to amend the charter without the government's approval. Is this an attempt on the part of the government to distance itself from the operations of the board? Again, the government said it maintained an arm's-length distance from the board in so many respects. But, in so many respects, the previous legislation showed that the government did have a direct involvement in the Crocus Fund. Whether it was amendments having to be passed by the government or the government appointing representatives to the board, the government was involved. Now the government is trying to distance itself.

Again, I ask, in what sense is this going to do anything for the shareholders now that a fund that is moribund, that should be declared, simply put into receivership so that—[interjection] I thought I turned that off, excuse me. These are reporters who want to know what is going on.

Section 5.2, it says, "directed at day-to-day management and identified by the Singleton report." We have to have an Auditor General point to us how negligent and how deleterious the management of Crocus Fund was for so many years. The government needs someone to tell them now, "Well, the management should be doing what management is

appointed to do." This is an insult to shareholders, to think that we have to have that kind of thing put into an act. We have to have it spelled out. Boards of directors of corporations should do their duty instead of requiring them to do it in the first place. They had a fiduciary responsibility to the shareholders. They abandoned it completely.

Section 5.5(1) sets out which committees must be established. Would you not think that that kind of thing would have been done at the outset? *[interjection]* Sorry, I know this is cutting into my time. Maybe the Crocus Fund could give me a new cell phone.

Anyway, the point of all this, and I think I speak on behalf of most Crocus Fund shareholders who, frankly, are intimidated by this kind of proceeding, I had a lot of e-mails today from people saying, "We are counting on you, Bernie Bellan, to represent the interests of shareholders." I do not mind saying that I took a stand on this years ago, even though I was pilloried by government officials and by various other people in the media for having the effrontery to challenge the crown jewel of the Manitoba Federation of Labour—NDP's cornerstone of economic development in this province.

It was a sham. The question is how far back does it go in time. The Auditor General went back four years. He seems to be pointing to a whole series of shameful events that occurred throughout the history of the Crocus Fund. It is time that we got on with the business of addressing the concerns of shareholders. Never mind protecting the image of the government in this. The Crocus Fund act should simply be brought to a close. Crocus Fund should be wound down, put into receivership. The assets should be distributed equitably among all shareholders, and the government should do the right thing and offer compensation to the shareholders, along with the other parties who were negligent in this whole sordid mess. There should be compensation in the tens of millions of dollars.

Obviously, there are undercurrents of which you are all aware. We are talking about suits. We are talking about compensation of a huge magnitude. This is a maelstrom of anger that has developed. It is obviously catching media attention across the country. If you want to try and treat it with this insulting window dressing, pretending this will address the problems, go right on. You are fooling no

one. The shareholders are just beginning to speak. I had over a thousand hits on my Web site today. I get about a hundred e-mails from Crocus shareholders from across the province saying, "What has the government done to us? Who is there to protect us?"

If it comes down to me having to stand up for Crocus shareholders against the government and some of the larger interests in this province, what does that say about the state of affairs in this province? Thank you.

Mr. Chairperson: Thank you, Mr. Bellan, for your presentation, sir. Sir, if you would like to come back. *[interjection]* We will leave that to you. Thank you, Mr. Bellan, for your presentation this evening.

Mr. Loewen, questions?

Mr. John Loewen (Fort Whyte): Well, thank you, Mr. Bellan, not only for your presentation, but for your diligence in this issue. You had the strength of character and the courage to raise this issue a number of years ago, and, as you mentioned, you were pilloried for it and ridiculed, not only by this NDP government, but others. You are to be congratulated for your perseverance.

I must say that I agree with every comment you have made regarding this bill. It is nothing more, in my view, than window dressing, although it does deal with two particular issues that the Auditor General raised that need to be dealt with, pretty minor ones that could have been dealt with by the government in terms of policy and regulation as opposed to needing a bill to do it.

Having said that, we only have five minutes. I do not want to take too much time, but you raised concerns about this fund years ago. You were told by government and others that everything was fine. I guess, if you could answer two issues for me. One, do you ever think that the government took the issues that you raised with them, the concerns that you raised with them, seriously? Secondly, if you could just answer as well, did you, in your belief, and do the unit holders that you have had contact with, have a genuine belief that because of the nature of this fund, how it was set up under a government act and the fact that there was a government board member there, that the government was actually doing a significant amount of monitoring of the fund to look out for unitholders' protection?

Mr. Bellan: I will answer your first question. The answer is, no, I never believed that the government officials took me seriously. I will give credit to MaryAnn Mihychuk, I do not know whether she wrote a response to a number of e-mails that I had sent, back in 2002, saying there are serious questions about the Crocus Fund, would you take a look at it, she, at least, had the decency to respond as opposed to other government officials who, by and large, ignored my requests, my suggestions that they look at the Crocus Fund.

As for what the shareholders think about the government involvement, let us speak candidly here. The government is trying to maintain that it was at a distance from Crocus Fund, it never guaranteed the shareholders' investments in Crocus Fund and the Crocus Fund and shareholders are really left twisting in the wind. That is, it seems to me, the implication.

The fact is that there were so many ways in which the government gave a stamp of approval to Crocus Fund, to the degree that shareholders were led to believe that this is a government-backed fund. Now, if you want to get into a semantic discussion over that, that might be something for another day. But I have had so many people working within government say their pay envelopes were stuffed with propaganda for Crocus Fund. They would go into their offices, whether it was the Woodsworth Building or any other building, and the halls were bedecked with Crocus Fund posters. At a certain point you have to ask yourself, when one particular institution, or one vehicle, is promoted at great, great expense, and it seems to me at the cost of any other alternative vehicle, would it not be fair for someone to think that the government is behind this?

I cannot believe that people, now, are going to be blaming anyone other than the government for the misfortune in the main part. They are going to be turning to others, too. This is what I am getting, they are saying "The Crocus Fund misled us, but the government misled us just as much." I think that is something that is going to continue to haunt the government for years.

Hon. Jim Rondeau (Minister of Industry, Economic Development and Mines): I thank you for your efforts on behalf of shareholders, for a long time.

In this act, we have done two things that I just wanted your information. One, in 2001, we said that we were not going to put information in pay envelopes. We made that illegal where that has happened. We are also putting all the regulations under labour-sponsored venture capital fund, and both ENSIS and Crocus now have representatives, legitimate representatives of the shareholders, the people who put money in the fund, on the board, on every active committee and have legislated that. Do you think that will help support the industry in the future and create more accountability of the board to the shareholders?

Mr. Bellan: Let me talk specifically about the new appointees to the Crocus board. If these people are supposed to represent our shareholders, is there anyone there with a background in venture capital investing? Not a one among them. You did have some people before who should have had some experience, especially the previous representative from the Department of Industry. Apparently, these people were well-qualified to vet Crocus investments. What they were doing is a matter for another time. It seems to me clear from the Auditor General's criticism that if they were raising objections to some of the things going on at Crocus, certainly, their concerns either were not being heard or they were not raising those concerns at all.

But, if we are talking about the shareholders now being represented by representatives on the board, I know that these people may have eminent reputations, but none of them has a background in the whole area in which Crocus is supposed to be involved, which is investing money. They are accountants; they are lawyers; there is a former Auditor. What are these people?

* (19:10)

I mean, are you going to suggest in any possible way that Crocus Fund is going to start investing again when it is dead in the water? It owes so much money. The only thing that is going to happen is Crocus is going to be paying off bills, as it just did last month, paying off \$5.3 million to that fund in Québec, which was an outrage, the one that was disguised as an investment when it was a loan. Are these people on the board going to protect the interests of shareholders?

This, again, is window dressing. What we are doing is we have got a corpse in the ground. You are trying to pretend it is not there, and we have got some people standing over it, saying, "Maybe it'll come alive." That is what those board members are doing.

Mr. Chairperson: Thank you, Mr. Bellan, for your presentation. Time has expired.

Mr. Loewen? Is it the will of the committee to allow Mr. Loewen to ask one short question?
[Agreed]

Mr. Loewen: The Auditor General has made it very clear that, and it is his words, there were enough red flags raised within the two government departments, Industry and Finance, by the end of 2002, that the government should have conducted a more thorough investigation of the goings-on at the Crocus Fund. How do you feel knowing that, given that the warnings you were giving to government in 2001 and 2002 basically went ignored at the same time that their internal departments were warning them?

Mr. Bellan: This, to me, as with any scandal, the real scandal was not in the details of what went on. It is in the cover-up, which is what we are seeing and was what the media finally have their teeth in, even though they were also ignoring this, despite my protestations to them that they have a solid story here. We are going to see the juiciest scandal in Manitoba history since the erection of this building.

I happen to know enough about history to know that you have got your Churchill Forest Industries; this is going to be right up there with Churchill Forest Industries. I did a paper on CFI in university, and it seems to me we are seeing a rerun of that, financial skulduggery of an order that Manitobans are shocked at. But, of course, to get Manitobans to wake up to anything is an effort. They are awake now. We have got 34 000 investors, a meeting next Wednesday for all Crocus Fund investors in which we will announce the details of the lawsuit, who we are suing—some of you people here might be a little uncomfortable—and for how much we are suing.

So the sleep time is over, and, as far as, Mr. Loewen, the red flags, they just were not red flags, they were enormous balloons going up all over the place. But, unfortunately, there is none who are so

blind as he who shall not see. I think that is from the New Testament, is it not? I am Jewish.

Mr. Chairperson: Thank you, Mr. Bellan, for your presentation this evening.

The next presenter we have on our list this evening for Bill 51 is Kevin Miller, private citizen. Is Kevin Miller in the audience this evening? Please come forward. Not here? Mr. Miller's name will drop to the bottom of the list.

The next presenter we have for Bill 51 is Paul Sveinson, private citizen.

Good evening, sir. Would you please come forward? Do you have copies of your presentation for members?

Mr. Paul Sveinson (Private Citizen): Copies were made.

Mr. Chairperson: Thank you. If you give us a moment, we will distribute to committee members first, and then we will proceed.

You may proceed when you are ready, Mr. Sveinson.

Mr. Sveinson: Mr. Chairman, Vice-Chair, committee members. Apologies to those behind me that have to watch my back. However, they are very involved in what we are discussing here today, because there is \$37 million of provincial taxpayer credits that have been used to help market and promote this fund, and the \$37 million have come out of the pockets of many of those who are here today, to entertain the other bills to be spoken about.

I am a private citizen and have no money in Crocus, other than the \$37 million that I am part of. I was never hurt or have not been hurt by the devaluation in shares ongoing. Even as we speak here, they are devaluing by the hour as monies are being spent to run, operate, control and support the fund with no revenue. So there are losses being incurred as this committee sits here today.

The backroom dealings of Crocus, however, have caused me some concern. I did negotiate some communications and some number exchanges with Mr. Bellan years ago, and a number of you may have received same. I, too, saw some flags, including the

seriousness of the misdealing \$10-million investment/loan from Québec.

The eventual amendments that you gentlemen and ladies will be approving may appear to be arriving after most of the horses are gone from the barn, some of them being very expensive, mind you, but it behooves us as legislators, taxpayers and citizens to do our best to protect the concept and improve the product for all to benefit by putting better locks on the doors and some clearer windows all around the building.

Time allows just 10 minutes, while the provincial auditor took nearly six months and summarized in his cursory review, only 16 companies remain in Crocus Fund's asset list, many of which who have been or will be removed as the recent \$61-million write-down flows through to the public.

As an initial overview comment, what in heaven's name were the highly paid professional auditors doing, or not doing, that this information that was made semi-public to date could occur without anyone knowing or blowing a big whistle? Auditor Singleton found, for example, four companies alone that started with \$3.7 million in combined investment monies in Crocus. Before the proverbial excrement hit the fan, there was up to \$32.5 million in cash, \$3.7 million in guarantees and other party financing, 155 additional financings to these four companies. The auditors did not notice it and did not tell the directors? Incredible.

Over a finite period of time, he only looked into 16 companies and over four years, so there is much more to be discovered or eventually become public. There were not just red flags. Bernie mentioned red balloons. I suggest a nuclear meltdown has occurred in this fund, and the panic started to happen in late '01, early '02. The piles of binders presented to the apparently inexperienced or naive directors, which they said they read for hours and checked before they went into the meetings to vote on, were probably correct.

What they did not know is what they did not know. They did not know what to ask and what was missing in those binders. Why did they not know some companies got 55 additional financings? Who were they trusting for the information, the senior officers or the outside auditors? A horrible flow of

mis- or lack of information for this board of directors. I almost feel sorry for them.

The intent of the fund was excellent. The concept was correct in its start up, although in Québec, it was being planned to finance Québec leaving the country when the first fund was set up. At least in Manitoba, the intention was for jobs and capital retention, but herein lies the rub. It would be now fair to assume that the real numbers, the critical details of the add-ons or portfolio-holding troubles obviously necessary to ensure better governance, were withheld or intentionally misrepresented.

As the distribution of blame and responsibility are doled out, do not forget those auditors. We cannot dwell on each of the revelations, but must reflect on possible legislative amendments to deal with the issues before this expensive debacle continues.

On the matter of compensation, we have heard huge salaries, perks, trips, et cetera, that not a deputy minister or a minister enjoys, yet they are responsible for billions and billions of the taxpayers' dollars in this province, but these parties, to which we cannot ask questions and are noticeable by their absence today, were making pretty big bucks off the shareholders of this fund.

Suggesting that a five-year, cooling-off period after a major senior officer leaves the fund or any fund of this nature prior to going into private-sector employment with any company that has been funded by a labour-sponsored fund should be considered by this committee so that they cannot drop \$20 million and say good-bye and pick up a million-dollar-a-year job across the street. It should not be able to happen.

The annual report, completed by the legal and accounting consultants, would be signed off, confirmed by the directors and forwarded to the minister and the provincial auditor's office within 100 days of each fiscal year end. Any bonuses or performance enhancements would simply be tied to share value, not how many times he went to Switzerland.

*(19:20)

On the matter of competition, there has been a very uneven playing field set up in this province with the fund being able to invest in Company A and Business A, and leave Company B hanging high and

dry, having to pay commercial rates or go to the street for financing. When the Auditor said, "Oh, by the way, 26 companies have loans, but only 12 are paying them back, and 55 or 95 debt instruments are out there, but no one is paying interest," how does Charlie or Tom or Dick or Harry, who are paying full property tax, full business tax, full payroll tax, GST, PST and every other tax that he has to pay, plus go to the bank, carry a business and compete with a company that has got \$5 million or \$10 million or \$20 million of evidently very free money?

So, perhaps, a corporate control or restriction on how directors and ex-officers of a Crocus or any labour fund today or in the future cannot become involved with any Crocus holding or any subsequent holding of another fund. The stunning financial losses of one of the fund's holdings were exacerbated by the founding shareholder starting another company prior to his resignation and then subsequent bankruptcy and then buying back the cherry-picked assets of the company he owned, that \$20 million was flushed with. He is still in business today, obviously a fairly smart businessman. He got stuff at 10 cents on the dollar, a true Winnipegger and Manitoban, and ended up signing a lease in a company who owned the building that was a director of the company that went bankrupt for \$20.9 million. Nice deal.

Most shareholders, if not all, want to see their investment grow. Social audits and responsible corporate governance is a quality to be noted and excellence in these areas highly touted. However, they should be relegated to a scorecard or a report maintained on the Web site, so those who really are influenced by same can choose to do business with those companies. If they are socially responsible company and have achieved a high score, any investor or any Manitoban can choose to buy their widgets from that company. But the bottom line, the shareholders were looking for a return on investment. That should be the only priority of the fund, if it is going to be in the investment game. If it is out there fixing board of directors' notes, if it is out there starting new, little training courses, identify it as such, be funded by the appropriate level of government and do it. That is fine, but do not take their money and sneak it into somebody else's pocket.

Perhaps the committee would consider a shareholder's ability to ask for an audit on a single

company when red flags are seen and/or ignored. For instance, if a hundred shareholders brought a petition, signed, forward to the minister, the minister could consider or take into consideration a departmental official or even the Auditor review that company and its dealings or lack of dealings. If it gets as serious as this one, it should not take three years for the provincial auditor to come into the picture. If 250, the number better approved and chosen by yourselves, 500, select and sign a petition saying we need another audit, then, by all means, get it going.

As the Auditor noted, only 16 of the 46 companies were reviewed, incredible mistakes, errors, bad judgment, sloppy, sloppy, so, who knows what went on in the other 30? We have not got a clue, yet. Were they the goodies that he did not pick? Was it arbitrary? Did he throw a dart board? How did he choose the 16? There could be even worse news sitting there, so before you cap the legislation, I suggest you get the rest of the audit done. There are some more gaping holes may be sitting there, waiting to be stepped through.

There is a 16-company audit, out in public. The financials have been withheld now, public financials, since March 31, 2004. The company has written down \$60 million or \$70 million in assets. The September '04, audited financial statement should be delivered. It is already two months past the March 30 interim statement. We know they have been losing a couple of hundred thousand dollars a week since year-end last year, so perhaps they are all ready at \$8 million or \$10 million more in lost operating expenses to date. This, again, is going to not surface probably until the committee has reviewed and finished these changes to the legislation. They lost \$18 million last year, could go \$18 million or \$20 million more by September 30, 2005.

The final and most important issue, watching the clock. In my mind, it is the contamination, perceived or otherwise, with respect, not easily granted here, to the cross-financing of a labour fund with a level or levels of public sector financing in any or all investments. They should not be condoned, but in the event of a financial benefit to the marketplace, short and long term, subject to substantially more investigation and study, independent legislative committee review, such as we are having here today, and a very open process of public input. Hiding behind third-party confidentiality rules should automatically rule

out an investment for the government to be participating in.

I will capsule real quickly. Social engineering or political interference overruling prudent business practice and normal levels of private sector risk should be treated differently. If the City or Province wants to put a building, for example, on a specific location, then they take the credits for the efforts and the heat for the decision. Hiding behind third-party FIPPA act rules so as not to disclose details is unacceptable. There is no time to address the involvement of credit unions and directors sitting on each other's boards. That is another time and another place.

A certain empty building, downtown Winnipeg, on a major thoroughfare, not to be named, as the Auditor gave everything a lettered code, was demolished before reports of its suitability for alternative environment-friendly uses was tabled. Financing for the effort was announced as a private-sector-led, Crocus-driven initiative.

Public hindsight is catching up with the few who are watching the red flags. We see the proposal as unfinanceable and not financially sustainable occurring at almost the same time Crocus got into a cash crunch. Did Crocus hatch that whole real estate deal on Portage Avenue to help their cash flow? Did the Auditor look from that perspective or wearing those coloured glasses? We do not know, but at just about the same time Crocus is out there going, "We are building an arena and it is going to be great for the community," behind the scenes, we now find out that Crocus did not think they were going to be able to pay their bills at the end of the year. So were they trying to finance money back from certain Crocus portfolio holdings, getting it back into their pocket to enable liquidity to be maintained? Major question.

There is a secret feasibility report that was prepared for this particular Crocus, Province of Manitoba, City of Winnipeg investment that has been buried. It is in a minister's desk. It is in an executive secretary's desk, a couple of them around. We paid \$90,000 for it. Probably, it pretty much said something like the Auditor found with Crocus itself, does not work, do not do it, do not get involved, do not touch it, bad. So it was buried and the process went ahead.

We have got \$40-plus million capital in this Crocus-led project and another \$100-plus million in

subsidies that we are giving them for the next 25 years. It did not work. They could not finance it. The government says it was private-sector-led and used Crocus as their lever. Crocus was not to be involved in real estate venture financing in this province.

My time is up, gentlemen.

Mr. Chairperson: Thank you, Mr. Sveinson, for your presentation this evening.

Point of Order

Mr. Loewen: Just quickly, on a point of order, Mr. Chair.

Mr. Chairperson: Mr. Loewen, on a point of order.

Mr. Loewen: I know we rushed you, Mr. Sveinson, I wonder if it would be the will of the committee to incorporate the whole written report that we received from Mr. Sveinson into the Hansard.

Mr. Chairperson: Is it the will of the committee to include Mr. Sveinson's entire presentation into the Hansard? *[Agreed]*

Thank you.

* * *

Mr. Loewen: Thank you, Mr. Sveinson, for your presentation, very detailed and well thought out. I know that you have been watching this file for a long period, as well, and likely share some of the same views of Mr. Bellan.

I do want to focus in on one particular issue, though, that you have raised and give you a little more time to elaborate on it, and that is the issue of government involvement with Crocus in terms of the financing of various projects and the co-investing in some of these funds. I take from what you are saying that, if that is to take place in the future, there should be a requirement that each of the co-investors proves that it has done its own due diligence and all facts of those deals are available for public scrutiny so that we do not get into a situation like we have now, and in particular where the deal that you have mentioned is subject to an imposition, as part of the deal, of a 25-year confidentiality clause, as we have seen in the arena. Could you comment on that please?

Mr. Sveinson: You probably addressed it in your remarks exactly. We have got a situation where that funding, not just for that project, there may be other involvements that we are not aware of. Unfortunately, the Auditor to date has given company names of letters, so we cannot be specific.

One reference he made in the report was to a company that just started operations so that we do not have the information yet to comment on. Well, the only Crocus holding that really just started operations within the time period that the Auditor was looking at would have been that project on Portage Avenue I referred to.

The auditing, the presentation of feasibility studies, what a co-funder from a private sector and a public sector are looking for may be two different objectives. But, darn it, as a taxpayer, there should be a bottom line that shows a positive cash flow at the end of the day, whether we are putting a million dollars into a wind farm out in the south end of the province or we are putting \$40 million, \$60 million, \$80 million, \$100 million into a project. The report should not be hidden.

* (19:30)

It behooves this committee, and the members thereof that are interested in it, to ask for and table that report. The Ernst & Young report has been around, and I have seen through FIPPA–FIPPA, another story—the black pen used in the report's distribution after a FIPPA request was substantial, "Dear Sir, black, black, black, black, black, black, and furthermore, black, black, thank you." That was the information received through the FIPPA because they claimed there was some third-party confidentiality. I sat in the rink; I know how many people were there. What is confidential about a \$28 ticket price and 7000 people coming in the door? Anyone can do the math that is interested.

So there is no reason to hide that report and reports, for something of \$100 million needs serious public vetting in an open forum like this.

Mr. Rondeau: Thank you very, very much for your wonderful presentation. It was very well thought out.

Just a couple of questions. The new act is trying to get greater representation of people who invest in the fund on the board and on the board committees.

That is one provision. The other one is to ensure that there is disclosure of compensation, and the other one is to get more reporting. What do you think of those provisions in the new act?

Mr. Sveinson: Well, I have to congratulate the minister and the parties thereto that were drafted to go on the board, because when the *Titanic* was going down, nobody jumped back on the ship. So you have done a fabulous job of selling this because those eight, nine or ten people could be there for three to six months, and it is in the hands of a receiver. You wind it down now, the creditors, which are the shareholders, would probably see about 40 to 45 cents on the dollar. They had a 30% tax credit, which the people behind me have helped pay for. They did not help, they did pay for it. So there is about a 35 cent window here missing in lost monies to the various shareholders, a couple directors, insurance funds and maybe a topping up from the Province. No one has to make money, but no one should be kicked in the crotch because they believed and trusted in Crocus.

So those directors are going to be there for, I believe, a winding-down, not a future investing. No one in their right mind is writing a cheque to Crocus in the future.

Hon. Jon Gerrard (River Heights): Manitobans certainly owe something to you for pointing out a lot of the problems and taking the time that you have done to look at Crocus.

Maybe you could tell me two things. One is when you first started to suspect that there was a problem at Crocus, and, second, we are still left with two acts here, a Crocus act and a Labour-Sponsored Venture Capital Corporations Act. Would it not make a lot more sense just to have one Labour-Sponsored Venture Capital Corporations Act?

Mr. Sveinson: Not being a lawyer and never having played one in court, I will answer the second one first. Yes, it does sound like it would make sense, as obviously the parties involved with Crocus complained about the volumes of material they had to read all the time, and if an act becomes an act and then there is another act, then do we look to one or two for reference all the time? It would probably drive anyone crazy.

The first issue about when I first noticed or became a little bit concerned was when a particular

company well known to everyone in this room was losing money, publicly stated so in various newspaper articles, and Crocus paid for a percentage share of the company's loss. That is fine one year. You can have an up year; you can have a down year. They were in there as 40 percent or 45 percent of shares owned at the company. The second year, it increased. The third year, it increased. The fourth year, wait a minute. How long are you going to carry the operating losses of Company A, and it turns out now, companies B through F, without saying, "Come here. What are you doing wrong? We're out of here next year unless you turn it around." They did not, and the add-on investments will probably stun some of the people in this room, perhaps even members of the committee.

The most successful businesses in this community that you are aware of, and you have eaten at his restaurants, you have been in his hotels, you have attended a game where the pitcher threw some pretty decent hardballs, but I am not mentioning any names. They got investment after investment after investment. You cannot get a ticket. Why did they need more money? So I got concerned.

Then that Solidarity Fund announcement printed verbatim from the press release of Crocus by their words right into the *Free Press* by a particular writer, who has written 55 positive Crocus stories, just went boom. I only saw the three or four clauses that Mr. Loewen and yourself and everyone else saw the next year that were included in the prospectus, but the Auditor said there were 25 other clauses.

The mafia does not get 22 percent, sorry about that, on their money. They do not get to come into board meetings and tell you what you can or cannot invest. They do not tell you where their money goes. It was even much worse than we ever thought. That Québec fund had Crocus over a barrel.

Mr. Chairperson: Thank you, Mr. Sveinson, for your presentation here this evening.

Next presenter, on the second call, is Chris Christensen. If you are here in the audience, would you please come forward?

Good evening, Mr. Christensen. Do you have a written presentation, sir?

Mr. Chris Christensen (Private Citizen): This was short notice, I just heard about it and phoned in today. I was at work.

Mr. Chairperson: Please proceed when you are ready, sir.

Mr. Christensen: Thank you for letting me in and making some comments. Of course, I am not a financial expert and I am not a lawyer and I am not anything that you need here to sort out this issue. One thing I am is a shareholder, one of those 34 000 that are, evidently, going to have a class action lawsuit. And I will tell you right now, if there is, I do not want to be part of it. I will testify against that, and I will tell you why.

First of all, before the fund was set up, I was in discussions with Sherman Kreiner, Susan Hart-Kulbaba, and we knew up front that this was high-risk investment. Everybody knew that. What bothers me about the way this was approached in the media was that, "People did not know that." Well, I find that difficult to believe because every year there is a new prospectus issued with amendments, whether legislated or otherwise, there are annual shareholders' meetings, which I have attended most of them. I did not attend last year. But, if the shareholders read their prospectuses, if they went to the meetings, I do not understand the problem. But that was the problem that was brought out, that all these people lost money because they did not know it was high risk.

I have a real problem with that. I mean, I can understand some people simply buying because some financial person recommended that they buy and they did not bother to personally get involved in the details, but that is one of the things I want to debunk, is the fact that this was something that people did not understand. They should have understood. We are all adults. We invest money. And you know what? If you want to invest in high risk and you lose money, well, that is too bad.

That is why I say this class action suit, I cannot see what that is going to do for Crocus. In fact, it will shrink the assets of the fund, all that cost and time and everything else. I put my money in; I got my tax credit. I was happy. I was hoping to get more, but I knew if I did, that would be the cherry on the top, you know, that would be the icing on the cake. So I am not disappointed in that sense. Yes, it is a letdown, but I went in with my eyes open. I knew what was involved. So this situation does not bother me.

Okay, there is all the technical stuff about making it a more effective fund, better management, better advisors, this, that, whatever. Well, that is fine. That is true throughout all the financial investing, whatever. I will tell you, I am also a shareholder in Tembec Corporation, and, you know, they were supposed to go to \$20 a share or more. I hung on to all my shares, and what happened recently? Three dollars, three and a half dollars. Well, guess what? That was my choice. I hung on to them, and now I do not have the value I would have had if I had cashed them in at \$15, \$16.

I do not see the difference, except there is a technical difference. When I bought shares, I knew what the market was saying they were worth, because you had something to go by. Crocus deals in things that have book value, fair market value. Well, what is that? That is a whole different system. We went through that when we bought the mill in Pine Falls. How did those shares go up? Well, they invested in a water treatment plant, they invested in a recycled mill, and all those assets added to the book value of the property.

I am no expert in this sort of thing but, again, the problem I am having with the way this whole public perception is being driven is that it is inaccurate and it puts responsibility on the government, on the fund managers, and not on me, not on the individual investor. Do not try the cop-out thing and blame everybody else. You know what they say about the biggest room in the world? It is the room for improvement, and Crocus can improve and other funds can improve. You can get better qualified people, you can do whatever.

*(19:40)

I certainly hope that that is what happens and, obviously, having read some of the Auditor General's report, I know some of the things that are in there. There are some good recommendations, obviously. But, essentially, I just want to make the point that, as a citizen, I think this has become a feeding frenzy. I know that, as a member of the MFL executive, and I am not here speaking for the MFL, I am not here speaking for anybody or any organization, I am here as a shareholder, the MFL will have its response. The technical stuff will all come out. Hopefully, you folks can wade through it and do what you have to do, but to me, if people want to sue in a class action

manner, they are just going to debilitate their own return on investment.

I have heard some comments in the press about, well, the government might have to pay for these losses. I am not a lawyer, but I say a judge would have an awfully hard time justifying why people who are adults and who should know what they are doing should be compensated because something went wrong. Anyway, that is really all I wanted to say.

Mr. Chairperson: Thank you, Mr. Christensen, for your presentation this evening. Questions of the presenter?

Mr. Loewen: Thank you for your presentation, Mr. Christensen. Just to clarify, we can argue back and forth amongst ourselves whether people understood that there was a significant risk in this venture capital fund or whether they felt that the government was standing behind it and there was considerably less risk, but I do not really believe that has ever been the primary issue here.

The primary issue raised by both the Securities Commission and the Auditor General was that people investing in the fund were significantly misled by the fact that valuations were not done properly and the fund was overvalued in terms of what it was putting out as being worth versus what it was worth. The directors from the MFL are under very serious allegations from the Securities Commission that they sat quietly by while this was done.

I guess my question to you is that do you take a little different look at it, understanding that it was not an issue about whether it was a high-risk fund or not, but the real issue in contention here is whether the fund itself, as the Auditor has said, significantly misled those people that were investing in it by propping up its values and stating them to be something that they were not, over a considerable period of time.

Mr. Christensen: Well, that is the allegation. Whether that is going to be proven true when it goes through a court of law, I cannot say. What I do know is that having an involvement within the labour movement I think we were fairly well kept up to date on developments.

I know one of the issues which I think is fairly safe to talk about is the liquidity thing. When that

came up a few years ago here, they are bringing in cash, but now redemptions are going to happen. Well, is there going to be enough to pay out and keep the ratio within the invested part? That was as a problem, and I remember discussing it. It was dealt with.

The legislation was changed and we went from a seven-year to an eight-year hold. I gather that ENSIS is basically coming up to its wall on the same issue at this time in their existence, but I do not recall anything that would give me reason to believe that what I was being told was deliberately false, misleading, that it was not done with the advice of their legal people, their valuers, their whatever. I guess you could say, "Well, maybe they are just incompetent." Well, they are incompetent and let us say they are. Let us just use it for argument's sake. I think the test of liability on these people is based on them doing their job to the best of their ability and the best of their knowledge. Were they weak? Maybe so. I cannot judge that. Maybe a court will find that to be so. To say that they were wilful, I would have a hard time with that.

Mr. Rondeau: Part of the questions that I have been asking is that the new bills are trying to get better disclosure to shareholders, getting shareholder reps on the different boards and board committees, and to ensure that there is more information provided for all people. Do you think those are legitimate things in the bill, and do you think they will help with the information flow for people?

Mr. Christensen: I believe that a number of these are good recommendations. I do not see the problem, as I said, the biggest room in the world.

Mr. Gerrard: I gather that you were involved or had some discussions pretty early on in the setting up of the fund. You are indicating that really, it is a matter of people doing what they can do best. What this law is doing is trying to sort of tell people to do what they should have been doing to start with. Is that sort of a correct view of what this law is trying to do?

Mr. Christensen: Hindsight is always 20/20, is it not? When Mr. Filmon drafted the legislation, it was with the best of intentions, no doubt. I know labour was quite happy that Mr. Filmon had that legislation, and evidently, some things could have been done better. So I do not have a problem with improving what was initially done but, again, I would not go so

far as to say that either Gary Filmon or his successors were, in any way, wilfully wanting to hurt anybody. This was for the benefit of Manitoba, for our businesses, our jobs, and even though I am not a Conservative, I would have to say that it was on the right track and it should stay that way. Just improve it, make it better and, hopefully, we will not have any September 11 incidents, which nobody seems to talk about but, you know, Crocus took a hit then, like all other financial groups did. And I have not heard that mentioned.

Mr. Chairperson: Thank you, Mr. Christensen, for your presentation here this evening.

We will call Kevin Miller for the second time. Is Kevin Miller here this evening?

Ho. Greg Selinger (Minister of Finance): I just want to clarify that I understood that we would let people stand, even after they have been called a couple of times, until we are finished our public hearings.

Mr. Loewen: Mr. Chair, I just go back to the agreement that I clearly understood we had at the beginning of this, that because we are flipping around bills and because there are so many presenters, there may be people that do not get here tonight that will be allowed to make a presentation when this committee sits tomorrow, and that was a clear understanding we had going in to this, in my belief. I would just like some clarification on that.

Mr. Selinger: I think, as a matter of good faith, that we should let anybody who shows up before the committee hearings close tomorrow, if they wish to make a presentation I would hope that we would give them the opportunity to be heard.

Mr. Loewen: Well, again, I do not want to be too picky on this, but I just want a clear understanding in my mind that people who are not here tonight, when the committee reconvenes tomorrow, will get an opportunity to make a presentation at that time.

Mr. Selinger: If the member would have heard me, I just said that.

Mr. Chairperson: It seems like there is agreement, then, that since Mr. Miller is not here this evening, his name will remain on the list and that any other individuals wishing to speak tomorrow to this bill

will be given the opportunity to make presentation on Bill 51. Is my interpretation accurate?

An Honourable Member: People that are on the list.

Mr. Chairperson: People that are on the list.

Mr. Loewen: Well, I do not disagree with that, but I will say this, that the committee should recognize it, if we finish at midnight tonight and there are more presenters to come back tomorrow, then those people will, you know, and the people coming tomorrow to this committee during presentation stage and register with the Clerk on any of the bills we are dealing with, they should be allowed to make a presentation. That is standard process in this committee, from what I understand it. That is all I am looking for. I just wanted to clarify to make sure that Mr. Miller was not dropped off the list, because you did mention second call.

Mr. Selinger: Yes, I think we should get on and hear the rest of the many people in the room that wish to present on the other bills. We have got a clear understanding.

Mr. Chairperson: Okay, committee has agreed. Thank you.

* (19:50)

Bill 33—The Planning Act

Mr. Chairperson: We will now be dealing with Bill 33, The Planning Act.

We have a number of out-of-town presenters.

Mrs. Myrna Driedger (Charleswood): Mr. Chairperson, with the unanimous consent of the committee, I would like to make the following membership substitutions effective immediately for the Standing Committee on Legislative Affairs: Mr. Eichler, Lakeside, for Mr. Loewen, Fort Whyte.

Mr. Chairperson: Is there unanimous consent of the committee to substitute Mr. Eichler for Mr. Loewen? *[Agreed]* Thank you. So ordered.

* * *

Mr. Chairperson: We will proceed with public presentations on Bill 33, The Planning Act. The first name out-of-town presenter I have on the list is David Rolfe, President, Keystone Agricultural Producers Association. Is Mr. Rolfe here this evening?

Good evening, sir. Would you please come forward? You have copies of your presentation for committee members?

Good evening, Mr. Rolfe. You may proceed any time you are ready, sir.

Mr. David Rolfe (President, Keystone Agricultural Producers): Thank you, Mr. Chairman, members of the committee. It is certainly a pleasure to be here this evening to talk on Bill 33. On behalf of Keystone Agricultural Producers I am pleased to share our organization's position with respect to Bill 33, The Planning Act.

KAP, Keystone Agricultural Producers, is a democratically controlled general farm policy organization representing and promoting the interests of agriculture producers in Manitoba. It is an organization run and funded by its members. That is, farm units throughout Manitoba.

There are certainly some positives with Bill 33, but we must look at where further improvements can be made, and believe there is certainly room for improvement. The Province must look closely at all proposed development plans to ensure that they are reasonable for the agricultural industry, and certainly allow for sustainable livestock development.

Another major concern with Bill 33 is that it will not ensure consistency of regulations across the province. Municipalities will continue to have great latitude in requirements for conditional use hearings and siting and separation distances.

We have concerns with this bill and the impact it will have on the continual growth of sustainable agricultural industry and rural communities. We do agree that all councils need to have development plans in place. We are pleased that the Province is aiming for a time frame of two years for compliance. We believe that some areas, those currently having restrictions and moratoriums in place for livestock must be given priority, and adequate resources must

be allocated to ensure that a viable plan is put forward.

We cannot stress enough the need for the Province to ensure that all development plans allow for sustainable livestock operations policy, one that will not limit the growth of the industry. Government must not approve development plans with a livestock operations policy that is so restrictive that it allows for no further development of the industry. If such a plan does come forward, the Province must negotiate with the council to defend agriculture. The reference to the sections are as marked on the presentation.

The development plan process is an open one, and the importance of active involvement of local ratepayers, farmers included, is certainly crucial. A fear of our industry is the influence of outside parties on the development plan process that could negatively impact agricultural growth in the province for the foreseeable future.

The provincial land use policy, No. 2, will have a bearing in this process, and it is extremely important that the provincial land use policy be updated as soon as possible and that it be done in conjunction and consultation with industry players. The government has agreed that there will be opportunities provided to discuss the policy, and we appreciate that.

The development plan will outline areas that allow livestock development and areas where livestock are prohibited or restricted. If an existing operation is in a prohibited zone, what will be the future of that family farm operation if it cannot expand to remain viable, or worse, if it has to relocate? Also, these existing operations that are prohibited will not be able to maintain their property value. There must be compensation provided in cases where operations are adversely affected by this act. As well, in the case of a fire or some other catastrophe, would operations be able to rebuild? It is certainly a requirement of fire insurance, and it may become an issue.

The threshold for the conditional use process is set at 300 animal units, and the process will include public hearings and a technical review. Each municipality will decide if the same process will be required for development under this threshold, and this can impose significant restrictions on our industry. We are sure that councils do not want the onerous task of

reviewing a multitude of applications for small increases in animal units.

There is the requirement for a hearing for 300 animal units or more, even if the development is in a designated livestock development area. It is KAP's position that if one is applying to develop in a designated area, there should not be the requirement of a hearing. The hearing process involving local ratepayers has already taken place during the consideration of the development plan which outlines the livestock development areas. If an additional hearing process has to take place, it has the potential to open up the whole process again to outside influences with their own agenda, and that certainly has potential to the detriment of the whole community.

The process would require enhanced public notice and hearings for livestock operation applications over 300 animal units, ensuring neighbouring municipalities, planning districts and residents are notified of all species of livestock applications. This makes it a process open to emotional and acrimonious debate, certainly as it was previously, and it does nothing to ensure that only those affected have a voice. It essentially allows for emotion and not necessarily science-based decisions.

There is also a decision to make on the body that will be chairing the technical review committees, and it is KAP's position, Keystone Agricultural Producers' position, that it has to be chaired by Manitoba Agriculture, Food and Rural Initiatives.

A proposal that goes to a technical review committee (TRC) will be evaluated on whether it creates a risk to health, safety or the environment. This determination, however, must be science-based. The TRC then submits a report to council, who has the option to deny an application based on much more subjective and undefined criteria, including general compatibility, a perception of detriment to health, safety and general welfare, or an expectation of negative effects on properties or other development. The language of this clause should be tightened up toward proven criteria, not perceptions.

* (20:00)

This process creates a number of loopholes. Particularly, as proposed under this bill, councils will not be required to provide a written justification for their decisions. There is at present no appeal process.

If an application is denied, then there should be an appeal process in place for the applicants and the cause for denial, based on sound science and reasoning, must be provided in written form to the applicant. Agriculture is the only land development use where an application can be denied even if it fits all the criteria set out.

The siting and set-back distances must be mutual so that rural residential parcels of land do not encroach on existing farm sites. The act states that the Province will provide direction on minimum siting and set-back standards as a guide to municipalities. However, rural municipalities will be able to substitute the provincial regulation with stricter local standards, essentially resulting in restrictions on all species of livestock operations. The Province should set firmer standards on variation from the provincial minimum standards.

It also allows, for what may be simply esthetic reasons, development plans which restrict or prohibit livestock operations. Under what conditions would the minister approve a development plan which prohibits livestock? How do we build an industry under such strict conditions? The act allows for conditions on livestock operations to include measures to ensure conformity with the applicable provisions of the development plan by-law, the zoning by-law and any secondary by-law. The question here is, does this open the door for the requirement of performance bonds for livestock operations?

The municipality can require covers on manure storage facilities and also the establishment of shelter belts. Will this clause be used as a deterrent for an operation? Will the municipality ensure that it is the most applicable manure storage cover, for example, proven technology that is required, or will it be the most expensive option that would be required? As it relates to shelter belts, will the municipality ensure that the most feasible option is required, for example, PFRA seedlings or the more expensive option of nursery trees?

Planning commissions can be established by council and could include citizen members that have no electoral responsibility. These commissions could be used to take pressure off council but this is not an acceptable method of decision-making. The suggested method of appealing a decision being made

by a planning commission is to go to council. This should be an independent body.

In closing, we would like to stress that Manitoba is increasingly diversified and we have had to adapt to change, but more change is needed yet. It is imperative that government and municipalities create an atmosphere that will assist or, at very least, not hinder this adaptation process. We must work to ensure that this growth does have a positive impact on rural Manitoba. Municipalities must make good decisions which will promote and support the economic development and the viability of communities.

It is critical for the future of agriculture and for the survival of rural communities that all stakeholders accept the growth of the livestock industry in a positive, reasonable and responsible manner. Thank you.

Mr. Chairperson: Thank you, Mr. Rolfe. Questions for the presenter?

Mr. Ralph Eichler (Lakeside): Thank you, Mr. Rolfe, for your presentation. It is always good to hear KAP's positions on the bills as they come forward. I know last year we dealt with Bill 40 that ended up being pulled because there just were too many problems with that particular bill. Bill 33 has taken another stab at that bill.

The concern that I have, and you talked a bit about it on page 4, about the appeal process, does KAP have a program or a board or a process that they would be wanting to recommend that we add to this bill in order to make that appeal process where it will be workable for the organizations?

Mr. Rolfe: We, certainly, as an organization, take every opportunity to lobby government and to enlist the help of opposition wherever. Certainly, the appeal process is something that has been required for a very long time. It certainly caused a lot of acrimonious debate and there have certainly been some emotional decisions made over the years. That is the ultimate. If that cannot be achieved then, certainly, there has to be written reason given to a proponent why his project was turned down. Those reasons have to be science-based. They have to be rational and not based on emotion. There is still some leeway in this bill that may allow for emotional decisions, that may allow for decisions to be made on very vague reasoning. That is why we suggest in

the bill that language in some clauses needs to be tightened up.

Mr. Eichler: Just a supplemental to that. With Bill 33, were the Keystone Ag Producers in consultation with the government in the drafting of the legislation as it stands?

Mr. Rolfe: Not in the drafting of the legislation per se, but we have certainly had opportunity to talk with the minister since then, both with the Minister of Agriculture (Ms. Wowchuk) and the Minister of Intergovernmental Affairs (Mr. Smith).

Mr. Larry Maguire (Arthur-Virden): I wanted to just touch base in regard to the comments you made about the Technical Review Committee and the fact that it should be chaired by someone from the Ag, Food and Rural Initiatives. I think I would agree, and I am assuming that you are looking at doing that because there would be the technical experience involved by that individual because of their education and training.

Mr. Rolfe: We certainly would request that. We certainly would request that in the bill. It seems a little ironic that there was some discussion on moving the chairmanship of that committee, which is so directly in Agriculture, away from Agriculture. We would certainly make that recommendation that Agriculture retain the chairmanship of that Technical Review Committee.

Mr. Maguire: Therefore, they would then be able to ascertain and make recommendation back to the council that the reasons that they would be giving would be science based.

Mr. Rolfe: That would lend credence to any decision that the Technical Review Committee would bring forward.

Mr. Jack Penner (Emerson): Well, thank you very much, Mr. Rolfe, for your presentation. The government of the day, as we all know, brought forward a planning act, Bill 44, and then withdrew the bill and brought forward Bill 22, The Water Protection Act. They then said they believed that they could incorporate in Bill 22 what was needed as far as the planning process that they thought they needed to establish. They have since, now, brought Bill 33.

What kind of compatibility do you see in Bill 22 and Bill 33? How are they going to be able to be fit

together to make the planning process, both in land and water in this province, a compatible process that will give us some comfort of the environment being protected?

Mr. Rolfe: Well, certainly, Bill 22 is new legislation. The Water Protection Act is certainly far-reaching legislation. The two pieces of legislation, both Bill 22 and Bill 33, have to harmonize. They have to come together. Municipalities and planning districts are going to be in the process of setting up livestock development policy. They are going to be in the process of deciding where livestock can, cannot or may be restricted. It is important that both Bill 22 and Bill 33 be harmonized in that respect. One cannot proceed without the other. The two have to go hand-in-hand in harmony. Otherwise, we are going to have planning districts, municipalities putting development plans in place and then having to go back and revisit them to harmonize with Bill 22. Obviously, watershed planning districts too are going to play an important role in that. So there has certainly got to be a tremendous amount of harmonization come in the whole process.

Hon. Scott Smith (Minister of Intergovernmental Affairs): Thank you, David, for your presentation. Certainly, in your presentation, you highlight a number of the things we had talked about and not all the concerns you had and some of the recommendations you had other than these. So I appreciate your presentation tonight.

* (20:10)

I know some of the substantial changes and modernization we have had in The Planning Act are 30 years in the making, I guess, if you will, the last time the act was really substantially introduced and changed. So those 30 years, I could not agree more on better up-front planning, certainly, to deal with a lot of the issues that you spoke about here tonight.

I know on page 4 of your 5-page presentation you mentioned some of the possible encroachments of people migrating from urban centres out into rural municipalities and the impact that that has had over the last 20-some odd years. It certainly has had an effect on the agricultural industry. But certainly the accountability of decisions to area residents is clear on better up-front planning in the bill. Certainly, some of the good advice that you have brought forward from the Keystone Agricultural Producers

has been drafted and put into the bill in a substantial way and certainly to modernize it. It will reflect some changes in practices that we have all seen over the last period of time.

So I was glad to hear overall that you would like to see the bill move and move forward. Certainly, some of the changes are positive. Your views may be differing from some other presenters that we have here tonight, but I certainly respect your comments and your advice and certainly the ability of KAP to bring these forward to me over the last period of time.

Mr. Chairperson: Mr. Rolfe, did you wish to respond?

Mr. Rolfe: I would just like to make one comment. Certainly, we were disappointed when Bill 40 was withdrawn. However, there was a promise made at that time that the whole Planning Act would be reviewed and in fairly short order, and we certainly appreciate the move to bring that forward and to begin the discussions on how we can move forward with this whole planning process. So, certainly, the timeliness of it, sooner than waiting several years to begin the process, at least we are starting down the road and things, with some of this legislation, may begin the process of healing communities and bringing communities back together again.

Mr. Chairperson: Thank you, Mr. Rolfe, for your presentation here this evening. Before we—*[interjection]* Time has expired, Mr. Maguire.

Before we proceed to the next out-of-town presenter, I would like to advise the committee or inform the committee that written submissions have been received from the following individuals for Bill 33: Clair English, private citizen; Reed Wolfe, private citizen; Rodger Mawer, private citizen. Please note that Mr. Mawer is listed as No. 18 on the presenters' list and will not be presenting, but submitted this presentation in place of his speaking. A copy of these briefs was made for committee members and was distributed at the start of this meeting.

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

We will now proceed with the next out-of-town presenter on Bill 33, Shirley Conibear, the Manitoba Cattle Producers Association. You are in the audience?

Would you please identify yourself, sir? It is not quite the same as the name I have called.

Mr. Larry Schweitzer (President, Manitoba Cattle Producers Association): My name is Larry Schweitzer. I am President of the Manitoba Cattle Producers, but I do make this presentation on Shirley's behalf, or I have changed gender.

Mr. Chairperson: Proceed when you are ready, Mr. Schweitzer.

Mr. Schweitzer: The Manitoba Cattle Producers Association is pleased to make some comments on Bill 33. Further details are provided in our written submission which is being passed out there now. The MCPA is a producer-driven, non-profit organization representing 1200-plus producers involved in various aspects of the beef cattle industry. The livestock industry is worth in excess of \$500 million to Manitoba's economy annually and creates thousands of direct and indirect jobs.

Cattle producers are good stewards of the land. They shoulder a large share of the responsibility for protecting our natural resources. This involves a direct cost, but producers cannot pass these costs on directly to the consumers. The MCPA appreciates the government's effort to make the land use planning process more orderly. Accountability and the use of sound science must prevail.

The MCPA recommended an economic impact analysis be undertaken to determine the financial implications for the proposed Planning Act on livestock producers. As noted, cattle producers have no means of recovering added costs resulting from a changing regulatory environment. Changes regulated to The Planning Act and other legislation such as The Water Protection Act will have a significant impact on producers' bottom lines. The government needs to be aware of the burden that is placed on this sector so crucial to the well-being of the Manitoba economy.

Mr. Vice-Chairperson in the Chair

Regarding the provincial land use policies, the MCPA believes that the sound policies are essential to agriculture's long-term viability and municipalities should not be allowed to arbitrarily reject agricultural activities in these areas where they have been deemed allowable. Updated land use policies must be made available to municipal governments as soon as possible. Planning in the absence of finalized policies is not a sound exercise.

The MCP has questions about section 32, which gives the board of a planning district or municipal council great latitude in making appointments to a planning commission. For example, the entire planning commission could be made up of individuals who are not members of the planning district or the council or even local ratepayers. The MCP suggests two options. First, the MCP prefers section 33(b) be removed outright. That is, planning commissions should be tasked with hearing variances only. Conditional use hearings should remain the purview of the affected municipal councils, LGD, this will help increase local accountability to ratepayers.

Failing that, given that Bill 33 gives planning commissions the authority to do conditional use hearings, MCP recommends that only elected officials sit on these commissions. This will increase accountability to ratepayers. It will also help limit the perception that some members of a planning commission may have been appointed to achieve a certain outcome related to conditional use hearings.

The MCP is concerned that the municipal councils will be allowed to exceed the provincial siting and setback standards for livestock operations. This could deter producers wishing to expand, even though there is no scientific basis for the stricter rules.

Also with respect to siting, will residential, commercial, industrial or other types of development be allowed to encroach on agricultural lands? Will they be required to go through a conditional use application process? The act must reflect the need to protect Manitoba agricultural resources.

The MCPA believes that the municipal councils should be open and accountable in terms of their decision-making processes. They should provide written explanations when various types of applications have been rejected or accepted. These types

of reporting are not without precedents elsewhere in the bill such as section 51(3).

Regarding variances, the MCP believes there should be an appeal process. Council should supply the applicant with written reasons for rejecting or accepting the variance. The MCP has concerns about the planning commissions being involved in the conditional use hearings. The council to whom the application was made should undertake these hearings, ensuring accountability by elected officials to ratepayers.

The MCP questions the subjective nature of sections 106(1)(b)(i) and (ii). These are far too open to interpretation. Conditional use applications for livestock operations that meet all government requirements and that are consistent with the development plan and zoning by-laws could still be rejected for purely ideological reasons.

Regarding section 106(1), the board, council or planning commission should provide written reasons for rejecting a conditional use application. The MCP recommends that the act contain a provision so the applicant can appeal a negative decision to a third party such as the Municipal Board. This will help ensure fairness for applicants.

The MCPA is pleased with the guidelines respecting odours. The MCP also appreciates that the responsibility for the storage, application, transport or the use of livestock manure under one provincial jurisdiction. We feel that responsibility should fall under the Department of Agriculture, Food and Rural Initiatives because of their expertise. We appreciate that this, in effect, removes the potential additional layer of bureaucracy when it comes to regulating manure. These types of measures will ensure uniformity of regulations across the province and will prevent municipalities from applying a variety of nuisance regulations that have no basis in science.

The MCPA supports the continued use of technical review committees to review conditional use applications related to livestock operations as long as the science-based approach to reviewing applications is maintained. The MCPA believes that it is essential for the Department of Agriculture, Food and Rural Initiatives to chair the TRCs, given their expertise pertaining to livestock operations.

Section 113, Appointment of Technical Review Committees, requires clarification. The MCPA strongly believes that TRCs should be made up of experts who have the knowledge in the areas such as livestock production, land use planning and so on. This will help ensure decisions that are made on the basis of sound science and are not motivated by other interests. Laypeople should not be tasked with reviewing applications and making recommendations about the livestock industry.

* (20:20)

Conditional use hearings should be used to determine the merits of the application under consideration. The hearings should not be debates about land use planning or the value of certain types of agricultural production. These discussions should have taken place during the creation of a municipality's development plan and zoning by-laws.

The MCP recommends that if the application for conditional use is rejected, written reasons for a rejection must be provided. This will help bring accountability and transparency to the process. Council should not be allowed to reject sound applications on the basis of subjective criteria. The act should provide an applicant whose application was approved by the Technical Review Committee but rejected by council with the opportunity to appeal to a third party such as a municipal board.

If the TRC has approved additional use, the applicant obviously met the science-based requirements needed to proceed. The MCP wishes to reiterate the importance of projecting existing livestock operations and of encouraging future growth in the industry. What would happen if an existing livestock operation located in the area designated as being unsuitable for agriculture or damaged due to a fire, flood or other disasters, there may be insurance implications? The MCP recommends that these producers' operations be grandfathered and be allowed to rebuild.

If a producer needs to rebuild after a disaster, could a municipal council deny their application because it is in a restricted zone? Would the producer be compensated for the loss of future income in their operation that were denied? What would happen to the resale value of their land? Will grandfathering rules apply? The MCP recommends these issues be

examined in more detail with compensation included as a critical component.

The MCP believes municipal government will try to finalize their development plans and zoning by-laws within the time frame set out in the act. While there may be valid reasons for a municipality to receive extensions, they should not be used as a stalling tactic. The MCP recommends clear time frames for extensions being incorporated.

There should also be clear time frames set out and related to other aspects of the act such as the timely handling of applications of GRCs and ensuring recommendations for council. These time lines will assist all stakeholders with planning.

To ensure uniformity of regulations, the MCP recommends that all pre-existing municipal by-laws be deemed amended as soon as the new Planning Act receives Royal Assent. Livestock producers need more confidence in the government regulation framework in order to move forward and to expand this valuable industry. The provincial government must recognize the cumulative effects of its legislative and regulatory initiatives on the producers.

It is important to ensure fairness for all stakeholders be they livestock producers, rural non-farm residents, small communities, and others. A vibrant livestock industry is critical to the social and economic well-being of the Manitoba rural communities. The Manitoba Cattle Producers looks forward to the provincial government's thoughtful consideration of our recommendations on Bill 33.

Mr. Vice-Chairperson: Thank you for your presentation, Mr. Schweitzer.

Mr. Eichler: Thank you, Mr. Schweitzer, for your presentation. It is good to hear the Cattle Producers on this particular issue, on Bill 33. You touched briefly on the time frame in order to incorporate the new legislation. Do you have a suggestion on that time line? I know two years has been kind of thrown out. I know that the other thing you talked about was science an awful lot, and your industry has been through enough science the last couple of years and indeed, a lot of financial stress has been put on them as well. In all fairness to the cattle producers, that time line that you refer to in your submission, what type of a time frame would you like to see?

Mr. Schweitzer: We need to have some direction and some time lines so everybody has a solid idea of where they are going to go. With the cattle producers this last little while, we have had some ups and downs in our industry, that is for sure, but I think we need to get more direction, and this is what we are asking from The Planning Act.

Mr. Eichler: Just supplemental to that. Mr Schweitzer, did your organization have much input into the drafting of the legislation as it sits now?

Mr. Schweitzer: No.

Mr. Maguire: Thank you for your presentation, Larry. It is most encouraging, I think, to be talking about Bill 33 this year. I did not say it earlier that a lot of what I see in this act was contained in Bill 40 last fall, and it was killed. I believe that there was talk of more discussion coming forward, as wanting more consultation to come forward. Clearly, from the number of presenters, we have got less, but I nonetheless wanted to ask you if you, through the process, of course, as you recognize zoning by-laws are being set up and established by all municipalities—the member from Lakeside just indicated the time frame around that—but do you believe as well that, if a livestock operation is being built in a GO zone that is clearly outlined by a zoning by-law to be an area of a municipality or a region that has already established that livestock could be put there, they should necessarily require a hearing process?

Mr. Schweitzer: The hearing process is probably necessary just to make sure that the neighbours and everybody else are all on the same page here. We need to live with our neighbours. We need to do the best job we possibly can to keep everybody on the same page. We know that, you know, communication between everybody in the community, especially smaller communities, is crucial, and we still think there needs to be some hearings.

Mr. Maguire: Of course, there would be hearings to establish the zoning by-law in the first place, and all municipal citizens could have the opportunity to do that. I did not finish all of my question there. I guess, I should have said if the proponent of an operation meets all of the zoning by-laws, including sightings and setbacks and that sort of thing, which does require them to speak to neighbours and others in the municipality and adjoining municipalities, if, of course, they are on the edge of a municipality, this

act provides for that, as well. Would it be as necessary?

Mr. Schweitzer: I would think not. The technical review committees, as of such, are doing more due diligence now than what they ever have done before. They are asking for quite a few different things as far as phosphorous content, nitrate content in soils, and what have you, setbacks and odour issues, and all that kind of thing. So it gets pretty deep when you go through those technical reviews.

Mr. Maguire: Just in regard to the issue of performance bonds, do you see sections of this bill that may require the addition or perhaps the imposition of a performance bond down the road?

Mr. Schweitzer: We would hope that would not be necessary. If you are looking at 300 animal units, there are lots of farm families right now that are going over 300 farm animal units just because of the increase in livestock. Some of these regulations will be a burden on these farm families. If we need to do all the regulations, and all the paperwork, and all the accountability for all these programs we are going to take the farm families out of this scenario here and they are going to be made into bigger farms.

Mr. Smith: Thank you again for your presentation, Larry. Certainly, the input has been very strong from your organization in KAP, certainly in Bill 40. This substantially reflects the intent of Bill 40, but it also is a substantial change in The Planning Act, better up-front planning and the modernization of the act that incorporated. It was very good to read a lot of your comments that you have made to the Province over the last three years or so, and certainly on Bill 40, and some of the changes in The Planning Act.

I know the Minister of Agriculture has had the opportunity to hear your concerns, passed it on to myself, as well. I appreciate your views to Agriculture, to Conservation, to myself and to Water Stewardship.

The planning commission, and you mentioned, certainly, some issues on the planning commission. Just for clarification, as you know, it will be an option for municipalities, not mandatory for municipalities to form that planning commission. Obviously, that is just a tool provided to municipalities for the area of reducing some of the workload in some of the areas where, in fact, they do

have a number of public planning hearings in their areas. Certainly, that is an option. It is an option for them. If council does decide to appoint a planning commission by by-law in their municipality, they may determine not to allow the commission to hear conditional uses, or not allow it to hear conditional uses for livestock, and, as you know, all planning commission decisions can be appealed to the full council after that point, after the recommendation.

* (20:30)

The option for creating a planning commission is intended to reduce the workload of those councils, and that is strictly what I believe most of them will do. Obviously, there are not a lot of these types of applications that are happening out there anyway, but to municipalities that do have it, it does provide the tool and it can be appealed.

In terms of, and, as you mentioned, certainly this bill does address a lot more than livestock operations all planning for the province. Obviously, livestock operations certainly are important. The LOs are regulated under, and influenced by several different acts. I know you mentioned you would like to see some things stay in Agriculture, and you would like to see some things in other departments, but, certainly, under a lot of different acts, including The Planning Act, The Fertilizers and Pesticides Control Act, The Environment Act, which is livestock manure and mortalities management regulation and The Farm Practices Act. They will soon also be regulated under The Water Protection Act in the proposed water quality management zones.

So I believe this is a pretty good example of why many of these issues raised by LOs certainly do belong in The Planning Act. People can get direct access in one department and get the answers they need, and appreciate having it under one umbrella and having clear, straightforward regulations. That is why we considered the better up-front planning and to have these all under one department, where it is a one-stop, if you will, not going department to department to department and confusing people. I believe that is the way it has been since 1975, and a lot of these different changes and different departments are now being proposed under one umbrella to make clarification for everyone.

Mr. Vice-Chairperson: Time is up, Mr. Schweitzer, but I will allow you a brief response.

Mr. Schweitzer: Well, for our end of it, we would definitely like to have as many rules as we possibly can, or as least as many rules as we possibly can under one department. We have had great response from Manitoba Agriculture, Food and Rural Initiatives. They worked well with us over the last two years here since the BSE situation has happened. Because of their expertise, we would really reiterate that they have the data and the know-how to make some of these regulations so you do not swing the pendulum too far one way, because it is very difficult to bring those regulations back after we are done.

Mr. Vice-Chairperson: Thank you for your presentation, sir.

I now call Reeve John Holland of the R.M. of Springfield. Okay, I do not see Mr. Holland coming forward. His name will be dropped to the bottom of the list.

Next person I have is Chris Fulsher, Manitoba Municipal Administrators' Association.

Good evening. Mr. Fulsher, is it?

Mr. Chris Fulsher (Manitoba Municipal Administrators' Association): Fulsher. Yes.

Mr. Vice-Chairperson: You have a written presentation? I see you do. Proceed when you are ready.

Mr. Fulsher: Thank you, Mr. Chairman, and good evening to members of the Standing Committee on Legislative Affairs. As I said, my name is Chris Fulsher, and I am the chief administrative officer at the R.M. of Headingley.

I am here today representing the Manitoba Municipal Administrators' Association. Our association represent over 300 chief administrative officers and senior management staff of Manitoba municipalities. A number of these members also serve as senior management staff of planning districts. The responsibility for the administration and supervision of the planning function often rests upon the CAOs and their team. As a result, our members have a keen interest in the content of the proposed new Planning Act.

I am pleased to represent the MMAA here and provide our comments on the proposed legislation. Our association participated in the rewrite as part of

the technical advisory committee. However, our role was limited to review of the concepts of the law, and not the final product that we are here to comment on today.

The Planning Act is probably the second most important piece of legislation that affects municipalities in Manitoba. It is long overdue for a rewrite, and the proposed legislation does a good job of modernizing planning law in Manitoba. Unfortunately, it is being enacted in a time frame that does not allow the stakeholders to adequately review and comment on its content.

Our presentation today is based upon the thoughts of members of our planning committee, but there has not been an opportunity for input other than casual comments from other members of our association. Our comments will deal with specific sections of the act.

Section 2(a) exempts the City of Winnipeg from the legislation. While this is not different from the old Planning Act, it does affect the municipalities that surround the city. The process for zoning by-law amendments under the City of Winnipeg Charter does not include an appeal to an independent body such as the Municipal Board. Development can impact adjacent property owners in a neighbouring municipality or impact the infrastructure of the neighbouring municipality with no opportunity for a development to be considered by an independent body.

In Headingley, Plan Winnipeg was amended to redesignate land next to Headingley as neighbourhood, with no specific development proposal presented. Now the land is being proposed for development which will impact municipal infrastructure in Headingley, yet we have no recourse beyond the community planning committee to have our concerns addressed. The procedures in this act or in the City of Winnipeg Charter should be amended to make the procedures consistent when dealing with neighbouring municipalities.

Section 42(2) imposes a requirement on all municipalities to include a livestock operation policy in their development plan, and section 201(b) requires that policy to be adopted by January 1, 2008. While this requirement is a reasonable one, it seems to be a somewhat redundant requirement for urban municipalities. The process for development

plan amendments can be quite significant and consideration should be given to enable urban municipalities to adopt that policy when their development plan is next reviewed rather than by January 1, 2008, as is set out.

Sections 43 and 59 provide for periodic review of development plans. The legislation requires a board or council to complete a detailed review every five years or some other date that may be set in the development plan. The wording in the old act is somewhat similar, but, in actual practice, the completion of a review is seldom, if ever, achieved in that five-year term. The legislation should recognize this and be softened to require the review to be initiated in the time frame set out.

Section 47(2)(b) requires the minutes of a public hearing held to consider a development plan or development plan amendment, together with copies of written submissions to be sent to the minister. While the minutes are very important, they are not adopted until the next council or board meeting, often a month after the hearing. Approval of development plan amendments takes long enough already. By requiring minutes to be sent will extend the time for this process. Our association recommends that this requirement be changed to the filing of a statutory declaration outlining the proceedings of the hearing. This process would be similar to the application process for approval of borrowing by-laws by the Municipal Board.

Section 51(1) deals with the minister's decision regarding approval of development plans or amendments thereto. While our association welcomes the devolution of this authority down to the ministerial level, we believe that the section should include a time limit for a decision to be made on development plan amendments. These amendments are often very important to a municipality and a development proponent and the delays currently being experienced must be reduced or eliminated.

Section 68 requires the municipality to amend an existing or adopt a new plan zoning by-law generally consistent with the development plan, and section 202(1)(b) requires the by-law to be adopted by January 1, 2008. Our concern is that the wording of this section may obligate a municipality to prematurely zone lands to comply with this clause. The legislation should ensure that municipalities are not required to change the zoning of any land to be

consistent with the development plan until, in council's opinion, it is warranted.

Section 102(1) deals with authority for minor variances. This section should include authority to make an order that varies yard, area, or frontage requirements where an existing non-compliance is being increased but still does not meet the minimum requirement of a zoning by-law. For example, a zoning by-law calls for a minimum frontage of 100 feet. A property owner with a 50-foot lot subdivides the next lot in half and consolidates half the lot with his lot and the other half of the next lot creating two 75-foot lots out of the three 50-foot lots. This would require a variance, even though the lots are getting larger. This should be considered a minor variance.

* (20:40)

Section 114(2) provides for notice of livestock conditional use hearings. Subsection (iv) requires notice to property owners within a range of three kilometres of the proposed ILO and including those in adjoining municipalities if they are within three kilometres of the site. The legislation does not specify what source of information is to be used to determine who the owner is. Are administrators expected to search ownership records at the Land Titles Office? How do we get information from other municipalities? What if the information provided by another municipality is incorrect or information is omitted? Would this invalidate a hearing? Worse yet, would it be grounds for legal action by an individual who did not receive notice and is adversely affected by an ILO?

Subsection (c) of the same section requires the posting of a notice on the affected property. Section 170 sets out the manner of posting of this notice. The effectiveness of posting a property in a rural location is questionable. The legislation calls for an 11-by-17 notice posted in conspicuous locations on the property and specifically not more than one metre inside the boundary lines of the property. Boundary lines are not often clear in rural areas. How can we be sure the posting is in the right place, and even if it is, the likelihood that someone travelling in a vehicle some 50 feet away is going to see the sign and stop to read it is extremely remote. What about an application in the winter? Posting of a remote agricultural property may be difficult if not impossible. Posting of properties can be an effective tool in urban centres but should not be a requirement in rural areas.

Section 124(2) deals with the processing of an application for subdivision. The legislation should include a time frame for circulation of applications. The approving agency should be required to ensure that applications are circulated in a timely fashion to government departments and agencies, and those departments and agencies should have a deadline for response.

Section 125(2) provides for a public hearing when a subdivision results in the creation of a new public road. While this requirement is a good one, the legislation should also address condominium subdivisions where the roads are private, or when subdivisions occur on an undeveloped road allowance. These types of subdivisions can be more controversial than typical subdivisions, yet, according to the law, no hearing would be required.

Section 130(1) requires the Municipal Board to hold a hearing of appeals on subdivision applications. Again, the legislation should include minimum time lines in which to hold such a hearing.

Section 134 deals with minor subdivisions. Subsection (1)(b)–

Mr. Vice-Chairperson: One minute, sir.

Mr. Fulsher: Thank you. Subsection (1)(b) limits these provisions to urban-type municipalities or LUDs. Why are minor subdivisions in R.M.s not included, or at least some latitude given to the approving authority to determine whether an application is a minor subdivision? Many R.M.s have unincorporated urban districts or urban centres that should also qualify for the provisions of this section.

Section 134(3)(a) sets out the process for a designated employee of a municipality to deal with a minor subdivision. It limits the actions he or she can take to approving or approving with conditions the application "but may not reject it". There could be conditions under which a "designated employee" should reject application. The legislation should allow him or her to do that or there should be provision for the employee to refer the matter to Council if he or she feels the application should be rejected.

I will skip to 173(1)(b), which allows written representations at public hearings. There is no opportunity for questioning of the objector or

clarification of the submission. The objector does not hear the submission of the proponent which may address the concerns of the objector. Yet the objection stands and the process for appeal must be respected. There should be an option for a council to dismiss written representations as invalid and not eligible for the appeal process.

Section 178(2) empowers municipalities or planning districts to enforce orders regarding contravention of a by-law or permit or order. The act should include provision to add the cost of enforcement to property taxes.

The MMAA encourages the provincial government to carefully consider these comments as the new legislation is put into place. Our concerns are not significant from a political perspective but are important in how we administer the planning function in our respective municipalities.

Thank you for hearing this presentation. I would be pleased to answer questions.

Mr. Vice-Chairperson: Thank you, sir.

Point of Order

Mr. Eichler: On a point of order, Mr. Chair, I would like to ask that the presentation in its entirety be recorded in the minutes.

Mr. Vice-Chairperson: Agreed?

Some Honourable Members: Agreed.

Mr. Vice-Chairperson: Okay, moved by Mr. Eichler, and agreed by the committee that the entire text of the presentation will be included in our minutes.

* * *

Mr. Eichler: Thank you for your presentation, Mr. Fulsher. With respect to page 5, you talk about the legislation with the source of information to determine who is the owner, and the administrator is expected to search the ownership records. I know, from past experience in being an administrator, that can be a very time-consuming job. In your opinion, the cost that is going to be involved in this and the extra staffing, do you see that as a barrier as an administrator that is going to have to be passed on to

the person making the application, or is this a cost that is going to have to be picked up by the municipality?

Mr. Fulsher: Well, there certainly would be a significant cost, particularly dealing with municipalities who are not anywhere near a local Land Titles Office, to go down and search those would be very time-consuming and costly, obviously. Somebody will have to bear those costs. Prior legislation, we have always made reference to the latest revised assessment rolls in municipalities. Perhaps that should be the guide for obtaining the names for service of notices.

Mr. Eichler: With just a follow-up to that, I know the municipalities will be making their presentation here shortly, but this is a huge cost that could be passed on and one that maybe the Province should have a look at as funding. Maybe that information would be made available to your organization as a resource to you in making application. Would that be another alternative that your organization would look at?

Mr. Fulsher: That would certainly be welcome. As I say, the process will be extremely long and costly and funding would be certainly well appreciated by outside agencies.

Mr. Maguire: Thank you very much, Mr. Fulsher, for your presentation as well. Just a practical thing, you are recommending that this—it is in regard to the posting of these notices and just—it cannot be any more than a meter, I believe it is, inside boundaries, and it is very difficult to know where those boundaries would be at some point so it is more of a practical nature. You are wondering whether or not that actual posting is very effective. I would agree, it is pretty hard to read those in the country if driving by in regard to the size that you are looking at, an 11 by 17 notice out there in the field some place.

That is just a practical issue. It is also a posting. Can you just indicate, I mean, this is a posting in the winter is not a very practical thing, either, is it? You have got stakes in the ground. I am just wondering if this is the reference that you are alluding to here.

Mr. Fulsher: Well, certainly posting in the winter would be a problem and perhaps snowmobilers might see it, but, the whole posting question is one that I think deserves to be relooked at in rural

Manitoba. In urban centres, certainly it is effective, but I do not think it is effective in rural areas.

Mr. Maguire: Also, in regard to section 130(1), "to require the Municipal Board to hold hearings on appeals of subdivision applications," you are recommending a minimum time line to hold those hearings, consistencies about times in this bill and other areas. Would you have any recommendation for me on that, or for the committee on that?

Mr. Fulsher: Time is always an issue. Typically in rural Manitoba we are dealing with a specific development proposal that is time sensitive, and every time that time frame gets extended, it creates hardship on the municipality and the proponent of the development. I think a reasonable time frame from the close of the time limit for filing appeals such as something in the neighbourhood of 45 days would allow the appropriate advertising period and enough time for the board to react.

Mr. Gerrard: Thank you for your presentation. You put forward quite a number of suggestions. I just wondered, had you been consulted with this bill in advance so that you could have had a chance to put your suggestions to the government before this.

Mr. Fulsher: Yes, I had the opportunity to sit on the Technical Review Committee of the legislation. Unfortunately, we were dealing with concepts only. We did not see the detailed bill or have the chance to give it the kind of scrutiny that it deserves, so details such as we are suggesting here, we did not have that kind of an opportunity to recommend or suggest.

Mr. Smith: Certainly, I do appreciate Mr. Fulsher's recommendations. Many of the recommendations that we have made in the bill have certainly come from your organization and your input. Obviously, no one sees a detailed bill until the detailed bill is put out for public review.

* (20:50)

Obviously, the input into this has been quite technical and, certainly, when you speak on page 5 of the latest revised assessment roll, I know you have brought to my attention and my office, and some of those suggestions are very much appreciated. The property owners within the range of three kilometres is something that has been asked for a great many times, a great deal of times, and corresponding close

proximity to other municipalities is certainly the flavour all over Manitoba that people have asked for in a substantial way, but I appreciate that comment on that page.

There has been a great deal of thought and technical thought put into some of these suggestions you have made. I know over the last period of time in consulting with my department, you have made many recommendations and many of the changes that we see in the bill. We certainly appreciate some of the common-sense recommendations that you have got here to look at for consideration, not on the back of a napkin, but certainly appreciate your thoughtfulness in this presentation.

Mr. Vice-Chairperson: Last comment to you, Mr. Fulsher.

Mr. Fulsher: I will just again reiterate that we appreciate the opportunity to participate in this process and urge the committee to come forward with some solid recommendations. I understand the timeframes are very short on this, but, hopefully, you will give good consideration to all of the presentations here today and come forward with a good act that we can all make good use of and will be effective in planning in Manitoba.

Mr. Vice-Chairperson: Thank you, sir.

I now call Mr. John Bannister, Dairy Farmers of Manitoba. Good evening, Mr. Bannister, you have a written presentation? Begin when you are ready, sir.

Mr. John Bannister (Executive Member, Dairy Farmers of Manitoba): Mr. Chairman, my name is John Bannister. I farm with my two sons in Lockport in the municipality of St. Andrews, but today I am representing the Dairy Farmers of Manitoba. The Dairy Farmers of Manitoba is a dairy farmers organization representing 499 dairy farm families. We have dropped below the 500.

Dairy farms are located in 81 of the 120 municipalities, and they stretch from Minitonas to Piney and from Deloraine to Riverton, and all points in between. There are even three dairy farms located inside the Perimeter Highway. In short, dairy farmers have a provincial interest in Bill 33, The Planning Act.

Bill 33 has a lot of good features that improve on the present Planning Act. There are a few areas that

are noteworthy changes that will improve the municipal planning system.

These are municipalities will be required to specify conditions of approval in terms of a development plan specified in The Planning Act; The Planning Act removes municipal authority to regulate manure storage, handling and disposal except for the requirement for a lagoon cover and shelter belts; the Livestock Manure and Mortalities Management Regulations under Manitoba Conservation will apply; Manitoba's provincial land use policy will be updated to provide guidelines for livestock policies; Bill 33 requires that local livestock planning and regulation be done only within The Planning Act; applications for livestock development of less than 300 animal units will not require a public hearing; and finally, the municipal planning process will require hearings, thereby giving all citizens an opportunity to participate in the development of the municipal development plan.

Bill 33 also contains a number of new concepts that need strengthening so that Manitoba's agriculture industry and notably livestock producers are assured of their ability to carry on their present food production businesses and continue to compete in a sustainable way in the future along with other provinces and countries.

There is an assumption in Bill 33 that all ratepayers in all municipalities will participate in the preparation of the municipal development plan. It is further assumed that farmers will have a strong voice in the preparation of every municipal development plan, but it is safe to say that few municipal councils have a strong agricultural producer content. It is also safe to say that farmers in total have a much smaller voice at the polls than was the case even a short 10 years ago. Will farmers' interests be heard in the creation of the municipal development plan, or will their voices be drowned out by the voices of non-farming interests?

There was a little slip up here between the tongue and the word processor. It should read Bill 33 allows a municipal a maximum of three years to review a development plan, but it usually stretches to five years. Dairy Farmers of Manitoba are recommending that three years be the maximum.

Dairy Farmers of Manitoba recommends the following list of changes to Bill 33 to protect the

farmer's right to farm in a sustainable manner: No. 1, council's decision is final and no right of appeal on an intensive livestock application, and council is not required to give reasons for its decision. Now this, the transparency and accountability in the decision-making process by all municipal councils must be supported with written reasons that an application has been denied. There must also be an appeal process.

It also states Bill 33 retains the conditional-use process for livestock application. The planning commissions may include appointed citizen members who may make conditional use decisions concerning livestock applications. While the decisions may be appealed to council, citizen members have no direct accountability to the voting public. Bill 33 also waives any public liability. The Planning Act must be accountable to ratepayers and any decision made by a municipal council or appointed planning commission must be science-based.

Bill 33, section 116(2) allows that a livestock application could meet all federal and provincial requirements and local development plan policy and zoning and siting requirements but can still be turned down at council's discretion because it is not satisfied that the proposed operation or expansion will be compatible with the general nature of the surrounding area.

Dairy Farmers of Manitoba requests that this section be strengthened and that municipalities are required to approve a livestock application if all conditions are met. In cases where a livestock producer's facilities are destroyed by fire, a producer could be prevented from rebuilding and therefore put out of business. Most insurance companies nowadays require the insurer to rebuild to recover any part of the insurance coverage. In a case where a livestock producer wishes to increase his or her herd that producer may be prevented from increasing the herd to maintain the viability of their operation by such a restrictive municipality.

While provincial water quality management zones are to be science-based and used as a tool in local land use planning, these zones will eventually incorporate policies and restrictions on phosphorus application. There is a concern that regulations on manure phosphorus will be singled out for early regulations well in advance of other regulations

affecting other point sources of phosphorus such as municipal discharge and commercial fertilizer.

This is not in the presentation, but I came across last night we were visiting people in an urban area and they have a big yard and he told me that he put fertilizer on his lawn and because his ditch sides did not grow quite as well last year he fertilized the ditch sides as well. Now we as farmers who make a living from our land have set distances, but that guy could go along and put it on. He said he could not get fertilizer with 25% nitrogen this year so he put half as much again on because he could only get 17 percent. So the phosphorus content was the same, but he did not cotton on to that. So I had quite a strong argument with him.

No. 5, section 42(2)(a)(iii), an elected council can prohibit livestock development to the whole municipality if it justifies this. Dairy Farmers of Manitoba requires that this section be amended to ensure that the provincial interest to protect agriculture and agricultural land is ensured. There is a possibility that the municipal development plan could prohibit livestock development or agriculture. Dairy Farmers of Manitoba request that Manitoba land use policies be revised as soon as possible.

Bill 33 states council may exceed the minimum provincial standards for livestock siting and separation distances provided the requirements are relevant and reasonable. Dairy Farmers of Manitoba request that Manitoba expand the terms of The Farm Practices Protection Act or introduce right to farm legislation to create Manitoba standards of reasonableness. Farmers must use all avenues of input and appeal if local standards are not reasonable. Standards should also be mutual separation distances for livestock operations and residences.

* (21:00)

Bill 33, section 116(2)(a) states council may include as a condition of approval of an intensive livestock operation, a measure to ensure that conformity with the applicable provisions of a development plan and zoning by-law. This is too open-ended and broad and could lead to applicants being required to pay for municipal monitoring and enforcement costs or posting a bond as a condition of approval.

Dairy Farmers of Manitoba requests that Bill 33 be amended to ensure that Manitoba livestock

producers are not faced with costs that are not found in other provinces.

In conclusion, Dairy Farmers of Manitoba urges the Legislative Affairs Committee to strengthen Bill 33 in several areas listed, create a positive environment for livestock industry development, promote and support the agricultural industry, and accept livestock industry growth as a positive influence on the growth of rural communities.

Dairy Farmers of Manitoba has a positive view of the future of Manitoba's dairy industry. The agriculture industry needs strong leadership in Bill 33 to grow and be sustainable. Thank you very much for your attention.

Mr. Vice-Chairperson: Thank you, Mr. Bannister. The floor is open for questions, but I am going to advise council or the members around the table that supplementals have been going on a little bit too long. So I am just going to allow one question per individual. I will start with Mr. Maguire.

Mr. Maguire: Thank you very much for your presentation this evening. One of the things in Bill 40 last fall, we heard—well, we did not hear from committee on it, but people speaking to Bill 22 were hoping that the government would bring forth regulations before Bill 40 was passed to know what the water regulations would be around these industries.

Can you indicate to us if you have a concern that now that this bill has come back in virtually the same form, with a few changes and some additions to it, I should say, that we still need to have had more recognition of how the water bill, Bill 22, would impact on this particular type of legislation?

Mr. Bannister: Bill 22, no dairy farmer wants pollution, and I think Bill 22, incorporated within Bill 33, has to be one. We have got to work together and in unison or parallel. I do not think you can have one without the other. I think they both work together for the benefit of everybody.

Mr. Eichler: Thank you for your presentation, Mr. Bannister. I have a question in regard to the Dairy Farmers with respect to quotas. Does your organization see Bill 33 being a problem as far as when a farmer get to the point he wants to retire and transfer that quota, do you see that as a problem in the development through Bill 33?

Mr. Bannister: It could be a problem if you have got a dairy farm within the sort of zoning that was zoned urban. Then you may have a problem being passed on to, if somebody wanted to expand the operation a little bit, worried he would be limited then that he could not expand. There could be a problem with that, and then it would be an unviable unit for him to carry on in future years.

Mr. Smith: Just quickly, I would like to again thank Mr. Bannister for a very thoughtful presentation, certainly, positives and negatives, as you have reflected here. Certainly, as I read through your presentation, I find that for accomplishing what this bill is, what you are saying continually through this bill is better up-front planning. When we look at your issues, to base certainly planning commission decisions and other decisions based on science, the Technical Review Committee certainly is able to do that now.

I was certainly interested in your suggestion to move the maximum of five years up to three years for their development planning. I heard quite the contrary from a lot of other folks, but certainly that is pretty aggressive. It is something that you are suggesting, and I quite agree that having better up-front planning in a faster mode is certainly positive.

Just to wrap up quickly, one thing that you did state in No. 6 on the last page was Standards should be of mutual separation distances for livestock operation residences. Certainly, I could not agree more. Certainly, this Planning Act has not been substantially redone in 30 years. I know the practices of people moving to rural settings have certainly outstripped many of the farm families and people that are out in rural residences. I only wish this could have been introduced some 20 years ago.

Basically, what I am seeing in certainly a lot of your comments is some of the up-front planning that we intend to do as being a positive model for the inclusion of a lot of the things you are recommending. So I appreciate your views on it.

Mr. Bannister: I think the last point you made is very relevant. You know, if we have got to have them as farmers, then the urban people must have them because if you get somebody coming in, building, the original owners of that property may be able to get on with the farm and then they sell it and you have got a problem then.

The aggressiveness of the review policy, most of the reviews, most of the planning has been done now, so to get a real good handle on, sort of, what is happening, the review policy must be taken into account because those zonings were done for Bill 40, not for Bill 33, but they have been accepted for Bill 40.

Mr. Vice-Chairperson: Mr. Maguire, you have 10 seconds.

Mr. Maguire: I would like to know, then, if you had been consulted by the government, if the Dairy Farmers had been consulted by the government before this bill was brought forward.

Mr. Bannister: In the initial phase they were not but, along with KAP, we were consulted then.

Mr. Vice-Chairperson: Thank you for your presentation, sir.

I now call Garry Wasylowski, Association of Manitoba Municipalities.

Good evening, Mr. Wasylowski. Do you have a written presentation?

Mr. Garry Wasylowski (Vice-President, Association of Manitoba Municipalities): Yes, I do. I want to thank you for the opportunity to present to this committee.

The Planning Act is a critical piece of legislation for municipalities, since it defines powers at the municipal level and guides process for land use planning. And, certainly, as municipalities, this was probably one of the top municipal bills that municipalities deal with. Next to the municipal legislation, this would probably be the second most important bill to municipalities. As a result, municipalities have raised several concerns related to Bill 33, such as the recognition of local authorities and the separation between provincial and municipal responsibilities. This presentation will provide an overview of municipal concerns that have been addressed by Bill 33, as well as discussion of outstanding municipal issues. Specific areas of concern pertain to development plans and development process, livestock operations and the division of responsibility between municipalities and the provincial government.

First, regarding development plans, Bill 33 incorporates many of the key municipal concerns the

AMM raised regarding The Planning Act. Since the development plan is such a significant planning tool for municipalities, several issues have been raised regarding this process. Therefore, implementing a development plan in a timely manner is essential for municipalities. At present, municipalities view the approval process as too lengthy and AMM has been concerned that an increased demand for development plans will further delay the approvals process and plan implementation. The AMM is pleased that the provincial government has changed the approval process and that the minister is now authorized to approve development plans without approval of executive council. However, there is time limit for the minister to respond and approve plans, which can create delays. With the addition of timelines put on the ministers, this could effectively reduce the time delays associated with provincial approvals.

As well, the AMM is pleased that provisions have been made to link development agreements on conditional use to caveats on land titles. It is crucial for municipalities to have authority to regulate future landowners through development agreements in order for planning to remain effective over the long term. The provisions under Bill 33, which allow a caveat with a copy of such agreement to be filed at the appropriate land titles office will, therefore, be beneficial for municipalities.

*(21:10)

Under the existing Planning Act, caveats related to development agreements were only permitted if they pertained to zoning by-law amendments and subdivision approvals. This change will ensure that development plans on conditional use will continue to be effective into the future.

However, there are other improvements that could be made by this legislation. For instance, the minister maintains the authority to reject development proposals without providing specific reasons to local council. There have been incidents where municipalities felt they were treated unfairly by the Province and that proper consideration was not given to the development proposal. Unexplained rejections tend to be perceived as biased decision-making and municipalities would appreciate a legislated requirement that the Province must explain any objections to particular developments in rural Manitoba.

Further, if the Province provides the rationale, municipalities will have the opportunity to consider how proposals could be approved for future submissions. The approved process must be fair and therefore, a transparent process requiring the Province to clarify its objections would ensure equitable treatment for all municipalities.

Another critical issue regarding development plans is the process of referring development plans to the Municipal Board. At present, development plan objections can be taken to the Municipal Board when only one individual is opposed. This results in undue delays to local planning process since the objection may not represent a significant opinion within the municipality. The AMM suggests that the Municipal Board should only consider appeals when a critical mass of local citizens formally object to a development plan such as 10 percent. This would ensure that development plan objectives adequately represent a significant portion of the municipal population.

Therefore, the Province should take into account a high degree of local support for the development plan by-law when making a decision to approve the plan, even though it is not formalized in this legislation. The AMM is disappointed that the proposed legislation does not address this concern and requests that further consideration be given to this matter.

While development plans significantly guide local initiatives, there are many other aspects of development processes that require improvements. For instance, municipalities have been concerned with the mandatory physical posting requirements related to public hearings. We appreciate that some new alternatives have been created under the new Planning Act regarding notification. The removal of the requirement to send notices by registered mail will reduce cost of notification.

In addition, Bill 33 does not extend the radius of notification, and it is imperative that the radius remain at the current level due to the additional administrative and financial responsibilities that would be associated with further notification. The AMM looks forward to future improvements to the notification requirements in the next phase of The Planning Act review.

The development process is inextricably linked to livestock operations in many parts of Manitoba, and this is the second major area of concern for AMM members. Municipalities require the ability to maintain local control over land use planning including the right to develop a livestock operation policy that responds to the desires of their ratepayers. Bill 33 enables this through the specific requirements that all development plans must include in a livestock operation policy to guide zoning by-laws dealing with livestock operations. It is very appropriate for this issue to become an integral part of all municipal development plans.

Municipalities anticipate that the ability of establishing siting and setback requirements would be included in the creation of a livestock operations policy. This demand is met by the specification that the livestock operations policy must set out general standards to be followed respecting the siting and setback of livestock operations. Furthermore, municipal zoning by-laws must establish siting and setback requirements for livestock operations that meet standards established by regulation and are generally consistent with livestock operation policy. Along with existing variation authorities, these features satisfy municipal desire to control siting and setback for livestock operation.

As legislation that outlines municipal authority, it is important that The Planning Act clearly delineates municipal and provincial government responsibilities. For instance, municipalities are appreciative that Bill 33 maintains the conditional use process for all development, including livestock operation. This process effectively ensures that municipal councils have final approval on all developments within their boundaries.

In general, municipalities want final say in all land use planning decisions with no appeal process to another jurisdiction that supersedes municipal land use decisions. This is very important to AMM members since councils are elected officials with first-hand knowledge of suitable land uses within their jurisdiction.

Bill 33 also maintains an appropriate balance between municipal authorities and the provincial government authorities regarding other approvals and appeal process. Local councils retain authority related to development plans, zoning by-laws,

variances, conditional use and subdivision approvals, therefore empowering local decision making.

A key part of decision making for livestock operations is the approval process that municipal councils undertake. Although much of this occurs in the development plan through the livestock policy, there is still a requirement for further council approval on all livestock operations over 300 animal units as proposed in this legislation.

Mr. Vice-Chairperson: One minute.

Mr. Wasylowski: I have got some very important issues to cover here, Mr. Chair, and I would certainly like to go through them.

Municipalities are able to set threshold amounts for councils, for council approvals lower than 300 animal units, but cannot adjust the approval process for a larger operation. This creates a disconnect from development planned livestock operations policy. That is, if a municipality creates a livestock operations policy in the development plan and designates areas where large livestock operations can be suited, there should be no need for a subsequent process regarding individual operations. Requiring a second process potentially increases conflict at a community level, since the decision becomes more personal when it applies to only a specific operation. The function of the development plan is to provide long-term planning and the public has the opportunity to raise this at a public hearing by-law.

Therefore, an additional approval process should be optional to council as long as a livestock operation is consistent with the development plan and zoning by-law, regardless of the number of animal units.

The need to establish local guidelines extends to other aspects of livestock operations, including odour control mechanisms. The AMM recognizes that the provincial government is in the best position to establish environmental regulations, yet municipalities seeking to impose additional restrictions are still acting in conjunction with provincial objectives. For instance, if municipalities were authorized to require manure injection this would provide a better mechanism for municipalities to control odour. However, Bill 33 restricts municipalities to two odour-reducing measures: requiring covers on manure storage facilities and requiring shelter belts be established. While these are both valuable tools,

municipalities aiming to have better odour controls should have the authority to do so.

There has also been some concern with the definition of animal units. The Province currently defines animal units based on species type. However, municipalities have identified the additional consideration of confinement periods as relevant to this calculation. One of the primary functions of the animal unit calculation is to determine the amount of land required for spreading manure.

Therefore, this calculation should also account for the differences between operations with year-round confinement and operations with some pasturing. The key differences between these two types of operations occur since the length of time animals spend in the pasture will reduce the need for spreading the manure in other fields. Therefore, these distinctions should be reflected in an animal unit calculation that accounts for both species type and confinement period.

Division of Responsibility

In the areas of provincial authority, local input must still be considered in the decision-making process. However, the process would also benefit from the inclusion of local input. The ongoing use of local consultation in other areas of The Planning Act contributes important information to the development processes and this should be no exception. Community consultations are critically important to land use planning and the inclusion of consultation feedback will strengthen support for TRC reporting. To gain a complete perspective on the local circumstances, the TRC should be required to conduct on-site inspections and consult with knowledgeable individuals at the local level.

Another concern with the TRC process is that under the new legislation, fewer livestock operations will be subjected to review. At present, municipalities are able to request a TRC assessment for any livestock operation. Bill 33 focusses extensively on the difference between livestock operations based on whether they are more or less than 300 animal units, including as it relates to the TRC process. In particular, livestock operations with more than 300 animal units will be required to have a TRC assessment and municipalities are not opposed to this requirement. The difficulty arises with smaller livestock operations since municipalities can now

request a TRC review for any size operation, yet the smaller operations become a lower priority under the new procedures. Instead, municipalities should retain the ability to request a TRC review for operations having less than 300 animal units and the Province should ensure that these requests are given appropriate consideration.

Mr. Vice-Chairperson: Mr. Wasylowski, we will allow your entire presentation to be put into the minutes. You could read it in, or I could allow you the question-and-answer period. I think the committee has some questions, so if that is acceptable to you, sir?

Mr. Wasylowski: Yes, I mean, there is one important paragraph that I do want to read here, page nine.

At present, municipalities are able to request the TRC assessment for all—sorry, last paragraph.

Mr. Vice-Chairperson: The clock is running.

Mr. Wasylowski: There is a need for greater interaction between public and levels of government, especially regarding the public hearing process. The present system expects municipalities to defend provincial policy. The situation must be rectified in order to ensure that public has access to accurate information. Currently, only municipal councils attend the public hearings, leaving them responsible to explain the terms of environmental regulations, yet when technical questions arise, it is more appropriate for Department of Conservation staff to respond since it is an explanation of provincial environmental regulation that is required. Since Department of Conservation staff is not required to attend public hearings, this creates a perception that municipal councils are accountable for provincial decision.

If the public has no ability to be reassured that the environmental concerns have been addressed, they will continue to pressure councils to deny livestock applications. Rather, the provincial government must be accountable for its environmental regulations and ensure the transparency of the process by attending public hearings, just as municipal councils are present to defend their decisions. Without these fundamental changes to the public hearing process, the livestock portion of this legislation will be totally ineffective.

With the exception of the public hearing process on livestock operations just outlined and the other key issues identified above, overall the AMM is generally supportive of Bill 33 and looks forward to many of the improvements to long-term planning that will be achieved by this legislation. Land use planning is a partnership between municipalities and the Province, and by incorporating the concerns outlined today, the Province will do much to strengthen this relationship.

Thank you, and I would ask that the whole presentation be—

Mr. Vice-Chairperson: Okay, yes, certainly, your entire presentation will be part of the minutes.

We have four minutes for questions.

Mr. Maguire: Thank you, Mr. Wasylowski. I wonder if you could indicate, I know that there has been a considerable amount of time spent on this particular bill, if you could outline the differences between or the expansion of this, I guess, in regard to Bill 40 that was killed last fall, and if you could indicate just exactly; I think you have expressed it in your presentation about the concern of the amount of time since this bill was reintroduced as Bill 33. It was killed and later brought back. Have you had enough time to properly deal with all of the bill and get the feedback from your large organization all over the province?

* (21:20)

Mr. Wasylowski: Certainly, a lot of time was spent on Bill 40. Virtually all of Bill 40 is in this bill. Probably the only exception is that municipalities were able to get "conditional use" back in, which is something that we really wanted. We would have liked to see more time on Bill 33, and I think we have asked the government for just a little more time to get it out to our municipalities and get comments on it. That has been raised to the government on several occasions.

Mr. Eichler: Thank you, Garry, for your presentation. One quick question. Do you feel that Bill 33 should be held up at this point in time because of the concerns that your association has along with the administrators?

Mr. Wasylowski: We are expressing our concerns. Whether the bill gets held up, I guess that is up to the

Legislature. We are generally supportive of the bill. We have raised some issues here. Our major concern on this bill is on the public hearing process on the livestock operations. We really feel that in that area, there has to be improvement, and we really feel that what we are asking for is what is needed to make this bill work. That is really essential to what we are here for today because if not, municipalities are going to be the ones that are acting as a buffer to explain some provincial legislation. Then, you are going to get down into the emotional part of it again, and good decisions are not going to happen.

Mr. Gerrard: Two quick points. On page 2, you suggest there should be a time limit for the minister to respond and approve a plan. What time limit would you suggest? Second, you make a point fairly strongly that municipalities should be authorized to require manure injection, and maybe you can give a reason to that.

Mr. Wasylowski: Certainly, requirements, we are looking at 30 days, something in that, 30-60 days, something in that range. What is appropriate, but at least we would like to see some time lines. As far as manure injection, I think municipalities see that as an odour control measure.

What you have to remember here is municipalities have to reflect what their ratepayers are saying, and they have to be able to defend and have the ratepayers agree with these policies. If they have more control over some of the odour issues, I think it is easier for a council or a municipality to get those zoning and planning by-laws passed and accepted by the general public.

Mr. Smith: Thanks, Garry. It sounds like you have got a bit of a cold. I am glad you got through as far as you did—

Mr. Wasylowski: This is my George Street voice from St. John's.

Mr. Smith: It has got a nice, raspy tone to it.

I certainly have appreciated your views and AMM in the many times we have had a chance to get together. I just got some of the other presenters that raised the question and just wanted to ask your opinion. Right now the municipality does have the final decision, regardless of information provided to them. The autonomy is with the municipality to

make the final decision on any proposal that is brought forward in front of them, but some others are tonight suggesting that municipalities should be held accountable and provide written reasons for any decisions that they make on declining livestock operation applications, that municipalities have to provide written reasons to the applicants. What would the AMM's position be on that?

Mr. Wasylowski: You may have five, six different councillors on the same council with six different reasons. How do you articulate that into one reason? That may be part of a concern. Certainly, council members have to report back to the public, and the public is going to demand certain things of them. A written rejection, I am not sure that we would be in favour of that, but councillors have to be accountable to the public, and the public is going to demand certain things of them.

Mr. Vice-Chairperson: Thank you, sir. I now call Cheryl Kennedy Courcelles, private citizen. Do you have a written presentation? I see you do. You may begin when ready.

Ms. Cheryl Kennedy Courcelles (Private Citizen): Dear ladies and gentlemen, my name is Cheryl Kennedy Courcelles, and I am here today representing mothers and children of this province, as well as those who do not have a voice and cannot stand up for themselves such as the domestic animals, the wildlife, water, air, and land.

Mr. Chairperson in the Chair

I have a degree from the University of Manitoba studying under Doctor Ramu. I majored in sociology, specialized in family, minored in psychology and philosophy. I am a spiritual adviser, a visionary person, a strategic management coach. Further to that, I am an energy healer, an animal whisperer, an artist and a connector. My husband, Don, and myself have built a very successful Investors Group career over the last 20 years.

I have been a financial planner, a national sales manager, a provincial and federal employment counsellor. I actively volunteer at every level of life and my most sacred and rewarding has been my position of being a dedicated mother, wife, conservationist and nature lover.

So based on that, the passing of Bill 33 as it stands shall provide little to no added value to the despairing plight of this destructive, greedy power struggle that our society is in right now with Mother Nature, the animal kingdom and feeding the world.

What we do know for sure is that there are over 465 endangered species in the Great Plains Region, which covers most of Manitoba, that Manitoba is in a severe water and waste management crisis with no concrete funded or managed action plan from all of its stakeholders, ranging from the farmer to the local R.M.s, to industry in the cities, to the cottage and residential owners, from the provincial and the federal governments.

That southeastern Manitoba is one of Canada's seventh-largest intensified livestock operations, ILO industry, already. This area is currently experiencing all the red flags of environmental, human, and fish deterioration as we speak. In the R.M. of Ritchot, we can no longer drink our well water. A water boil advisory is in this place. This is 16 kilometres from the city of Winnipeg. The air is no longer country fresh, and that on many days you need to wear a mask to go outside to the toxic waste of the spreading of the ILO manures. The stench makes your eyes water, and you literally can taste the smell.

Currently, we are also plagued with West Nile virus, largely due to modern day farming practices of using pesticides, herbicides, destruction of all the tree lines, forests, swamps, and the removal of the natural order of the ecosystems, not to mention the massive doses of drugs given out by the ILOs to their penned-up animals that make their way back to everyone and all life forms of water supply. We no longer can control pests and diseases like we used to because of our careless water and waste management practices. The ILOs must plant at least a thousand trees around their operations to help filter out some of these toxins and to attract the ecosystems in order to help control the diseases, land, and air emissions.

To overlook the healing power of the trees is like to turn off all the electricity in a hospital and watch what happens when that core energy source is removed. Death and destruction will follow. Please, please put planting thousands of trees mandatory for all of these ILO operations. Trees do not cost much, and students can plant them, a make-work project of sustainable value for Manitoba's youth.

Feed the world and provide Manitoba jobs is surely a noble cause. But it is not good sustainable business when the long-term results, even the 10-year results, demonstrate the land is being raped; the animals degraded, diseased and mutated; the water supply depleted or contaminated, as well as the ecosystems and human health displaying severe side effects of this destructive agriculture way of business practices, vision and management.

Bill 33 takes away power from the people and the ecosystem instead of ensuring long-term sustainability. It seems to be on the plan of use it up quick before they notice that critical damage is being done, as we have already seen in the potato industry across the country. We can plan better than that here in Manitoba.

* (21:30)

Bill 33 is not acceptable as it currently stands to anyone or any life form in this province. We, as wise and smart Manitobans, can come up with a better plan than this. We owe it to the land, the animals and our children to set up a harmonious plan that keeps our people employed while helping to feed the world, but not by poisoning our very own selves, water, land and animals in doing so.

The intensified livestock operations are out of balance with sustainability so it is not a surprise that no one really wants to be their watchdog. Co-operation, continual planning and monitoring from all stakeholders, be them the ILO's themselves, the agriculture industry, federal and provincial governments, the local R.M.s, Manitoba citizens, The Fisheries Act, The Conservation Act, agriculture policy framework plans, the federal and provincial Health acts, Kyoto agreement, First Nations rights and agreements, plus the current Water Protection Act, must all be involved in fine-tuning this Bill 33 to ensure safety and priorities in determining and policing this important bill.

When I visit an intensified livestock operation, it reminds me of a Saturday night chiller thriller movie, a Hitler-run Auschwitz style of horror, abuse and disrespect given to these animals who give up their lives to feed us. The similarities between this Hitler method of operation, vision and abuse is so directly related to our current ILO practices that we, as modern day society, are just at the tip of the iceberg of seeing the warning signs of mass destruction and

disease that is already here and is only going to get worse if dignity, respect and a little freedom is not restored to these animals and food chains.

Truthfully, the animals are not asking for much. They just want at least once in their lifetime to feel the sunshine and the rain on their backs, to see the clouds roll by, to have Mother Earth touch their feet and their spirit. For this not to happen on their last day of their life on their way to the slaughter house, is this really too much to ask for? Is this not so different as what we would want for ourselves, our children, our pets, and how our own forefathers would have fed the world and put meat on the table in the very first place?

To have such blatant disrespect and abusive ILO practices from production to market coming out of the heart of the continent, Manitoba, Canada is both internationally embarrassing and locally outlandish. To think that Bill 33 is going to leave the public and the welfare of our very own future and health out of the loop is both short-visioned and irresponsible for all parties concerned.

On behalf of the people and the environment, I applaud all those who have spent countless hours and dedication to this bill and our nation's agricultural future. In order to make any of this sustainable, co-operation and harmony of all the elements and participants needs to take place which is not quite where Bill 33 is yet.

As an animal whisperer and speaking on behalf of the animals kept in these intensified livestock operations, if we do not immediately start to give them some respect, dignity, freedom and sunshine, they shall start to mass destruct not only locally, but nationally as well, just like the cows with the mad cow disease, the avian flu and all the other plagues that are on their way.

The genetic composition of a hog is so thin that a pig can barely be called a pig. In the R.M. of Ritchot, some of the ILOs will not even personally eat their drug-ridden, genetically altered hogs. They keep separate hogs farmed the old fashion way for their own consumption. Why, we might ask? They state that they have to scour the countryside these days to find that old-fashioned farmer to find a line of pigs that still is really a pig in order to keep up the market production demands. China has fewer than 400 real true pigs left.

Personally, I believe we have pushed the system about as hard as they can go. A double shift in Brandon is something that could break the industry all together. We, the people and the animals are not magicians. Sustainability takes time and has true circles of life to follow whether our pocketbooks like it or not.

Perhaps Manitobans, Winnipeggers, politicians and CEOs are not aware of the thin lines that all this is attempting to balance while making a profit. Perhaps that is why so little real sustainable planning and action has taken place other than the current destructive cycles of mass production of animals for profit with uncontrollable waste, water, environmental and animal mismanagement and disrespect.

It saddens our hearts and the hearts of our children to see that we have not learned here in Canada the fundamental lessons of freedom, dignity and respect to the circles of life, and the abundance that is available to all of us if we would honour life, instead of destroying it. When you kill the spirit of an animal, the spirit of a human, the spirit of the ecosystem, disease, plagues and destruction shall follow. That is what is currently reported by every environmentalist all over this fine province and this nation.

Bill 33 can help restore this balance if given the appropriate time frame to have all aspects of the chain working together in harmony. We need a clear vision of where sustainable agriculture practices are going in this province and in this nation. We are proud, intelligent, earth-connected people, who need to remember and implement what our ancestors taught us and use a little bit of common sense and appreciation of our diversity and co-existing both morally and physically in our ecosystems of modern-day demands on our natural resources.

Common sense needs to be utilized for the R.M. of Ritchot alone, for there are over 30 ILOs within one mile of the Red River or the subsidiaries, and we wonder why our lakes, drinking water and fish are dying. Again, I think we can do better. We are at a tipping point in our very own health and welfare of our Manitoba future. Either we go forward with an environmentally-sustainable plan, or we go back to the get-rich-quick scheme destroying all in its path plan of power and glory of the present day of raping and abusing our natural resources, perhaps to a point of no return this time. Which plan would you choose

for your children and your grandchildren? Which plan shall you, our politicians, be known for?

On behalf of the animals, the ecosystem, mothers and children in Manitoba, we hereby support and back all of Hog Watch's concerns over Bill 33 and Bill 40. May God bless our honourable intentions, respectful and sustainable actions and give us the courage, strength and pride to change Bill 33 to satisfy the needs of all concerned parties in harmony and abundance. I thank you for your time and attention on this important matter.

Mr. Chairperson: Thank you, Ms. Courcelles, for your presentation here this evening.

Questions of the presenter?

Mr. Maguire: I noticed that in your early comments you felt that we should be looking at local R.M.s, industry in cities, cottages, residential owners. So you have included everyone in the gamut of looking after the nature that we need to and, I guess, as you went further through your presentation, I see that it is obviously mostly directed at, I think, farming, agriculture, in that area. Given the other areas of waste and that sort of thing that are used, I wondered what other recommendations you could see in Bill 33 that might, as you say in your last comments, would improve that bill.

Ms. Courcelles: What other recommendations for Bill 33? I guess what I am saying with Bill 33 that it is not, perhaps, working harmoniously enough with all those other departments that I had stated, that one hand seems to be kind of on a bit of a page, and then the next department is just starting up that page, and the other department is closing the page. All of this is becoming just—even tonight we hear this with The Water Protection Act, et cetera, so I guess I am just not satisfied as a mother that Bill 33 really is taking into account all those positions, that I just do not think it is really ready to be a full bill yet.

Mr. Smith: I do appreciate your views in your presentation here tonight. Thank you for it. We have heard from some of the other presenters here this evening that reducing the mandatory conditional use hearing from 400 to 300 animal units might be tipping the scales too far in one direction. Do you feel that that is tipping it in a direction that is too forward? Do you believe that it should go further than that? Obviously, the conditional hearings prior

were 400. Now the conditional-use hearings are now 300. What are your views on the conditional use hearings? Is there an animal unit that you would suggest?

Ms. Courcelles: Personally, I do not have a problem with the higher units if the respect is given to the animals. It is the conditions that they are kept in, and I am not, certainly, talking about the cattle industry because, for the most part, those animals are outside. It would be the hogs, in particular, and specifically, I guess, the University of Manitoba research station which is being currently funded by all levels of government and internationally, based right on the Red River.

* (21:40)

They can have higher numbers if they give them some turn-out time. That is the biggest thing. It is dignity that is being removed from our animals, and I just do not know how we can teach our children that this is okay. I mean you cannot drive in the country and see animals on farms anymore. They do not exist. They are in all these ILOs, and they are prisons.

Mr. Chairperson: Any other questions of this presenter?

Seeing none, thank you, Ms. Courcelles, for your presentation.

Ms. Courcelles: Thank you.

Point of Order

Mr. Chairperson: Mrs. Driedger, on a point of order.

Mrs. Driedger: I would like to ask the Chairman if there is any opportunity to canvass the room and find out how many people might be here from a two-hour and beyond drive. By lumping all these bills together, I think what you have created here is some serious inconvenience in travel time for a lot of people. I wonder if we could mix up, even if they are from Bill 48. I know that there are five people here, I understand, from Brandon. I wonder if we could set a certain distance maybe and just allow an opportunity for these people to speak so they do not have to drive back in the morning. I do not know how to do that, but if there was a way.

Mr. Chairperson: There is no point of order, Mrs. Driedger, but it is a good point you raise, nevertheless.

* * *

Mr. Chairperson: Perhaps for the convenience of the public who are here with us this evening, if members of the public could indicate if they are a considerable distance away from the city of Winnipeg and from this building, we might give some consideration. There might be some folks perhaps from Brandon or in that distance. Give us an indication of which bill you wish to speak to so that we might be able to make some arrangements with the committee.

If the committee will indulge us for a brief moment here till we gather this information. Ms. Irvin-Ross did you have a question?

Ms. Kerri Irvin-Ross (Fort Garry): No question, but I have a substitution.

Mr. Chairperson: All right, perhaps we will deal with that now then.

Committee Substitution

Ms. Irvin-Ross: Mr. Chairperson, with the unanimous consent of the committee, I would like to make the following membership substitutions, effective immediately, for the Standing Committee on Legislative Affairs: the Member for Burrows (Mr. Martindale) for the Member for St. Boniface (Mr. Selinger).

Mr. Chairperson: Is there unanimous consent of the committee to allow the substitution of the Member for Burrows for the Member for St. Boniface? *[Agreed]* Thank you.

* * *

Mr. Chairperson: Perhaps while we are canvassing the audience, the Clerk will speak to the individuals, and if we can have one more presenter to allow that canvassing to occur. Perhaps we can call Carol Clegg, private citizen, forward to make a presentation. Then we will gather the rest of the information for the committee members, and we will make a determination at that time. Is that agreed? *[Agreed]* Thank you.

Is Carol Clegg here this evening, please? Would you please come forward. I hope I have pronounced your name correctly.

Ms. Carol Clegg (Private Citizen): Yes.

Mr. Chairperson: Do you have a presentation for committee?

Ms. Clegg: Yes, I do.

Mr. Chairperson: Thank you very much. You may proceed when you are ready.

Ms. Clegg: Mr. Chairman, members of committee and long-suffering members of the audience, when Bill 40 died after a storm of protest from rural Manitoba, the Intergovernmental Affairs bureaucracy went back to the drawing boards, emerging a year later with a brand new act. No doubt, it was expected that after attempting to wade through this lengthy document, most objectors to Bill 40 would simply resign themselves to the will of Big Brother.

A few of us cut to the heart of the bill and discovered that with one exception, the sections which deeply concerned us had been incorporated into the new Planning Act. Our elected representatives sit smugly in Winnipeg dictating rural development plans in answer to Maple Leaf's demand for two million more pigs. How dare you presume to know what is best for our communities. Did you consult us before drafting legislation which will rule rural Manitoba for generations?

The municipal and planning acts endowed our rural councils with power to govern for the common good of the citizens of the municipality. Sections of the new act will usurp that authority and replace it with ministerial decree. Councils are ordered to prepare development plans with livestock policies. A council in consultation with citizens may draft a plan which it believes meets the needs and objectives of the municipality. Bill 33 gives the minister the right to inject his own measures into the plan or toss it out completely. He or she is no longer obliged to send it to the Municipal Board for review, but council will be prohibited from giving third reading to a plan rejected by the minister. Clause by clause, this bill chips away at rural democracy.

The Technical Review Committee appointed by the minister has the last word on environmental

health and safety aspects of a livestock operation application. The council can only impose conditions recommended by this committee. The act gives no terms of reference for the TRC to follow in producing a report. There is no public input into the process. In our experience, technical reports have been grossly misinformed about the environs of a proposed LO. Review committees seldom venture out into the field. They tend to sit in urban offices writing reports based on information provided by the proponent.

In its required designations of agricultural areas within the livestock operation policy, Bill 33 is an improvement over Bill 40. The R.M. may now include areas where any size of operation is allowed, areas with restricted size of operation and areas with no livestock. At least this puts the small farmer back into the picture, cite section 42(2). The new act appears to give the R.M. control over siting and setbacks, however it has been our experience that land use planners are very adept at the art of bamboozling councils. They badger and threaten until council agrees to use the minimal setbacks in the farm practices guidelines when council would really prefer to take the initiative and establish more stringent setbacks from neighbouring property and water courses. Then our planners toddle back to the city to escape from the aroma of lagoons.

In a recent review of its development plan, the R.M. of Lac du Bonnet decided to place a half-mile limited agriculture buffer along the Winnipeg River where I live. Knowing full well that that river is crucial to the area's tourism industry, provincial planners with aid from Agriculture and Conservation departments tried to stymie council in its laudable goal of protecting the river from agricultural pollution. Fortunately, council resisted all the brow-beating. Can you see why we prefer to trust our local politicians to protect us from the ravages of factory farms?

The attempt to remove the conditional use provision for LOs crashed Bill 40. As a gesture of appeasement, the conditional use process has been restored, but the options for applying conditions to LOs have been severely restricted. The conditional use hearing will be a sham. Sections 107(1) and 116(2) are the proof.

Let me quote a little from these sections. "Concerning small livestock operations, only the

following conditions may be imposed on the approval of a conditional use for livestock operation involving fewer than 300 animal units. Measures to ensure conformity with the applicable provisions of a development plan by-law, zoning by-law and any secondary plan by-law, one or both of the following measures intended to reduce odours from a livestock operation requiring covers on manure storage facilities and requiring shelter belts."

* (21:50)

The same conditions apply to large livestock operations, and one other condition, measures to implement recommendations by the Technical Review Committee. Now what could possibly transpire at one of these so called hearings? There is not much point to a public discussion of the technical review if council is powerless to deal with its inadequacies. The development plan is written in stone so there is no use discussing it. Manure handling and storage are out of council's realm so why spend time talking about that. The hearing will be a process devoid of purpose.

Section 116(3) states: "No conditions may be imposed respecting the storage, application, transport or use of manure from a livestock operation that is the subject of an application under this division other than a condition permitted under clause 2(c)."

This particular section hands the factory farms a license to pollute. Factory hog farms all use liquid manure handling systems. It is the cheapest way to dispose of manure. It is also the most environmentally devastating. Millions of gallons of clean water are drawn daily from Manitoba's rivers and aquifers to wash pig manure off barn floors and into slurry pits. This slurry contains pathogens, growth hormones, antibiotics, chemical disinfectants and excessive amounts of nitrogen and phosphorous, and it is pumped in most cases into open pit earthen storage lagoons.

This legislation will entrench open pit hog sewage lagoons into the law of Manitoba. Progressive rural municipalities will be prohibited by law from requiring LOs to implement less hazardous manure handling systems. In Manitoba, it is illegal to spread human sewage on the land. Why is it a government with a highly touted water strategy is perpetuating the practice of dumping toxic sewage from 7 million hogs onto the land?

City residents are guaranteed clean water. We depend on our wells and rivers for drinking water. The farm practices guidelines, which will be the ultimate authority for manure management, allow lagoons to be situated 100 metres from a well or watercourse. Manure can be spread much closer. What right does our government have to guarantee industrial agriculture the right to pollute our water?

The notwithstanding clause, section 187(2), deals the fatal blow to democracy in rural Manitoba. It removes the municipal council's power under The Municipal Act to pass by-laws dealing with nuisance odour or storage and handling of manure.

Emissions from factory hog barns and lagoons are a known health hazard. With this legislation, the government is knowingly endangering the health of rural citizens for the greater good of a few investors in the hog industry. As I see it, changes in land use planning related to agriculture have one intent, to smooth the way for factory hog farms to locate in rural municipalities. Why is our government so determined to saturate rural Manitoba with pig manure? Is it government policy to deliberately drive down our property values and depopulate rural communities?

Rural residents all know that livestock is part of the agricultural economy. We are prepared to live with our neighbours' animals. To enable us to live in harmony with nature and our neighbours, we want the power, via livestock operation policies and zoning by-laws, to set out very specific and stringent conditions under which LOs may exist. If industrial agriculture is here to stay, then industry standards must be written into the by-laws of our R.M.s. Councils must remain in full control of the conditional use process. We demand the right to dictate how these operations deal with manure. After all, if we do not get it right, we are the ones who will have to live with the stench of pig shit.

Lake Winnipeg is in a sorry state. Communities are under boil-water orders, and too many manure spills have been covered up by Manitoba Conservation. Rural Manitobans no longer trust the Province to look after our environment. The spectre of Walkerton haunts us all. Long before Walkerton, our personal lives were severely impacted by hog sewage. That is why we intend to leave our children a legacy of clean water. Thank you for your attention. *[interjection]*

Mr. Chairperson: Thank you, Ms. Clegg, for your presentation this evening. Before I proceed to questions, I must advise the public who is here with us this evening, there is to be no participation in the activities of this committee, please. That includes applause.

Mr. Penner: I truly appreciate your presentation. I reflect on some of the statements you make, and I will not name them, specifically the one term you used in your second last paragraph describing the excrement of animals. I want to ask you this, however. There are some very stringent rules in how to deal with manure in the province of Manitoba. Can you tell this committee how the Province deals with human excrement, and how we handle human excrement in all our communities, from all our communities?

Ms. Clegg: How we handle—

Mr. Chairperson: Sorry, I have to recognize you for the purposes of the recording. Ms. Clegg?

Ms. Clegg: Do I know about the process of dealing with human sewage? I know that small towns have lagoons, and lagoons are licensed to dump their second lagoon cell into the drainage ditch which eventually runs into the river. Yes, that is what I know about human sewage.

Are you trying to say that, you know, to justify what we do with human sewage as opposed to what we do with hog sewage, or are you trying to make me say one is as bad as the other? I am not quite sure of the point of your question.

Mr. Penner: Well, thank you very much. The point of the question is this. I received a letter from an Aboriginal community in northern Manitoba yesterday which indicated that they were being forced to dump their sewage into the lake and draw the water that they drink out of the same lake, just a bit downstream from where their community was.

Secondly, I live along the Red River, and we take all our drinking water out of the Red River. Yet, the communities that live along the rivers and streams that have nowhere else to put their sewage but back into the rivers, as you described, down ditches, I have to drink that. Whether I like it or not, I have to drink that. Should we allow our animal

operations to operate in the same manner as we ourselves do?

Ms. Clegg: Absolutely not. There is no justification for either of us dumping our sewage into the river. Open-pit sewage lagoons, that is the big bugbear with ILOs, is open-pit manure storage. It is a colossal waste of clean water. It is just unbelievable the amount of contamination of that clean water that goes on with this manure storage system. There are other manure handling systems available. There is also manure treatment. We do not have to use open-pit storage lagoons. But, as I see it, this legislation is allowing it because the Province will be in control of manure storage, and the Province has all along sanctioned open-pit manure storage lagoons.

* (22:00)

Mr. Gerrard: You made a pretty strong point about the role of the minister early on. I think that what you were trying to say is that, you know, the council's decision should not be interfered with to the extent that it is proposed in this legislation, in terms of the minister dictating decisions to the council. Is that correct?

Ms. Clegg: Yes, it is. I believe the minister can reject, not reject a development plan outright, does not have to send it to the Municipal Board for review. It seems like the Municipal Board is pretty much out of the picture in this legislation. It is ministerial control.

Mr. Smith: Thank you very much, Mrs. Clegg, for a thoughtful presentation and bringing some of your concerns certainly to this table for consideration. The Planning Act, I believe, does address many of the issues that you have mentioned, maybe not to the extent that you would like to see, but in terms of environmental protection. It was a substantial difference from what it was prior. The water quality management zones certainly will prevent manure spreading and storage from water courses and sensitive lands, and certainly where lands are of a sensitive nature. I know that the incorporation of The Water Protection Act in the regulations for up front planning being mandatory in this act will go a long way to, what some term as go and no-go zones, and is certainly a better tool for consideration on planning within different areas that are sensitive.

The question I have asked others, and you did not get into in your presentation, but I would like to ask you is that the reduction from 400 animals units to 300 animal units, do you feel that that is appropriate for conditional use, or do you believe that number, as the previous person had said, maybe 400 or higher, or do you believe 300 is an area that we should have mandatory conditional use hearings?

Ms. Clegg: Well, having lived beside an intensive livestock operation, I would prefer the number to be even lower. I believe some of our rural municipalities have considered the number 200.

Mr. Chairperson: Minister Smith, one short question.

Mr. Smith: Just one short question, just for clarification. Certainly, local municipalities, I know some have asked for written decision when the municipality, for one reason or another, turns down a development plan, or certainly a livestock operation within an area, but it certainly does remain the autonomous decision of a local jurisdiction, municipality. I know on your front page or your first page, you described that is still in the act and it appears to be in the act. Well, it is in the act, and that land use planners bamboozle councils; unfortunately, I cannot do anything about that, but certainly the autonomy for the final decision is left with the local jurisdiction and that is the council of the area.

Ms. Clegg: You are talking about siting as siting and setbacks, of course. That is what you are talking about, I presume. So I am then taking you at your word that councils will be in total control of siting and setbacks and there will be no interference by the provincial planners who really like the farm practices regulations. They do not want anything more stringent than that.

Mr. Smith: Mrs. Clegg, just for clarification, it is not just for siting setbacks, it is for any reason that they decide not to approve intensive livestock operation within their jurisdiction. They still have final approval of that irregardless of whether or not all regulations are met. Provincial regulations, municipal regulations, federal regulations and others, they still have the autonomy irregardless of what the reasoning is to deny that application. They have that.

Mr. Chairperson: Final word to you, Mrs. Clegg.

Ms. Clegg: Yes, they do. There is just one final word. I really would like to see local councils in charge of manure, though. That is where their power has been severely eroded. Thank you.

Mr. Chairperson: Thank you, Mrs. Clegg, for your presentation here this evening.

For the information of committee members, we have identified a number of folks who are from considerable distance, and with the will of the committee, I would like to proceed through the list for those folks who have come to Winnipeg from some distance, if it is the will of the committee. Starting with this bill and then proceeding with the next bill. Is that agreed? *[Agreed]*

Leon Clegg. Mr. Clegg, are you with us this evening?

Mr. Leon Clegg (Private Citizen): Yes.

Mr. Chairperson: Please come forward, sir. Good evening, sir. Do you have a written presentation?

Mr. Clegg: Yes, I do.

Mr. Chairperson: Do you have copies for the committee?

Mr. Clegg: I will distribute them.

Mr. Chairperson: You may proceed when you are ready, Mr. Clegg.

Mr. Clegg: Okay. Before I start on my official presentation, I would like to say that I have been adversely affected by intensive livestock operations. I feel that in the past people such as myself have not had much input into any of the regulations regarding these livestock operations, and the government needs to give equal time to rural residents regarding intensive livestock operations.

Now, I will start on my official presentation. When I sat down to read Bill 33, The Planning Act, I began to think about the statement of the principles of the NDP and how this bill contradicts almost all of these principles with regard to intensive livestock operations, I might say.

Principle 1 states: "Our society must change from one based on competition to one based on co-

operation." Why, then, was there no public consultation prior to drafting Bill 33?

Principle 3 states: "We believe present human endeavours must be environmentally sound in order to ensure that future generations may have access to an abundant and diverse biosphere." Once areas where intensive livestock operations may be located are put in the development plan, there will be little local control over the siting of large hog sewage lagoons or the spreading of manure. Again, local control will be lost, and there will be no local remedial action taken against ILOs if it adversely affects the environment or local residents' quality of life.

A municipality should have some control of what types of manure management will be permitted in their district. They should certainly have the right to decide whether to allow or disallow hog lagoons, which are environmentally damaging and are the cause of so much conflict within municipalities.

If the objective of this legislation is to allow unfettered expansion of the hog industry, even more clean water will be contaminated and loaded with nutrients. Manitoba will be left with the pollution when the hog industry packs its bags of profits and heads off to look for other sources of pure, clean water.

Principle 5 states: "Our purpose as a movement is to foster social change towards a more cooperative society. Our purpose as a political party is to develop a public mandate for social change through giving individuals greater control in the economy, their workplace, and their community."

This act certainly removes some of the control of the individual and the local community since once areas are set aside where ILOs may be permitted, the Technical Review Committee will then have more say about the suitability of an ILO than the local residents or the council of that municipality. Also, the minister has the final say on the development plan. He does not even have to send it to the Municipal Board for their recommendations and may amend it as he sees fit.

I feel that if Bill 33 is adopted, local control over the expansion of ILOs will be lost forever, and the proliferation of these hog factories will proceed.

Then, NDP principles 4 and 6 will also have been broken.

* (22:10)

Principle 4: "Our commitment to the electorate is to be forthright about our long-range goals." What are the long-range goals of the NDP government as regards the hog industry?

Principle 6: "Our actions and words must reflect our fundamental faith in the capacity of people to live co-operatively and to work for the betterment of all." The expansion of the hog industry has ripped communities apart and has fostered bad feelings between neighbours. Bill 33, with regard to the livestock operations, goes against many of the principles of the NDP. I urge you to adopt the NDP principles, not Bill 33.

Mr. Chairperson: Thank you, Mr. Clegg, for your presentation here this evening. Questions of the presenter?

Mr. Gerrard: I have a strong sense that you feel that your recommendation should go where there is a need, to the Municipal Board, instead of that being bypassed.

Mr. Clegg: Even further, I think, to the municipalities rather than Municipal Board, because I think they have more sense of what the people in the community are feeling, so I think rather go to the municipality, rather than the board, even.

Mr. Penner: Certainly, again, I appreciate your presentation. I think this clearly demonstrates where the NDP party has gone with its policy and I refer to, in a similar manner, to the party's direction in gambling, casinos. It is a very similar change in policy that they have made since they became a part of government.

Whether one is in support of livestock production or not, it is the process of policy development and the policies of the party that you have questioned here. I believe what they portrayed prior to the election, before they were elected and the product that you got after they were elected is an entirely different product. I think the process of development of the policy, such as The Planning Act and The Water Protection Act are a very similar process, the public process that they so highly held

as one of their models, is gone. It did not happen, and I ask you what sort of a process should they be using to ensure that the public be heard.

Mr. Clegg: I do believe in the principles of the NDP, sir, but I must say that I think, in regard to this bill, they have forgotten some of those principles, and I wish they would go back to the original principles of the party. That is my feeling.

Regarding the water act, I think it is a good piece of legislation and I like that part. I do not have too many complaints there. I want to see the protection of the water in this province, and I think it will help do that.

Mr. Smith: I would like to thank you, Mr. Clegg, for your presentation. As we have seen tonight, there are certainly contrary views on the direction we should go on development and the amount of development we should have and what we should be considering in that development. Certainly, this Planning Act does believe in the principles of strengthening the environmental protection while looking at the balance of science through The Water Protection Act and many other tools within that. We will look at go-and no-go-zones through mapping and other tools.

Certainly, we have heard from other folks that believe we have gone too far regarding this and we impede development of, not only agriculture, but certainly in development of any development within the province. You have contrary views on that and I appreciate your views, and I thank you for making a presentation.

Mr. Chairperson: Thank you. Any comments?

Mr. Clegg: No, I just feel a strong sense of protecting the water in this province and the rural residents. I think that often our voice has not been heard and people at the Legislature have heard more of the industry and have not taken into account the rural residents. I know there is always conflicts and we can live with regular farmers, but when it comes to these huge, huge ILOs, you know, they are bad news, I think.

Mr. Chairperson: Thank you, Mr. Clegg, for your presentation this evening. Good evening.

Committee Substitution

Mr. Chairperson: Mrs. Driedger, with a committee substitution.

Mrs. Driedger: With unanimous consent of the committee, I would like to make the following membership substitutions effective immediately for the Standing Committee on Legislative Affairs. Mr. Loewen, Fort Whyte, for Mr. Eichler, Lakeside.

Mr. Chairperson: Is their unanimous consent of the committee to substitute Mr. Loewen for Mr. Eichler? *[Agreed]*

* * *

Mr. Chairperson: For the information of the members of the public who are here with us this evening, we have three considerable distance out-of-town presenters on this Bill 33: Al Rogosin, Alan Baron and Ruth Pryzner, whom we will be calling next before we proceed to the next bill, Bill 48. Yes, sir?

Mr. Al Rogosin (Private Citizen): Mr. Chairman, I am Al Rogosin, and there is no way I am going to drive back tonight. I am willing to let my turn go, and I will be here tomorrow.

Mr. Chairperson: Thank you very much, sir. I appreciate that. Then, perhaps, for the information of the folks that are with us, I should read the names of the folks who have come considerable distance for Bill 48 and others that may wish to remain may do so and those that wish to leave, their names will remain on the list for tomorrow.

We have from Brandon, Ray Sitter. We have Ray Derksen, Manitoba Association of School Superintendents. We have Pat Bowslaugh. We have Gord Henderson, James Penner, Jean Todd, Margaret Warrian, and Laurena Leskiw, in addition to Deanna Dolff, Fred Cole and Doug Kinney. Those are the names that I have listed that have come considerable distance that I would ask the committee members to approve calling in that sequence.

Mr. Tom Nevakshonoff (Interlake): Mr. Chair, I have been approached by some of the urban members of the audience. They are content with hearing rural members first, but they want to know that after 12, if they have left, in order to get back here in the morning, that their names will still be on the list in the morning. They want assurances of that.

Mr. Chairperson: Is it the will of the committee that the names will remain on the list for tomorrow

morning for those folks that may wish to leave this evening? [Agreed]

Then the members can use that information to whatever purpose they need.

We will call Alan Baron, private citizen. Mr. Baron, please come forward, sir.

Good evening. Thank you for your patience. Do you have a written presentation for committee members?

Mr. Alan Baron (Private Citizen): Mr. Chairman, committee members, I thank you for—

Mr. Chairperson: Please proceed, Mr. Baron, when you are ready.

Mr. Baron: Thank you for providing me with the opportunity to speak to you tonight. I am going to be very brief and, unless you have lots of questions, it will go quick.

My interest in this topic is more the nutrient management side of intensive livestock operations and that comes from being a farmer most of my years. I played an active role in nutrient management on my farm, but I also suffered the unfortunate happening of having the ground water under my farm contaminated by a leaky lagoon. It was not handled at all well by government officials, so let us just say you woke me up.

I have been paying attention to environmental issues and this is one I am paying very much attention to. I knew from the start that the manure management that was put in place would never work. You are always going to be overfertilizing. Nothing has changed since 1990 and '94 when the first guideline got put together. So what I have to say is unless there is relevant and realistic amendments made to the Manitoba guidelines and regulations for intensive livestock reduction in this province, Bill 33 will legislate a polluting practice.

* (22:20)

Who are the stakeholders that were consulted to draft this legislation? There were some questions asked of people tonight and they were not directly involved, so I wonder who was. I was not. For too many years, I have encountered supporters of the

ILO industry who are either uninformed or they are playing dumb. Unfortunately, many well-educated, professional people fall into the latter category.

The credible criticism that I am submitting today was received by the southwest regional Technical Review Committee in April of 2000, and shortly after that by the Parkland region Technical Review Committee.

Since then, it has caused some strange phenomena, including malfunctioning of fax machines at Manitoba Pork, urgent unplanned meetings to be attended by the Deputy Agriculture Minister and, more recently, has vanished in no less than four Cabinet ministers' offices. It is gone. Denying reality is one thing, but creating legislation to protect professional incompetence or arrogance is another issue which can be dealt with if necessary.

What I have submitted here is a copy of the conditional use presentation I presented in February of '02, including the text and supporting documents which were sourced from Manitoba Agriculture, and I have only included two but I thought I had three, but in my rush to get here I missed one or duplicated one, the surplus nutrients that will accumulate if you use the guideline, and it is calculated by using long-term average yields and crop insurance risk areas. I have been able to do this in three risk areas and use the long-term average yields, how many nutrients they will use, what is going to be left over when you use the guideline application rates.

Another is a newspaper article. It was published in the *Neepawa Banner* of this year, and it is a simple version of what happens when you follow the guideline using the alfalfa as a crop as an example. It is bizarre when you start doing the calculations.

So we have got to start talking realistically about manure management, and not only hogs, cattle. Any manure, if you use it continuously on farmland, is going to create a surplus, guaranteed, no matter what farm organization or farmer tries to tell you. If you use manure, solely, as a fertilizer source, you will create surpluses, because the animals remove it in different proportions than what the crop requirements are. Animals remove it and convert it to protein or meat and out in equal portions.

For you people who received, if you go to page 8, just to point out, in case you throw it away

again, the average nutrient content of hog manure is 27.3 and 18.6 for phosphorus. So you divide 9 into 27, it is 3; 9 into 18 is 2. That is a 3 to 2 ratio. Okay. Now you go to page 11. If you look down the right hand column there is an N:P₂O₅ ratio for all the listed crops. If you find a crop there that has a 3:2 ratio you may yell bingo. Mmm. Silence.

So that is all I have to say. If you got any questions, I will be glad to try and answer them.

Mr. Chairperson: Thank you, Mr. Baron, for your presentation. Questions of the presenter?

Thank you, Mr. Baron, for your presentation this evening.

Mr. Baron: Thank you for the usual silence.

Mr. Chairperson: I hesitate to remind the members of the public who are here with us this evening that our rules are quite clear. In this Chair. I know, members of the committee encourage me to cut some slack here, but I must encourage you, please, do not participate in the proceedings of the committee unless you are one of the presenters. I ask your consideration.

The next presenter we have from a considerable distance is Ruth Pryzner. I hope I have pronounced the last name? Good evening. You have copies of your presentation?

Ms. Ruth Pryzner (Private Citizen): Yes.

Mr. Chairperson: Thank you. Could you wait a few moments until we distribute?

Ms. Pryzner: Sure.

Mr. Chairperson: You may proceed when you are ready.

Ms. Pryzner: Before I start my presentation, I would just like to express to the committee on behalf of some people who live in my area the fact that they are quite disconcerted that the government did not choose to hold these committee hearings out in rural areas so that people who are busy farming, who are facing some disaster situations, et cetera, would have the opportunity to be here, because I know of at least five people from my area who would have come and presented had the committees been more accessible.

Having said that, as I read through Bill 33, I was struck by how similar many of its components are to Bill 40. I guess that this government promised that. As you may recall, Bill 40 was met with massive opposition by citizens across the province. The promise was to address the problem and eliminate the controversy over the assault on the nature and viability of rural communities from industrial food production systems, more commonly known as ILOs, by engaging communities in "up-front planning" and providing certainty and predictability for ILOs by providing siting and zoning up front.

I was reading the document, "A Review of Manitoba's Land Use Planning Law," a law discussion paper, and noticed some interesting statements. Land use planning allows us to better manage our land and resources in order to promote a healthy environment, build sustainable communities and sustain a strong economy. It also helps each community set goals on how it will grow and provides a way to engage citizens in the decision-making process.

More specifically, planning guides land use change in a way that fosters physical, environmental, economic, cultural and social well-being consistent with provincial and local objectives, protects, conserves and manages the environment and resources for the benefit of present and future generations, provides for planning processes that are fair, inclusive, accessible, accountable, transparent and timely and finally, facilitates co-operation and co-ordination among various interests.

The objectives of the review done by this government include balancing provincial and local interests, developing legislation that is enabling and flexible while providing for open-end, accountable decision making in processes that are integrated and consistent.

"Good planning law helps to ensure that the environment is protected and development does not jeopardize human health, safety and well being."

Bill 33, like Bill 40, fails to meet these objectives. I will deal with these and other principles that must guide and be reflected in decent planning legislation in turn and identify where Bill 33 falls short of this.

An operative principle of any meaningful planning legislation must be that citizen participation

is valued and incorporated in a substantive way, as opposed to a formal way. In order to ensure the public citizen participation is meaningful and the will of community citizens is incorporated into development plans, zoning by-laws, livestock operation policies and conditional use hearing permits, a number of changes to Bill 33 are required.

First, an addition to section 4, I would call it 4(4), is needed to ensure that at a minimum, there is public consultation, preferably a public hearing, on the development of provincial land use policies because these policies are the foundation for all development plans and land use by-laws across the province. Public participation is absolutely necessary in their creation. Because 9(a) requires that reviews of development plans must generally conform to a regional strategy if adopted, public hearings must be required for the creation of regional strategies, not just the minister.

* (22:30)

Citizens and municipal councils, planning district boards should be able to trigger the process of creating special planning areas and be involved in defining what areas have special provincial or regional significance, in addition to just the Cabinet being able to do so.

In addition, special planning area regulations, designations and applications must be subject to public input, again, preferably by way of public hearings. This should not be left solely to the Lieutenant-Governor-in-Council to decide.

In section 19(1), planning district boards must include citizen representation on the board itself, in addition to municipal councillors selected by citizens themselves, based on the expertise they can bring to the board. The structure of the board should be functional and include representation of various types of considerations that will be before the board, such as environmental, water quality, agriculture, residential, et cetera. Bill 33 does not provide for this.

In section 21(1), it must include minimum requirements for the conduct of meetings and hearings, including rules of procedures to ensure that there is some level of consistency and fairness that citizens can expect across the province in the conduct of meetings and hearings.

In 32(1)(b), again, I would suggest that minimum requirements for the rules of practice and procedure for the commission, as well as public hearings, must be incorporated into the duties of planning commissions.

I would delete section 32(2)(a) that it may consist entirely of members of the board or council. I think the principle is to broaden the participation of people on those commissions.

A section also must be added to ensure that members of planning commissions are subject to the municipal conflict-of-interest legislation, but I would also note here that the municipal conflict-of-interest legislation is sorely lacking and full of loopholes when we start talking about development and conditional use hearing permits.

Public participation in the development plan creation process may become and can possibly be rendered meaningless for the following reasons. Section 48(c) provides the opportunity for any person who made a representation at the hearing on a development plan by-law to file an objection, setting out the reasons for the objection to the minister, who then is empowered to refer the objection to the Municipal Board. This provides the minister with too much authority; 48(c) must be changed to provide for such objections to be filed directly to the Municipal Board for adjudication. This will serve to reduce the amount of political influence that the minister has in the creation of development plans.

Mr. Chair, 50(1) must be changed to require the minister to refer such objections to the Municipal Board instead of "may." Similarly, 51(1) must be changed to eliminate the minister's discretion in being able to treat Municipal Board decisions as mere recommendations. As the section now reads, the minister may override the findings of the Municipal Board, and through this, the essence of the objection if the Municipal Board finds merit in the objection.

Because section 201 requires all municipalities or districts to adopt a development plan and/or a livestock operation policy by 2008, the minister is effectively provided with a veto over all development plans in the province.

While section 55 provides boards or councils with the ability to reject ministerial requirements by

refusing to give third reading to a development plan by-law, that is council saying no, we do not like what you have to say, Mr. Minister, section 60 and 61(1), 61(2) and 61(3), the minister has the authority to create and approve a development plan through the Lieutenant-Governor-in-Council for the local jurisdiction without even a public hearing.

Section 60 and 61(1) to 61(3) are clearly anti-democratic, and Bill 33 must be amended to remove these clauses. Meaningful planning cannot be forced upon local jurisdictions and people in this manner. It must be created through co-operation and true negotiations within a spirit of good faith by all involved.

Taken together, these sections provide the minister with authority far in excess of what can be reasonably allowed in a purportedly democratic society.

Section 42(2), in the livestock operation policy, there are regressive restrictions on the components of a livestock operation policy required in 42(2) that are imposed by sections 187(1) and 187(2). If a council cannot impose further restrictions on size or location of livestock operations, subject to conditional use, nor use The Municipal Act or zoning by-law to regulate nuisance odours or prohibit or regulate the storage application or use of manure, it does not apply to a livestock operation if the owner or operator is complying with all other acts and regulations in terms of any permit or conditions.

The question is how will the public be protected from such non-compliance. The importance of this question is underlined by the change in the enforcement provisions of section 80 of the current Planning Act. Section 180 of Bill 33 removes the ability for an elector to take a private enforcement action to the Court of Queen's Bench. Citizens must then rely on the planning district or the municipality to make application to the court in order to enforce a by-law made under the act.

What happens when the district board or municipality will not do so and chooses not to enforce the by-law provision? Then, place this in context of the indemnification in section 192 where a member of a board, council or planning commission or any person are protected from anyone bringing action against them for anything not done or for any neglect, unless a person is acting in bad faith. But

bad faith has not been defined either in The Municipal Act or the current Planning Act, nor in Bill 33. So, taken together, the effect of this is that people are denied the ability they currently have to participate in enforcement of applicable by-laws and decisions.

A crucial component of democratic decision making that includes the principles of fairness, inclusiveness, accessibility, accountability, transparency and timeliness is ensuring that information necessary for citizens and decision makers to participate in as fully informed a manner as possible and increase the possibility for the outcome to be based on the best available information, is readily available, authorities responsible for providing this information clearly identified and the timelines for being able to access this information clearly spelled out in the legislation. Bill 33 falls short of meeting these principles.

As such, a number of sections of the Bill require amending.

105 Upon receiving by resolution an application for approval of a conditional use. . .

105 (c) Create new clause to read: immediately make the application, project proposal, and accompanying materials available for public inspection and copying at the office of the applicable planning district or municipality.

114 (3) . . . Technical Review Committee report and the application, project proposal, and accompanying documents are available for inspection and copying . . .

106 (1)(b) replace with existing 53(7) and 53(8):

53(7) On completion of the hearing and consideration of the matter, council shall

(a) reject the application; or

(b) approve the application if the facts presented are such as to establish

(i) that the proposed use or feature, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable for, and

compatible with, the neighbourhood, the community and the general environment; and

(ii) that such use or feature as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity, or injurious to property, improvements, or potential development in the vicinity, with respect to aspects including but no limited to

(A) the nature of the proposed site, including its size and shape, and the proposed size, shape, and arrangement of structures,

(B) the accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading,

(C) the safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust, and odour, and

(D) treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs, and

(iii) that such use or feature as proposed will comply with the applicable provisions of the zoning by-law and the development plan.

Conditions of approval

53(8) When approving a conditional use as provided herein, the council may prescribe such additional conditions, beyond those specified in the zoning by-law and development plan, as are in its opinion necessary to secure the objectives of the zoning by-law and development plan, and the council may revoke the conditional use authorized for any violation of any conditions imposed by it.

The existing conditional use process is predicated on the principle that local people possess the most intimate knowledge of local and site-specific conditions, and it is the people within the local jurisdiction, after all, who will have to

live with the effects and bear the social, environmental and economic costs that result from problematic development. Contrary to received opinion, the conditional use process is an efficient planning tool.

One must keep in mind that conditional uses are a privilege, not a right. To see this, one needs only to consider the language of section 65 of Bill 33, where up-front planning and zoning by-laws are clearly enabling and not prescriptive.

In fact, conditional uses are a privilege earned when the applicant can demonstrate the requirements of the existing 53(7), with the burden of proof clearly falling to the applicant.

This is as it should be. It is the public who has the paramount right in the conditional use process, a right that is consistent with the principle that development may proceed only if it does not harm another. It is this principle which gives meaning to decision making in the public interest, as opposed to decision making in the special interest.

Governments, in my view, have a mandate to develop legislation that serves the public interest. While private interests comprise part of the public interest, the good of the public must supersede the good of the private, particularly corporate, interests. At times, these interests may not be mutually exclusive and the success of private interests may provide some social benefit.

However, we are not talking about ensuring the success of smaller (or even just family) farms in the discussion about the need to change The Planning Act. What is being debated here is the government's apparent need to create a planning and zoning environment that is favourable to private, corporate interests at the expense of the public interest and family farms who engage in agriculture as opposed to industrial food production.

Why is it that we create communities? We do so because we know that, collectively, we can improve the lives of individuals within that community and we can achieve more together than we can alone. Planning is about how we live and marshal resources for the benefit of the members of our society as a whole and ensure that our collective resources such as the ecosystem, water, land and air

sustain life indefinitely. Bill 33 is antithetical to these objectives.

The government has the power to impose Bill 33 on the people of Manitoba, especially rural Manitobans, but I submit that you do not have the right to do so. Power is a privilege bestowed upon you which carries with it the duty to provide good government that is open, accountable, transparent and makes decisions in the public interest.

What you do with this bill upon completion of the committee hearing and legislative processes will signal to all citizens in this province, which you have the privilege to govern, the objective reality of what this government is all about and for whom it is in service. I ask that you make the change that I and others have outlined to ensure that the democratic process is not further subverted and eroded.

The alteration of the conditional use hearing process also is a failing of Bill 33. It does not go far enough. I would suggest that what the government do is replace 53(7) in the old Planning Act or leave it as it is, and also include 53(8) because the conditional use process is predicated on the principle that local people possess the most intimate knowledge of local and site-specific conditions. It is the people within the local jurisdiction, after all, who will have to live with the effects and bear the social, environmental and economic costs that result from problematic development.

The one other thing that I would really like to say is that we must keep in mind that conditional uses are a privilege, not a right. One needs only to consider the language of section 65 of Bill 33 where the up-front planning and zoning by-laws are enabling and not prescriptive. No municipality or jurisdiction has to implement any of the plan. I will just—just give me 30 seconds.

Mr. Chairperson: Thank you, Ms. Pryzner. Maybe if it might assist you, perhaps with the approval of the committee, if we would include your entire presentation in the transcript proceedings of this committee, that might be helpful. Would you be agreeable to that?

Ms. Pryzner: Of course.

Mr. Chairperson: Committee members agree? *[Agreed]* Thank you.

That concludes the time for presentations, but we will move to questions of the presenter. Any questions of the presenter?

Mr. Maguire: Thank you, Ruth, for your presentation. I just wanted to touch base on a few issues. This bill does allow for hearings in regard to the public coming to make their concerns known in this whole process. I just wanted to know what your thoughts were around the reestablishment of conditional use hearings because, of course, that was not part of Bill 40. As you are aware, Bill 40 was killed, and as you have indicated, brought back mainly in this bill. But the use of conditional use hearings has been included, and I am wondering what your thoughts are on that.

Ms. Pryzner: I think that conditional use hearings are absolutely critical, and, in fact, they are actually one of the most efficient tools in the planning process. There is no way that in creating development plans, livestock operation policies and zoning by-laws, that an authority can deal with all contingencies. That is why we look at the site-specific conditions around siting a particular operation on a particular piece of land. That is why we need to have the people who have lived there all their lives who know the land, who know the area, involved in the process.

* (22:40)

It is also incumbent upon decision makers to hear people who live in the community, because they have the ability and the right to define what they want their community to look like. After all, a conditional use is something that is not granted, it is not given just by the very nature of the operation or the kind of development.

So I am glad that the government recognizes that certain types of livestock operations should be subject to conditional use. The problem is that the numbers game does not really cut it. It is the type of livestock operation that is more significant than the numbers. An extensive livestock operation, I know a sheep producer who had 1000 ewes and ranged them over a large area and never confined them. The impact that operation would have would be negligible compared to 1000 hogs or 1000 sheep or 1000 cattle in a very small area.

Mr. Smith: I would like to thank Ms. Pryzner for taking the time to travel a considerable distance. I

know the disaster that is going on in her area right now, it certainly was probably hard on her part to leave. We had other presenters here tonight mention and you know we have changed the application on livestock operation applications from 400 to 300 animal units and hearings be done from one kilometre to three kilometres surrounding that. We had others mention tonight certainly that because of the newspaper advertising for the livestock operation applications, outside special interest groups will affect decisions in those areas.

Some have suggested that only people who live within those three kilometres should be able to make presentation at those hearings. What would your views on that be?

Ms. Pryzner: Well, first of all, I think reducing the trigger threshold to 300 animal units is appropriate. It is also appropriate to allow communities to further reduce that if they so choose, depending on the type of operation that is being proposed in the area. Using only the animal unit designation is going to create problems because people understand the difference between different types of livestock production, different types of manure and that kind of thing so just using animal units is not in and of itself sufficient.

Extending the notice requirements, I think they should be extended even further than that because the impacts, the historical impacts of some livestock operations particularly factory farms, have been felt much further than three kilometres. I think that this whole notion that people and members of the public who come from areas in other parts of the municipality, or it may be in an adjacent municipality, or somehow special interest groups, or outsiders and people who should not be involved in the process is ludicrous, if special interest groups are the applicants themselves.

The whole purpose of planning and the whole purpose of having hearings and having conditional uses is to protect the public interest. That is what our planning should focus on. Development, while it may help the public interest to a certain extent, it is not the public interest. You cannot equate it that way, so I think the more we can do to involve the public in these decisions, the better. This bill does not achieve that.

While you have public hearings and people involved in public hearings, you still have ultimately,

the government still has final say on what the development plan is going to be, and has an enormous amount of influence in quote, "guiding" communities. When I was at the AMM convention—

Mr. Chairperson: Ms. Pryzner, your time has expired considerably. Thank you for your presentation this evening.

Next presenter is Fred Tait. Mr. Tait, if you are in the audience, sir, please come forward.

Good evening, sir. Do you have a written presentation? Proceed when you are ready, sir.

Mr. Fred Tait (Private Citizen): Good evening, members of the committee. It has been a long evening. As I sat through this evening, it is very reflective that in every jurisdiction in North America that engaged in intensive livestock development, at some point within the first decade, public opposition to the development became so intense that government used its legislative power to control the opposition and to limit local democratic power. It is also interesting that we heard questions tonight about have you been consulted, and everybody seemed to say no to that. Yet this is supposed to be the product of a consultative process.

I would first of all like to comment on the current government's sort of insensitivity to rural people. If a government of the day was serious about consulting with rural people, then it would have not scheduled this hearing with 48 hours of basic notice, in Winnipeg, during spring seeding. I think that would have been something that a government that had some sensitivity to rural areas would have contemplated.

I would also like to take this opportunity to thank the minister from Arthur-Virden for his efforts to get these committee meetings moved outside of this city, and I would also like to thank, in his absence, Jon Gerrard, the Leader of the Liberal Party, for his same efforts in this.

In looking at this livestock issue, I have noticed that it is a very important tactic employed by the Government of Manitoba aimed at restricting public opposition to the further expansion of intensive livestock operation has been its refusal to distinguish between different types of livestock and livestock production systems. Any effort to equate a 300 cow-

calf operation with a 1000 sow farrow-to-finish operation requires one to conveniently ignore the fact that the cow-calf payers will spend five or more months of each year on pasture, and while on pasture the manure from the cattle is dispersed over the same land area that provides the feed source. Cattle on pasture are not known to cause problems related to odour or the release of high concentrations of ammonia or hydrogen sulphide gases. Winter feeding of cattle is straw-based. They are also a natural barriers present that serve to restrict the size of cow-calf operations. The number of animals confined in intensive livestock liquid manure operations is often in the thousands and tends to concentrate production on the province's aquifers. The resulting concentration of manure often results in the release of unacceptable concentrations of ammonia and hydrogen sulphide.

The government refuses, in my opinion, to distinguish between the types of livestock production systems as related to the government's effort to widen the base of opposition to implementing effective control of the province's intensive livestock operations.

There has been discussion repeatedly tonight about the Technical Review Committees and their roles, in particular, their roles under the previous regime and also under proposed Bill 33. It is being alleged that the role of the Technical Review Committee is to provide members of municipal council with expert advice on the merits of, or to identify potential problems associated with a proposal to build an intensive livestock operation. The role of members of the Technical Review Committee is restricted to examining a proponent's application for compliance with provincial guidelines, regulation and municipal by-laws.

* (22:50)

Technical Review Committee members do not check a proponent's application for accuracy. If it does not check the application for accuracy, what purpose is it serving? You have to really understand that, the logic of having a government-appointed committee not check the application for accuracy. How are the needs of the environment and water protection act being served by a committee that does not check applications for accuracy? Based on my five years of experience gained from examining a number of Technical Review Committee reports, I

strongly recommended the title of Technical Review Committee be replaced with the title of Provincial Intensive Livestock Protection and Promotion Committee.

Water stewardship. There has been a great deal of promotion about The Water Protection Act. The Water Stewardship Minister has communicated to the public that we, as a society, must now take strong action to protect the province's water resources. He has quoted, in my presence, there are 1.1 million potential water pollution sources in Manitoba, and there are 1.1 million potential solutions to protect the province's water resources. That is a very good observation.

The words of the Minister of Water Stewardship (Mr. Ashton) are encouraging, and I commend him for expressing this verbal commitment to protect and improve the province's water resources. I would suggest to the Minister of Water Stewardship that it is important that before proceeding further, he focuses some of his attention on the actions of his fellow Cabinet ministers. It is important that he fully understands effects of their legislative and regulatory changes and the role they are playing in compromising his stated objectives.

If the Minister of Water Stewardship is serious in his invitation to the 1.1 million residents of Manitoba to become directly involved in protecting the province's water, he must now challenge the Minister of Intergovernmental Affairs' (Mr. Smith) efforts to prohibit the ability of local governments to impose conditions on the storage, application and transportation of livestock manure. The Minister of Water Stewardship has invited us to become involved. The Minister of Intergovernmental Affairs is prohibiting us from becoming involved. There is a contradiction here, I would think.

The minister may want to consider the environmental consequences of a proposal by Manitoba Conservation to allow the application of manure-based elemental phosphorous in P205 equivalent amounts of 276 to 323 pounds per acre.

On the opposition side, there are some recognized farmers. Anybody that has farmed knows that probably the highest rate of phosphorous you can use with any crop in Manitoba is 50 pounds per acre in corn production, and so when one would get from a range of 276-823, one would think, as Al Burns said,

what we have is the Minister of Conservation (Mr. Struthers) promoting and possibly in the future licensing a polluting practice. I do not know how this will conform with Mr. Ashton's objectives.

The minister will need to familiarize himself with the Manitoba plant removal by crops charts prior to asking the ministers of Agriculture (Ms. Wowchuk) and Conservation if they are aware of the differences between the terms "nutrient management" and "waste disposal", because 276 pounds of P per acre is waste disposal. That is not nutrient management.

He will need to examine the role of Department of Agriculture staff in remapping the environmentally sensitive soils in the R.M. of Lorne from 70 percent of the total area down to 5 percent, and I have a little excerpt here from a letter from the Minister of Agriculture's staff out of the Carman office which, again, would bring Steve Ashton's initiative under some question, "Our department recommends that the agriculture capacity rating maps be used instead, as this rating system uses more soil and landscape factors in assessing soils, although factors to integrate the impact of runoff and leaching management and groundwater (aquifers) are not recognized in this system either, in a way that correlates with environmental risk assessment."

Now, the question here I have, "are these rogue elements in the Department of Agriculture in the Carman office, or is this a directive from the Minister of Agriculture's office?" If they are, in the first case, if it is rogue elements, they should be dismissed. If it is directly from the minister's office, again, there is a contradiction of policy directives within this caucus that should be examined and should be corrected.

The minister must also reject any effort to raise the allowable threshold of phosphorous in the province's surface water. If the minister fails in his efforts to convince his fellow caucus members of the need to protect the province's water, then there is little practical value being served by the continuing existence of his ministry. It may now be time for the Minister of Water Stewardship to find that little girl on that attractive TV ad, her face decorates that 12-point pamphlet and tell her, "I am so very sorry, but the majority of the members of my Cabinet have said no to water protection."

I believe I have come to a point late in the evening and on in my years, that I would have to ask the members, particularly of the opposition, what would you recommend that I and others like me that have spoken here tonight do to protect the environment of this province from the actions of this government? Thank you.

Mr. Chairperson: Thank you, Mr. Tait, for your presentation this evening. Questions of the presenter?

Mr. Penner: Just one comment. Fred and I have known each other many years and we have debated from time to time. Fred, my answer to your last question is use scientific evidence. You asked what we would say, our proposition to the government is we would say use your scientific evidence.

Mr. Chairperson: Mr. Tait, do you wish to respond?

Mr. Tait: Yes, Mr. Chair, you are quite correct on that, Mr. Penner. You and I have disagreed at points over the years. I have always considered that was risk management because then there was no way we could both be wrong.

Floor comment: That is right.

Mr. Tait: If you look at the debate around the intensive livestock issue in the province, initially the opposition was emotional. Within a short period of time, it came rather, well, factually based. Then it became extremely well based in science, research and factual information.

It came to a point where people like Al Baron, Ruth Pryzner, Al Rogosin and others could go before any technical review team and totally destroy the credibility of their reports. The industry was putting forward proposals that were factually wrong, and perhaps wilfully so, and we out-scienced them, out-politicked them, out-debated them.

When we won the battle, they went to the Ministry of Agriculture and said we are losing the battle, you are going to have to protect us. A responsible minister would have said that I know those rural people; they are decent, hardworking people. If you got a problem, you had better go back and deal with them, but they did not do that. They took our power away, or are attempting to.

Mr. Penner: In all sincerity, we have constantly said to our American friends where we are dealing with the BSE crisis, we are totally in support of using or utilizing the scientific analysis and science to settle our differences, and yet, we do not do this in water.

When we look at the Devils Lake issue that the minister has from time to time attacked, I have said constantly let us use the science to identify what the difference is. If there is a difference, then we have a basis of contention. If there is not, then what are we arguing about? I would propose to you that if we do not accept the science-based evidence, then how do we expect our neighbours to use it?

Mr. Tait: Well, Jack, you do not put 276 pounds of . . . to the acre. If you wanted something based on science, you would not have the Technical Review Committee refuse to check the accuracy of an application. So the government is refusing to use science, we are prepared. We will win on a science-based argument. I know that. That is why we are faced with this bill is because we have won that battle.

Mr. Kevin Lamoureux (Inkster): Thank you for your presentation. I will say right up front, I am nowhere near as knowledgeable on issues of this nature as my leader, Jon Gerrard, or yourself, but a very basic, simple question for a layperson like myself, "Why do you believe, given your presentation and presenters before you, why is the government pushing this then?"

* (23:00)

Mr. Tait: There is an unknown here. Over the years, over the past five years, we have been able to expose some things that have happened. I, because of my background, was extremely committed to the restoration of single-desk selling when this government became elected and, as Leon Clegg pointed, there is a principle there, only to learn that the Premier (Mr. Doer) had made a personal promise to Michael McCain that there would be no restoration of single-desk selling in this province.

I am also aware that the Crocus Fund diverted huge sums of money into Turtle Mountain and Dynamic Pork. I do not know if it was covered by the Auditor's report.

So one can speculate, which is a dangerous occupation, perhaps, but the trend here is this bill is

servicing someone's need other than the rural public's need. If you look at the number of producers that are out there, the last time I looked at strong statistics, there were 115 producers producing 82 percent of all Manitoba's hogs. So this bill serves the needs of a very small, elite group of people, I would suspect.

Mr. Smith: Thank you very much. I appreciate your presentation, Mr. Tait. Certainly, we have had many discussions as well over the years. I am not sure whether we have agreed or disagreed more than you have with Mr. Penner, but I appreciate your views and certainly your background.

Things have changed since 1975 when the bill was last actually brought into legislation. Over the period of 30 years, the bill has not been modernized or updated. The utilization and the balance of provincial and local interests, I believe, have been addressed considerably in the bill. Final decisions on a lot of the ILOs will be left with the local decision makers. Some agree with that. Others feel that the Province should not have that final decision done by local communities. I, in fact, believe it should be.

The member opposite, Mr. Penner, makes a suggestion to basing decisions on science. That certainly is something that I believe that you would agree with. It is something that should be part of the process through technical review committees just as one element, and many other information pieces coming forward to a local council and having full disclosure and public hearings on that disclosure. Certainly that is in there.

I believe, you mentioned quite a bit in your presentation regarding water stewardship, as Minister Ashton develops the water quality mapping zones, that will be included in The Planning Act as well, goes, and no-go zones, if you will, to give another tool to municipal officials and people within the area to address that.

But I think the key piece and the key point that, although you did not address it in your presentation, you mostly specified livestock operations and farming practices, where this bill goes much beyond that. In fact, all development in the province of Manitoba, will be the ability for a more up-front planning and hearings and the public to have that up-front planning.

Maybe we could go back and say that should have been done 30 years ago in '75, or 20 years ago

in '85, and so on. But, certainly, that is what this bill promotes, is that process for all people in the municipalities, whether they be urban, residential, farming practice or other, to have that up-front planning. I believe that is what this bill does address, and I believe that is something that will be positive in moving ahead.

Mr. Tait: Thank you, Minister. You are correct that a lot of things have changed since 1975 when the bill was last amended. But there is something that has not changed and that should be the respect for democracy in the local communities. This bill is setting out to change that relationship and I resent that deeply.

Your reference to The Water Protection Act and how it is going to be worked into The Planning Act, the words are, "should be considered," and so, if you go ahead and do The Planning Act before you do the implementation of the regulation of The Water Protection Act, you know that The Water Protection Act then is going to conform to the already developed Planning Act.

So you have, in effect, the departments of Agriculture, Conservation, Intergovernmental Affairs establishing the terms of The Water Protection Act. That is why I say there may be some question of the usefulness of the continued existence of that ministry under these terms.

Mr. Chairperson: If there are no further questions, thank you, Mr. Tait, for your presentation this evening.

That concludes the last long-distance presenter for Bill 33.

Bill 48—The Teachers' Pensions Amendment Act

Mr. Chairperson: As previously agreed in the committee, we would proceed with out-of-town presenters on Bill 48, those that have travelled considerable distance.

The first individual I have, Bill 48, The Teachers Pensions' Amendment Act, is Ray Sitter.

Mr. Sitter, good evening, sir. Thank you for your patience. Do you have a copy of your presentation?

Mr. Ray Sitter (Private Citizen): Yes, I do.

Mr. Chairperson: You may proceed when you are ready, Mr. Sitter.

Mr. Sitter: Thank you. Mr. Chair, members of the committee, ladies and gentlemen.

Mr. Vice-Chairperson in the Chair

First of all, I would like to thank the members of the opposition for raising the issue of accommodating people from far away. I am disappointed in the educational system that was unable to teach simple math to the organizers, unless of course—I apologize if all of the presenters called in late this afternoon and said, "We are coming." But, if it happened earlier that people were aware that there were going to be a large number of presenters, then I would think taking the number of presenters and multiplying it by 20 would come up with a reasonable expectation of how many bills you can look at tonight. Since we have three exceptionally important issues to deal with, I think that jumping from one to the other is really a poor way to really focus on what it is that you are talking about in any particular topic. My wife, she would talk about somebody having ill ability to organize a one-car parade.

Anyway, to get on with what I was going to say. I am here today to express my extreme disappointment and displeasure at the changes to the teachers' retirement pension act, represented by the amendment before the committee today. Last year, Bill 46 provided relief for a few retired teachers who could buy back maternity leave. The remainder of us got 0.5% increase in our cost of living. The bulk of the benefits in Bill 46 last year went to the treasury of the Manitoba Teachers' Society. This amounted to approximately \$1.5-million worth of relief every year, not just last year. This has assisted in undercutting the viability of the teachers' pension fund.

This current bill is an insult to each and every retired teacher in the province. It starts to address the shortfall of pension funding by active teachers, but it gives retired teachers absolutely nothing. This year, we will get approximately 0.4, four-tenths of one percent, as a cost of living increase. I would like you to contrast that with 9.9% increase that you as MLAs will receive this year. Contrast this with the cost of living allowance increase received by retired teachers in B.C., Alberta, Saskatchewan, Manitoba,

Ontario, Prince Edward Island, New Brunswick and Nova Scotia. The lowest 2004 increase was Manitoba's at 0.54 percent. Others ranged between 1.3 to 3.35 percent for the cost of living allowance.

I understand all the arguments. The pension adjustment count gets a certain amount of funding, and that account is the one that pays the cost of living. There is only enough in the account to pay so much, or is it really so little? Blah, blah, blah, blah. We hear this all the time.

When money is needed, it seems to appear from somewhere. Government, you have to remember, set up the pension act. Government decided to defer their portion of their liability. Government set up the pension adjustment account in the act to provide inflation protection. Government made a commitment by that action to manage the fund in such a way as to provide a reasonable cost of living allowance for retired teachers. Would they create it to produce an unreasonable cost of living allowance? Obviously, that account has not been managed appropriately.

* (23:10)

Governments, as you well know, initiate amendments to acts. Fix it. All it takes is a political will and the guts to do it. Schreyer had the guts and he had the will. I do not see any political will in this amendment relating to retired teachers.

I understand the mentality behind this and the lack of political will. You believe retired teachers and other retired people are a burden, not an asset, to society. Give them a lot of platitudes. Give them, "I would like to thank you personally for your service as a teacher," and send them away. They believe retired people are too dumb to recognize crap when they step in it. Senile, over the hill, that is us.

I believe that governments do not recognize the contributions that seniors and retired people make to the economy of the communities in which they live. They buy goods and services. They are the heart and soul of almost all volunteer organizations in the communities where they live. Charities, if they had to pay for the services they receive from their senior volunteers, would not be nearly as healthy as they are now. If senior volunteers were removed, government would have to pick up the slack with dollars if the level of funding were to remain the same for services and research. Sporting events, curling,

summer and winter games, local festivals, et cetera, which bring millions of dollars of revenue to the communities, would suffer dramatically if senior volunteers were not there. The list can go on. What I want to point out is that seniors are money multipliers in their communities, not a liability.

What do we want? We want fairness. The Minister of Education (Mr. Bjornson) himself, at the NDP convention in Brandon this year, admitted that 0.5 percent was not acceptable. He also suggested that we should wait for the amendments to the act which were coming. We could not expect full cost of living, but a figure near 2 percent might be possible. We were told to be patient. We have been and basically the result stinks.

I find it totally unacceptable that issues of active teachers have again been addressed and those of retired teachers have again been ignored. We are getting a very clear message.

Secondly, we want inflation protection. Throughout our careers, we have paid a portion of our pension premiums for inflation protection. Where is our cost of living allowance? Where is that protection?

Number 3, we want the problem fixed. The problem relating to COLA has been flagged by auditors for 15 years or more. The act governs our pension. Who is managing the act so as to provide reasonable results? Why has nothing been done? You knew there was a developing problem, or should have known. Remember the red flags? Yes, they were there 15 years ago, well longer, 1987. Who is responsible for those red flags and the inactivity that goes along with them? Fix it.

Number 4, we want consultation with respect to changes to the act and changes to cost of living allowance. It is clear that others have no interest in looking out for the concerns of retired teachers. We want Retired Teachers' Association of Manitoba representation on all committees that relate to our pensions.

Number 5, we want respect, respect for who we are and what we do, and not only for what we did.

Let me give you my views on politics and government. Governments recognize only their political self-interest. The role of political parties is

essentially to get elected. The role of the government is to stay in power. Everything in politics flows from that.

Let me give you some insights on teachers. Teachers, active and retired, generally have been prone to do their jobs and let Big Brother take care of them, whether Big Brother is the Manitoba Teachers' Society or the government. They have had that trust that Big Brother will do the right thing by them. The adage that hell hath no fury like a woman scorned—

Mr. Vice-Chairperson: One minute, sir.

Mr. Sitter: Thank you.

—also applies to teachers whose trust has been broken. I can tell you that I am amazed at the anger that is there when I point out to teachers, retired and active, what is happening to their pension and COLA, when I tell them about the muddling and fiddling and inactivity that has gone on that has cut up the value of their pension.

Teachers are people who have always had a strong dedication to causes when moved. Retired people do have time to organize. They do have time to push for changes. They do have time to talk to each other and to others, relatives, other seniors and other community people. Retired teachers have many community contacts. Check the numbers of teachers eligible to retire in the next few years and the number already retired. Remember the multiplier effect. We ask not to be ignored. Thank you.

Mr. Vice-Chairperson: Thank you sir. Questions?

Mrs. Driedger: Thank you for your presentation. From the minister's comments in Brandon, were you led to believe that your COLA issue was going to be properly addressed?

Mr. Sitter: Whether it is going to be properly addressed or not as we saw it, not necessarily. What we were looking for and what we are looking for is full cost of living allowance. As we understood, that was an agreement, verbal, made in the past. However, we were expecting something better than 0.5 percent. We thought it should be, from the discussion, that it would be closer to 2.

Mrs. Driedger: And the discussion that was held on this, was it with a minister or was it with the Pension Task Force, or where did that number come from?

Mr. Sitter: It was at the NDP convention where we, Retired Teachers' Association, had a table, and we just approached the minister as he went by.

Hon. Peter Bjornson (Minister of Education, Citizenship and Youth): Thanks for your presentation again, Mr. Sitter. Indeed, it was a pleasure to talk to you at the convention, and certainly, I had advised you at the time that this was a matter that was before the teachers' Pension Task Force. Those negotiations have resulted in the bill that is presented at the table this evening. Again, I thank you for your presentation this evening.

Mr. Sitter: Thank you for hearing me and for your time.

Mr. Vice-Chairperson: I call Mr. Ray Derksen, Manitoba Association of School Superintendents. Sir, do you have a written presentation?

Mr. Ray Derksen (First Vice-President, Manitoba Association of School Superintendents): Yes.

Mr. Vice-Chairperson: Clerk will distribute it. Begin when ready, sir.

Mr. Derksen: Thank you, Mr. Chair, committee. Manitoba Association of School Superintendents wants to add its concern to that of the active and retired teachers. We certainly acknowledge and we appreciate that the government has taken a step in the right direction with Bill 48 in addressing the pension fund deficit. The increase, however, in contributions fails to address the serious long-term pension issues facing Manitoba teachers.

The 1.1% increase in contributions and the corresponding smaller percentage that contribution will generate for COLA purposes will do nothing to reduce the current pension erosion, and leaves future pension adjustments less able than ever to maintain pension levels, past or present.

Just as serious will be the eventual undermining of confidence of current and future teachers in this province when they discover their pension plan is not what they expected from their many years of service. The 1977 establishment of the PAA, or Pension Adjustment Account to ensure a COLA was arrived at after negotiation and in the belief that it afforded a pension adjusted into the future. Teachers willingly increased contribution levels to allow this to occur

and now are deprived of the benefit of that increased contribution.

Despite the warnings of the TRAF board actuary in 1987 and in every evaluation since, the depletion of the PAA has until now gone unaddressed by the various provincial governments in power. Since 1999, the ability of the PAA to support an annual COLA has steadily declined, and if Bill 48 is considered a response to this situation, it falls short, as the PAA will continue to decline, with the very real possibility that it will shortly be unable to support a COLA at all.

Sufficient funds needed to be added directly to the PAA if the situation is to be rectified.

* (23:20)

Manitoba has a well-deserved public school tradition, due in large part to the contribution of its teachers, both past and present. There is considerable agreement that the future development of our province depends on the continuation of the fine tradition of response to the public education system. The teachers whose contribution built and sustained that tradition deserve a serious consideration of the COLA issue, more than what is provided by Bill 48. Thank you very much for this opportunity to present our concerns.

Mr. Vice-Chairperson: Thank you, Mr. Derksen. Questions from the committee?

Mrs. Driedger: What do you think needs to be done to the legislation in order to make it better and improve the COLA situation?

Mr. Derksen: I think—

Mr. Vice-Chairperson: Mr. Derksen, sorry, I have to recognize you, sir.

Mr. Derksen: I think what we would suggest is that there be some actuarial models developed and recommendations would flow from that.

Mr. John Loewen (Fort Whyte): Would you see any other alternatives to funding the COLA then, an increase in the amount contributed to pensions by current teachers?

Mr. Derksen: I am not sure where else that money would come from than increasing the contributions of the current teachers.

Mr. Kevin Lamoureux (Inkster): I guess I am concerned in terms of the way in which we have this bill that has come before us in which the government did introduce it in second reading, virtually at the last minute, and in essence is looking at opposition in order to pass this. It is going to ultimately have to be done through leave. The question that I would ask the presenter is that do you see any value in holding off the passage of this particular bill for a later time.

Mr. Derksen: Our suggestion was that there needs to be some examination of actuarial, real models and that we go from there.

Mr. Lamoureux: Any drawback from your perspective in terms of holding it off?

Mr. Derksen: We recognize that the 1.1 percent is a value and that it is a start. We are simply saying that it falls short.

Mr. Lamoureux: Finally, if you were in the opposition and you provided the opportunity to prevent the bill from actually being passed where it could be held off until fall, would you do that?

Mr. Derksen: Tough question. I think what the superintendents are saying is that we feel that it is a start and we acknowledge that right up front. It needs to go farther. Would I want to say is that we should scrap a start, or a good start? I would hesitate to say that.

Mr. Vice-Chairperson: Further questions?

Mr. Bjornson: Well, I would just like to thank you for your presentation and assure you, Mr. Derksen, that there is actuarial analysis that goes into this process as part of the teacher Pension Task Force discussions. As a superintendent, I would ask you that we, as a government, expect that our superintendents are acting in a fiscally responsible manner and that we, as a government, are asked to act in a fiscally responsible manner. You must be aware certainly that we are responsible for a number of different public service pensions.

Mr. Derksen: Yes, was that a question or a comment?

Mr. Bjornson: Sorry, indeed, that was a comment. Again I thank you for your presentation, and I know you have travelled a tremendous distance to be here this evening.

Mr. Vice-Chairperson: Thank you, Mr. Derksen.

I now call Mr. David McDowell—no? Pat Bowslaugh, private citizen.

Order. Madam, I have not recognized you yet. I want to ask members of the public. There are no photographs to be taken, no flash photographs to be taken in committee.

Ms. Pat Bowslaugh (Private Citizen): Good evening, ladies and gentlemen. The year is 2025, and we are halfway there after tonight.

I just want to ask you, in 2025, where do you think you might be and what you think you might be doing? Because when I checked into 2025 for myself, I really do fear I might be the individual you see in front of you. Check my glasses. I have no money to get better ones. Check my teeth. They do not fit. I am collecting them from my dentist and hoping to recycle some so that I can get some false teeth that fit me. In my bag, I have my medications that I cannot afford, and I ordered a hearing aid out of the back of that magazine for \$19.95, and sitting here someplace that does not fit. I managed to get some Attends, and it says something like free sample, do not sell. Well, I am lucky to get this.

You see, this situation with Bill 48, I do not even know where I will be living in 2025, because I live in a house now, but I do not know if I can afford an apartment or if I can afford a seniors complex. I might even be living out of a shopping cart and end up like a bag lady. Well, hopefully not.

If you will just excuse me for a minute, I do have papers for each person.

Ladies and gentlemen, my name is Pat Bowslaugh. After classroom teaching, substitute teaching and being an administrator, I attempted to retire after 39 years with a total of 35 years of pensionable service. I thought that this would be adequate. Actually, I am heading back to Brandon tonight because I now teach part-time at Brandon University, which has been a real bonus to offset the lack of a proper COLA.

To afford the necessities of life that I talked about here, I projected on behalf of some of my colleagues of 20 years from now based on a current monthly pension of \$1,500, key word "monthly"

pension \$1,500. For many of the current retirees, this is more than they actually get today, and, yes, there are some like myself whose pension is significantly more, but, for easy calculations, I am using \$1,500 per month with an estimated CPI of 2 percent.

Example 1: Without an annual COLA that is respectful to the current CPI, at the end of 10 years, in 2015, if the CPI was 2 percent annually, the \$1,500 pension should have become \$1,792.63, almost \$300 more than the original \$1,500. If I go to example 2, by the year 2025 that I have already talked about, an annual COLA of 2 percent would have moved that \$1,500 monthly pension to \$2,185.22, almost \$700 more, and certainly we would project in the realm of what would equalize our purchasing power to what it is today.

* (23:30)

Bear in mind the compounding effect, and this is really important because when the COLA suffered significantly last year with the very, very small increase that you have already heard about, and with the projected COLA for this year, that impacts negatively in perpetuity, because there is not that base on which to build.

Just as a point of interest, I phoned Riverheights Terrace in Brandon—it admittedly is a very nice place, one of the newest seniors' places—to ask what the monthly rate is for a one-bedroom apartment. It currently has some retired teachers as residents where they can live independently with communal meals included in the monthly price. When they informed me this morning that the minimum monthly price is \$1,825 to \$2,250 for a one-bedroom apartment, or \$1,325 to \$1,750 for a bachelor apartment, I realized why so many seniors and many of my former colleagues are unable to afford it. I might also add, although I did not write it in here, that the lady that I talked to was quite quick to report that when a person stays in their own home and they pay their heat, their light, their water, their taxes, their upkeep, the new shingles on the roof, et cetera, plus their food, and Riverheights Terrace does offer some transportation as well, that it soon, very quickly adds up to quite large sums that are kind of hidden costs, but in total they become quite significant.

I considered my own personal medical bills for one month, as I stand here today. I have already

pointed out and given you an example so I will not expand on medications, glasses, dentist bills, hearing aids and whatever other necessities my body orders to support its declining years. I wonder what will happen with the quickly declining value of my pension dollars.

Obviously, my reason for being here tonight is to try to persuade you, the legislators of our province, to heed these messages and legislate a bill that will address these issues. Please remember that each year that the COLA is sabotaged through inadequate funding, it erodes the buying power of teacher pensioners.

In a letter from the honourable Minister of Education, Citizenship and Youth, dated last June 23 after we were here to talk about the bill that was on the floor last year, I quote, "Let me say at the outset that government supports the principle of providing retired teachers with cost-of-living adjustments to their pension." Well, at the time when I received that letter, I was really heartened. I was really excited, but, unfortunately, I am not seeing evidence of this support this year. The honourable minister further stated that, "Having said this, please also be aware that the government is engaged in reviewing issues through participation in the teachers' Pension Task Force that would enhance opportunities to sustain a reliable COLA." Again, unfortunately, if there are details that would, "enhance opportunities to sustain a reliable COLA," I have not heard of them. In fact, as of tonight, I fear there are none.

I am acknowledging that, due to a huge variety of circumstances, the current Pension Adjustment Account has inadequate financial resources to pay a full COLA, but please note the impact of the buying power of \$1,500, as recorded above, when a full COLA is not available.

To each of you to whom I address this message tonight, we, the members of the Retired Teachers of Manitoba were informed at our AGM a couple of weeks ago by Mr. Henry Shyka, MTS staff officer, that the COLA this year will be, obviously, as you have been told, less than 1 percent. I calculated the increase on the \$1,500 monthly pension just cited above and it comes to \$6 a month, if my math is accurate. With the recent increased rates for natural gas for home heating, the huge increase in car gas, the increased water rates, et cetera, et cetera, et cetera, what on earth is \$6 going to do to maintain

purchasing power? What about medications when our increased Blue Cross premiums for this year have offset the 0.54 percent received last year?

Please remember that the purchases made by seniors contribute in a major, major way to the economy of this province. It is my understanding that the Manitoba Teachers' Society asked for a 2% increase in pension contributions, with half going to account A, or the main account, and half going to the Pension Adjustment Account, or the PAA, about which you have already heard. This is at a time we were told that both accounts are significantly underfunded with the first signs of this underfunding appearing prior to the 1990s.

It is now 15 or more years later with only a 1.1% increase in teacher contributions to the Teachers Retirement Fund Account A being suggested in Bill 48. Meanwhile, the actuaries are suggesting that even a 2% increase in pension contributions may not make up the shortfall and, of course, a lot of this depends on the market.

Bill 48 does not even address the needs of retired teachers. You have already been reminded that we, as active teachers, contributed faithfully to our pension plan with the belief and the trust that we would be fairly treated when we reached this stage of life. Just as an addendum, I noted after some of the presentations earlier this evening, this was not a high risk Crocus Fund that we were talking about. This was the TRAF fund that we had entered into, not blissfully ignorant like one of the speakers suggested. This was a fund that was one of the best in the country, the best in the nation and sadly, it is no more.

So, as I stand here tonight, I fear the future, not just for me and for all retirees, but for the approximately 14 000 active teachers who are in classrooms today across the province of Manitoba educating our future. These are the people who are trusting that an adequate pension will be there for them when they retire. Thus, I implore you to sit down with a pencil and calculate. Calculate with real scenarios as I have attempted to do tonight, so when we collectively reach those benchmarks of the future, the future will have been taken care of by wise and foresighted scribes that include you who are gathered here tonight. Thank you.

Mr. Vice-Chairperson: Thank you, madam. You are two minutes over on your presentation time. We have three minutes for questions.

Mrs. Driedger: Were you aware that the Minister of Education (Mr. Bjornson) missed the deadline to put this bill forward to guarantee its passage this session?

Ms. Bowslaugh: I believe I heard a murmur about that.

Mrs. Driedger: Were you aware we were told the other day that the NDP were not expecting this bill to pass this session?

Ms. Bowslaugh: No, I was not aware of that.

Mrs. Driedger: Were you expecting this bill to pass this session? Were you led to believe by the government that it would be passed?

Ms. Bowslaugh: Given the track record of how bills have passed in the most recent years, that would have been my expectation.

Mr. Loewen: Just for clarification, your presentation indicates that after, and I just want to tie this together, indicates that after 35 years of pensionable service, you would receive a monthly pension of \$1,500?

Ms. Bowslaugh: No, I made that quite clear that I was using that as an example. I also included that my pension was somewhat more than that. I was using that for easy figuring and to show on what would be indicative of several pensioners where they would be.

Mr. Loewen: I appreciate that. Just for my own education, could you give me a ballpark figure for what somebody with 35 years of pensionable service might expect in terms of a monthly pension?

Ms. Bowslaugh: In response, I could not give a ballpark figure. I could tell you what my take home pension is, but it varies very definitely based on the salaries that you have earned over the 35 years which you have cited. That has a very great impact on how much your pension is. There are lots of people who have taught 35 years whose pension would be quite different because either their salaries had been different given to locale, but, more importantly, their qualifications have probably been different also, so it is qualifications and salary that impact on what your pension will be.

* (23:40)

Mr. Vice-Chairperson: Further questions?

Mr. Bjornson: Actually, a comment. Thank you for your time and your presentation. I will gladly provide the member from Fort Whyte with some data on average pensions as of 2000. For the average teacher pension in 2000, it was \$2,029.72 a month, and the average teacher pension for 2004 is \$2,163.56 a month. Those are the averages based on 2000-2004 data.

With respect to your presentation, and I thank you for that again, you do mention the fact that this is a problem that was 15 years in the making, and you also have suggested that even a 2% increase in contributions would not address the shortfall. Do you have a figure that you understand would significantly address the shortfall if active teachers were to increase their contributions accordingly?

Ms. Bowslaugh: In response to the honourable minister, actually I do not, because I have not spoken directly to an actuary about that, and I would trust that it would be an actuary who would be able to calculate. The last information that I had, as part of the RTAM board from an actuary was that it was very unlikely that 2 percent would address both funds adequately.

If I might, just in response to your first comment about the average, I have just been handed the actual sheet that gives the average pensions for people across the board, and this was the pension stats as of 2003. I certainly would not dispute what you were saying, but I also would reflect that there are people who are getting slightly over \$1,000. According to this information, they were getting \$1,127, and some people were, well, anybody that was over 69 years of age apparently is receiving less than \$1,500.

Mr. Vice-Chairperson: Thank you for your presentation, ma'am.

Ms. Bowslaugh: If I might, I would also like to give to the Honourable Mr. Smith a set of petitions that people from western Manitoba have forwarded, and also a personal letter to Mr. Bjornson.

Mr. Loewen: Thanks. I would just ask the committee if we could have those petitions and the letter to Mr. Bjornson just submitted as part of the

presentation so that all members of the committee could avail themselves of it. Is that a problem to you?

Floor comment: That would be excellent if it could be—

Mr. Vice-Chairperson: Ms. Bowslaugh. Sorry, I was a little slow there.

Ms. Bowslaugh: Oh, sorry. I apologize. It is too late. Fine. I would also like to say that I have two other presentations that were from people that were on the speakers' list from out of town, but they are not here tonight, both for medical reasons, and so I have copies, and they are one-pagers. They are very short. I would also like to, in response to the question about the petition, it was my understanding that the one letter came from Mr. Fred Cole, and he was going to forward his petition to Larry Maguire.

Hon. Jim Rondeau (Minister of Industry, Economic Development and Mines): I move that the two pieces of paper, two submissions, be part of the record and they be part of the Hansard.

Mr. Vice-Chairperson: Okay. The two written submissions will be included. There was a letter that you gave to the minister, and I am not sure what the minister's will is in that regard.

Mr. Smith: Well, she prefaced submitting the letter by saying it was a personal letter, but if she would like me to share that with the committee, I will gladly do that.

Mr. Vice-Chairperson: Ms. Bowslaugh, what is your will in that regard?

Ms. Bowslaugh: Since it is a personal letter to the minister, it is his purview as to what he wishes to do with the letter once he receives it.

Mr. Smith: Thank you very much, Ms. Bowslaugh, for your presentation. As I read your petition to the Legislative Assembly in Manitoba as follows, it is obvious to all of us that it be all right with you, and you had handed this to me.

Do I have your permission to have this distributed to all members of the committee? If so, I would hand it in to the Clerk to allow her to have this presented to us all.

Ms. Bowslaugh: Absolutely. I would be very pleased if you would do that so that people could see, and I would also point out that there are names on the list who asked if they could sign. They are not retired teachers, but they are teachers who are very close to retirement and are very concerned about the information that they are hearing about the pension.

Mr. Vice-Chairperson: Thank you. If anybody else has any written submissions from other individuals, they can hand them to the people in the back. They will get to us and they will be incorporated into the record.

Before I recognize Mr. Henderson, I just want to go over some of the rules of this committee. First of all, there will be no flash photography. Secondly, people are asked not to approach within three metres of the table without being called by the Chair. In conclusion, I would ask that members of the public not come behind the Chair to take pictures as well. There are confidential documents on the table and that creates a problem for us.

So, on that note, I would call Mr. Gordon Henderson.

Mr. Gordon Henderson (Private Citizen): My name is Gordon Henderson. I live in Brandon. I have a couple of comments—

Mr. Vice-Chairperson: One moment, sir. Pardon me, sir. I have Mr. Cummings on, what is it?

Mr. Glen Cummings (Ste. Rose): I will not take any of your time. I just wanted to clarify with the Chair. Are we breaking new ground? We have had TV cameras in here and lots of still photographs before, as I recall. Unless it is right close to the table, I do not think we should be overly concerned about any of that activity. I would just encourage the Chair and the rest of us to be tolerant, if that is the best term, but at least not to be overly concerned about it or to concern our presenters.

Mr. Vice-Chairperson: Okay. The Clerk has informed me that, in times past, a situation occurred where the media entered behind the table and took pictures with a flash apparatus. It happened this evening. They are allowed to take photos from beyond 10 feet from the table, from the media desk back there. So I would ask all members of the audience to respect that and would reiterate that

people are not allowed to come in the back door here, that the entrance is to the back there. So, if that satisfies all members of the committee, with that said, then, sir, I ask you to put your presentation.

Mr. Henderson: You just told me one of the reasons why I will never be a politician, listening to angry citizens and so on and so forth, I do not know.

I do have a criticism all the same. I echo Mr. Sitter's comments about scheduling three hearings on three particular bills, knowing that each of them would have lots of presenters, I think, was very, very bad scheduling.

* (23:50)

I retired as a principal in Brandon in 1988, and I am very distressed to find that my pension is of lesser value each year. We know that inflation has been quite moderate over the last five, six, seven, eight years, but it is inevitable that the consumer price index will rise again and go to higher rates. Unless action is taken by this committee and by the Legislature, I and my fellow retirees will receive pension payments which drop in value each year. You already had some figures. I can give some more if you need some.

Mr. Chairperson in the Chair

While the government is to be congratulated for once again seeking to amend The Teachers' Pensions Act, I find it quite unacceptable that only the interests of current teachers are being considered. I cannot find any amendment which affects me, and that is quite wrong. I deplore it.

I was a loyal and active member of the Teachers' Society when I taught, as I expected that MTS would represent me and other teachers when I retired. Sadly, I am now of the opinion that MTS does not represent me. I have already expressed that to the minister when he came to Brandon.

The concerns of retired teachers should be, but are not addressed in the proposed amendments, and I find that quite unacceptable. One of the last amendments to the act just done quite recently changed the responsibility for paying the pension contributions of those teachers who are on long-term disability. The responsibility was taken from the LTD plan and given to the Teachers' Retirement

Fund. I submit that amendment was of direct benefit to active teachers by allowing the MTS to reduce the LTD premiums paid by active teachers and against the incomes of retired teachers. That is quite unfair. It is unjust and probably if I was a lawyer, I would find some way to challenge it.

While I was employed by Brandon School Division, I contributed a substantial portion of my salary toward my pension. My contributions were larger than were actually necessary to fund my own pension, and a part of my contribution went into the account which was supposed to provide protection against inflation. From information I received from the MTS when I was a teacher, I understood that the cost of living allowance adjustments to my pension when I retired would match increases in the consumer price index. That has not been happening for the last number of years. My pension is dropping in value each year at a time when the level of inflation is low. and that makes me very, very fearful regarding the future.

I am now 76. I hope to live another 15 years. I will be lucky if I do, but it is quite unfair that this is happening to me and to other teachers like me.

Now this is something I do not understand, the second-last paragraph. Actuaries for almost 20 years have been telling this government, the previous government, and governments before that this particular fund is in trouble. Somebody must have seen that in government and nobody has done anything about it. It is absolutely disgraceful that legislators who are responsible for the provisions of The Teachers' Pensions Act have failed to heed the warnings. If you do not do something about it now, it will not be too long before there is a real disaster on your hands.

So do something, please. Action is necessary to correct the problem. Since legislation is needed, and that is the only way the act can be changed, I urge this committee to add an additional amendment to the Manitoba teachers' act which will correct an obvious flaw and safeguard the pensions of retired teachers.

You hear that often, and I hope you do not get bored by it, but it is serious. It is really serious. Retired teachers in Manitoba have given good service to the citizens of this province and expect to be treated fairly. We are not being treated fairly.

Since no other body appears to represent us, and I already told you I do not trust the MTS anymore, I strongly request that the goal of a full COLA for teacher pensions which matches the CPI index be immediately addressed and that the Retired Teachers' Association of Manitoba be actively involved in all discussions related to the pensions of retired teachers.

I thank you very much for listening to me. I am angry, and I am going to get more angry unless something is done about this.

Mr. Chairperson: Thank you very much for your presentation this evening, Mr. Henderson, and I appreciate your patience as well.

Questions for the presenter?

Mr. Henderson: I am rather deaf, so speak up a little bit, please.

Mrs. Driedger: Do you think that it should be put into place that a retired teacher has a formal position on the task force that addresses these issues? I understand that there was a task force struck in April to look at pension issues, and that a retired teacher was invited to attend, but was there only as an observer. Do you think that should be formalized, to have a retired teacher?

Mr. Henderson: They told him, keep quiet. You can come to observe, but keep quiet. That is the problem.

Mr. Lamoureux: I guess I am somewhat appalled in the sense that the Retired Teachers' Association, and I think it was even just a year ago when we had another bill affecting MTS and education, and the Retired Teachers' Association was requesting that they should have formal representation on a committee that, in essence, had a significant impact on them. I think that all formal and informal committees that have dealings with the retired teachers should have a retired teacher representative, and that is something which I have indicated in the past and continue to maintain until today.

My question for the presenter is that, as an opposition party, we have the opportunity, I believe, to prevent this bill from being passed for Thursday, if in fact the House does adjourn on Thursday. If you were a member of the opposition, thinking in terms of the current teachers that are there today and how

they might benefit, what would you suggest that we do? Should we hold off on the passage of this bill in hopes that the government then would be obligated to bring in a different bill, possibly an amended bill, that would address some of the concerns that we are hearing this evening?

Mr. Henderson: First of all, you asked if the retired teachers should be represented more on formal bodies. I hope that happens. Secondly, as far as the current amendment is concerned, the proposed amendment of increasing the contributions by 1 percent is not adequate, so why do it. If you are going to increase it, then bring it up to something that is adequate and makes sense. It does not make sense to me just to say, "Well, we will put in 1 percent." We know it is not enough, but we will put it in. It does not make sense to me. The teachers have agreed at the AGM, I understand, that they want to pay more and yet the government is saying you cannot pay more. I do not understand that.

Mr. Bjornson: Thank you for your presentation. Just for your information, the teachers' Pension Task Force is the body that does negotiate these proposals and all stakeholders at the table brought forward the recommendations, and this is the result of negotiations with the stakeholders. The member from Inkster is suggesting that we possibly defer. This would more adversely affect the Pension Adjustment Account and the teachers' pension account in the event that this was deferred. There has been actuarial participation in this process and advice received, and one of the reasons why we are here late in the session is that the negotiations with the teachers' Pension Task Force did not conclude until past the deadline for legislation that had been previously agreed to. This is indeed something that all members of the task force have brought to the table and would like to see move forward.

Mr. Chairperson: Mr. Henderson, did you wish to respond, sir?

Mr. Henderson: No, thanks.

Mr. Chairperson: Mr. Martindale.

* (00:00)

Mr. Doug Martindale (Burrows): Mr. Chairperson, the hour being twelve midnight, I think it would be appropriate if we had a discussion about whether we

are going to continue to sit or not. There are some out-of-town presenters that we have not heard from yet. If they are willing to stay to be heard tonight so they do not have to come back tomorrow morning for 9:30, I believe that we on this side would be willing to hear the balance of the out-of-town presenters. Maybe the Clerk could inform the Chair how many out-of-town presenters are left, for information.

Mr. Chairperson: Thank you, Mr. Martindale. I was just about to raise that with the committee.

There are a number of folks. If you include the folks from Warren and Teulon, there are six folks that are from some distance. Is the committee willing to hear all six of those or is there another suggestion? Is the committee comfortable with hearing those six individuals?

Mrs. Driedger: I guess I would wonder, from those individuals, if they are interested in staying, which could lead us to go till one or two in the morning, where the rest of the group would end up having to be back here for 9:30 in the morning. I guess I would be interested in hearing from those participants, those six.

Mr. Rondeau: I think that with due consideration to those people who have stayed the whole night and spent lots of hours waiting to present, I think we should work until we hear the presenters, not only from necessarily out of town, but those presenters who want to stay and present. We should show them the courtesy because they have had the patience to wait and listen throughout lots of the evening.

Mrs. Driedger: I guess I would just like to indicate to the government how disappointed I am in the fact that three major committees were all scheduled for one evening when the numbers were well known days in advance of how many numbers were going to be presenting. We are now inconveniencing an awful lot of people who do have something significant to say, and you know, I chastise the government for not having a better sense of how to plan this evening.

Mr. Lamoureux: Mr. Chairperson, I, too, am somewhat concerned in terms of the way in which the government has managed this whole process. You know, we started Question Period at 1:30 this afternoon. I, like other members, have been in committee all evening. It is not a question of being

selfish; it is being respectful for those that want to make presentation that the individuals around the table are able to listen and pose questions.

I understand that we made rule changes a couple of years back with the idea of trying to bring decorum to the process of how we are making laws, and one of those issues was that we would actually rise at midnight. I can especially respect the fact that we have presenters here that are out of town, and I resent the fact that the government was not able to accommodate that. There is no reason why we could not have had another education bill on a different evening, but, as a result opposition, is now having to accommodate the government for not managing the affairs of the Legislature properly. It is only because of not wanting to cause an additional inconvenience to the presenters that I think that we could sit past twelve o'clock, but I think the government should take this as notice that we are not happy with the way in which they are managing the committees of this Chamber. There is a better way of doing this, and the government needs to note that.

In terms of presenters that are out of town, if there are presenters that cannot be back in for tomorrow morning or possibly tomorrow evening, then fine, I am in favour of hearing those presenters. It is only because of respect for the presenters, not because of the actions of this government.

Mr. Smith: Mr. Chair, I would like to see you make a decision here shortly. Quite frankly, I believe we are wasting a lot of the people's time that are out here. This is not a management issue. This is an issue of the amount of presenters that have been placed before us tonight. Many times we have sat well past midnight, and certainly out of respect for people as far as Brandon and others areas, I would like to see us get on with it, have those presenters up. I believe we probably could have had another presenter in the meantime, instead of bantering.

Mr. Loewen: Well, this is the typical arrogance that we get from this minister day in and day out. He thinks that he is the only one that should have a word. I would remind members of the committee that the reason we changed the rules was in the hopes that we would not have someone die here when they were here in the middle of the night giving a presentation and we would not have someone die on the way home. Again, I think it is just ridiculous that this has happened.

I agree we should listen to the presenters that want to present, but this government should have managed the process better in the first place. I think they owe everybody in this room an apology, and I would like to see them do that before we ask people to stay here until two in the morning.

Mr. Chairperson: I think the Chair has heard enough debate on this point. I think in fairness to the members of the public who are here and wish to make presentations this evening, it would be the Chair's recommendation that we give those individuals wishing to make a presentation the opportunity to do so this evening, and for those that perhaps wish to come back tomorrow, that their names if called will not be struck from the list and will not be called as a first call. We will allow them the opportunity to present tomorrow. Is that in agreement of the committee? *[Agreed]*

Then we will proceed in calling out-of-town presenters. We will call James Penner. Is there a James Penner present here this evening? Good evening sir. Thank you very much for your patience. Do you have copies of your presentation sir?

Mr. James Penner (Interlake Retired Teachers' Association): I do.

Mr. Chairperson: You may proceed when you are ready, sir.

Mr. Penner: Mr. Chairman, ladies and gentlemen, my name is James Penner. I am appearing before you on behalf of the Interlake Retired Teachers' Association chapter of Retired Teachers' Association of Manitoba. Our chapter has 54 active members, many of whom are here still this evening, and they have asked me to share their concerns with you regarding the proposed Bill 48.

We are pleased that the Legislature is undertaking to examine the problems that the Teachers' Retirement Allowances Fund has been facing for sometime. There is no doubt that more money needs to be placed in Fund A and that this bill will partly address that shortfall.

However, we are very disappointed that this legislation makes no substantive effort to solve the very serious issue of a meaningful cost of living increase for retired teachers. We have been told by TRAF's management that the best COLA the 9575

retired teachers can expect to receive in 2005 is a paltry 0.4 percent. The Canadian CPI is approximately 2.1 percent. This results in a net loss this year of 1.7 percent of real purchasing power.

For me personally, it means a real loss of \$657 for 2005. If I am fortunate enough to have a normal life expectancy of 79 years, it will be a loss of \$12,477, which I have no hope of ever recovering. At the predicted best COLA of one-half of a percent per year, this projects to hundreds of thousands of dollars over my lifetime. The actuaries tell us that unless action is taken, this is typical of what all Manitoba retired teachers can expect until they die.

I would like to speak of my own personal experience. Teaching is a demanding and stressful career. While I was teaching, I was also an in-service presenter, mentor to new teachers. I served on professional committees; I volunteered with Education Manitoba to test computer software, and prepared and analyzed provincial assessments. I was also a school principal with over 500 students and 40 staff. I mistakenly expected that those people who had the authority over my pension monies were also doing their job.

I was led to believe that the fund was healthy and that I could expect a pension with the reasonable protection against the erosion of its purchasing power by its COLA provision. Apparently, I and most of my colleagues were very naive. We now learn that TRAF and the provincial government had been warned of the current COLA failure as far back as 18 year ago. Both the current NDP government and the previous Progressive Conservative government ignored warnings of the funds eminent failure to deliver a fair and reasonable cost of living allowance.

*(00:10)

We, as retired teachers, have provided good and faithful service to the people of Manitoba. It is now the time for the members of the Manitoba Legislature, as the democratically elected representatives of Manitobans, to deliver on their responsibilities. It is the expectation of retired teachers that this Legislature no longer ignore TRAF's COLA issue, and that legislation be introduced to appropriately fund the Teachers' Retirement Allowances Fund to pay a COLA that

protects the purchasing power of retirees. We do not deserve the worst teacher pension plan in Canada.

Mr. Chairperson: Thank you very much for your presentation this evening, Mr. Penner. Questions for the presenter?

Mrs. Driedger: I guess some of my concern around this also lies with the fact that the government was not moving to address this issue in a meaningful way at all. They threw together a group that had a very short window to address it. Once that group rose that was addressing the pension, the government basically missed their deadline of filing the legislation in time to guarantee its passage and, in fact, was a month late in putting it forward. Then once it was put forward it sat on the Order Paper and did not budge at all for days and days and took some nudging before anything moved along.

I guess I am hoping that the presentations that are made here tonight by the retired teachers have an ability to encourage the government to nudge along to have a closer look at their legislation. I am concerned that this legislation was thrown together quite rapidly and obviously does not have as meaningful changes in it as I think a lot of people were hoping for.

What specifically would you recommend that needs to be changed in here to properly address what you are asking?

Mr. Penner: I believe my presentation was quite clear. I feel retired teachers have done their job. It is you as MLAs who need to do your job now. How you do it, I am not certain. Whether something sits on an Order Paper or whether it arrives late and so on is beyond the purview of me to do anything. I cannot; however, you all can, and my call is simply to you to do the right thing. If that involves passing a 1.1 right now, that is fine. Do it, and then address this issue the next time you sit and bring up the appropriate legislation to address this problem, because you know very well it is here and we are here to stay.

Mr. Chairperson: Other questions of the presenter?

Mr. Bjornson: Well, thank you for your presentation. I would like to assure you that we are committed to moving forward on this. There has only been one person suggesting otherwise tonight, and I

concur that the 1.1 percent is a very good first measure. We have opened the act four times as a government, and we have made significant improvements with this being the fourth time that we have opened it in our mandate.

The teachers' Pension Task Force was not a group that had been thrown together, as has been referenced. This group has been the group that has been responsible on a number of occasions for bringing the recommendations forward, and they were called to address this concern that had been raised on increased contribution. Again, thank you for your presentation.

Mr. Chairperson: Mr. Penner, did you wish to comment, sir? A last word?

Mr. Penner: No, thank you.

Mr. Chairperson: Thank you for your presentation.

Mr. Loewen: Well, thank you, Mr. Penner, and just for the record I do not think I heard anybody ever say that 1.1 percent is a very good start. It is a start, but I have not heard one presenter yet call it very good. So the minister may want to withdraw that comment.

Mr. Chairperson: The next presenter we have on the list is Jean Todd. Is Jean Todd here?

Good evening. Thank you very much for your patience. Do you have a written presentation for committee members? Thank you. You may proceed whenever you are ready.

Ms. Jean Todd (Private Citizen): Mr. Chairman, ladies and gentlemen. I am Jean Todd and I am from Teulon. I will read to you. This is about the past, the present and the future, some of which you have already heard.

The proposed legislative amendments to The Teachers' Pensions Act ignore the interests and concerns of retired teachers in this province. They do not address our pensions or our cost of living, COLA.

In 1977, the Manitoba Government and the Manitoba Teachers' Society, that is MTS, worked out a 50-50 agreement concerning inflation protection for retired teachers. It was my understanding when I contributed to the Teachers' Retirement Allowances

Fund, that is TRAF, that 16.5 percent of each contribution I made was going to be put into a separate cost of living account, a COLA. Now, at that time, actuaries claimed that the amount I put in, in addition to what the government and everybody else was putting in, would accumulate sufficient capital to supply a full COLA for us forever. Well, now we are not stupid enough to believe forever even then, but we at least expected it to go on for longer than it has.

Now 17 years ago, and repeatedly since, provincial governments and MTS have been warned that for a variety of reasons, the COLA fund could not be sustained without the legislation of an increase in contributions from both the government and teachers themselves. In the 17 years since, no provincial government has addressed this situation properly.

COLA and we as retired teachers have been swept under the rug. Teachers do not take much to hiding under rugs. The consequence is, this year, the COLA will provide less than one-half of 1 percent, 0.4 is what we have been told, of the rise in the cost of living. We are told to expect not more than 0.5 annually from now on. Let me translate 0.5 into concrete terms. I have listed here four teachers named A, B, C and D.

The first one, A, taught for 40 years, retired in 1977 and her first pension cheque was \$800. Now this lady was Class 1. We do not have any Class 1's anymore. Everybody has to have a university education or you are often off the list. Now, at that time, she got \$800. This last cheque that she had was \$1,156 a month after 28 years, and she is relatively happy with that because she says that she did not have very long to contribute to that fund. Well, now there is a really honest person. However, if we had been getting only 0.5 of 1 percent for her whole 28 years, she would be getting \$919 instead. That is a rise in 28 years of \$119 a month in 28 years. As it is, she is getting \$356.

Now teacher B, also Class 1, taught for 34.5 years, retired in '78, got \$700. Notice she had not quite as many years and also Class 1, mind you. Her first cheque was \$700. Her cheque last month was \$1,040. After 27 years, her retirement pension has gone up by \$340, but if it had been at 0.5 percent, she would have the grand total of \$100.91 for 27 years of her pension, \$100.91 per month.

*(00:20)

Now I could not find anybody in the Interlake School Division who had retired in the eighties so I went to somebody today who said, "Well, I can give you some information." Let us just take a for instance. So I have C, do not know how long the person taught but retired in '86, do not know what class this person was, probably Class 2, but we do not know that for sure. Starting pension, \$1,500, do not know what they make today, but it was 19 years ago and at 0.5 percent, they would be getting \$1,649.10, a rise of \$149 in 19 years. Do you know what the inflation is in those same 19 years?

Then we come to D, Class 4, taught 37 and a half years, retired in '93. First pension cheque was \$2,258.48, present monthly income on that cheque, \$2,634.64 in 12 years. Now in 12 years the pension has gone up about \$400. However, if that person had received only 0.5 percent for all those 12 years, the increase would be \$200 a month over 12 years. Now tell me, how far does \$200 a month go with the cost of living the way it has been shuffling along, not as bad as it did in the eighties, mind you, and some of the nineties.

So I have spent most of my teaching career building up funds to be able to own our own house. If the above estimate of 0.5 for the rest of time becomes fact, I will probably be unable to keep my house more than six or at the most eight years because taxes and upkeep and the general cost of living will become unupportable on my non-increasing pension. At present, I personally pay \$349 a month in income tax. Now that, I know, is split between the federal and the provincial governments. You guys do not get all of it, but will my income taxes increase more than 0.5 of one percent in the next, forever? Secondly, will your salaries and the pensions of the legislators who have retired or been voted out of office increase no more than 0.5 percent, forever? Think about it. I worked just as hard as you did, maybe harder in some ways. I did not have a secretary.

However, last page, the Retired Teachers of Manitoba—we shortened that to RTAM—is a voluntary organization that represents me and about 5800 of the present 9500 retired Manitoba teachers. It is very important for you to realize that RTAM represents a considerable majority of us, about 63 percent, and that RTAM speaks on behalf of all

Manitoba retired teachers whether they belong or not.

Most definitely, RTAM needs to have a voice, not a chair to fill, a voice on all retired and soon to be retired teachers' concerns, including pensions and certainly a prominent place during all COLA discussions and decisions, whether it is committees, boards or anything else, any other way that is being discussed governmentally, locally, whatever. We need to have somebody there who knows the ropes.

Who is going to be more interested in my affairs? Who will be more concerned? Who will be more informed or make themselves more informed about all Manitoba's retired teachers, about their finances and about their overall welfare? Respectfully submitted by myself.

Mr. Chairperson: Thank you, Ms. Todd, for your presentation. Questions of the presenter?

Mr. Bjornson: Yes. Thank you for your presentation. You are aware that there is a retired teacher now on the TRAF board as per last year's pension—

Ms. Todd: With a voice?

Mr. Bjornson: Pardon me?

Ms. Todd: Does he have a voice?

Mr. Bjornson: Yes. The retired teacher that is on the TRAF board does participate in all discussions concerning the pension fund. That is the TRAF board. I think that there is some clarification because there is, of course, the two boards, the teachers' Pension Task Force and the TRAF board. But, currently, there is a retired teacher on the TRAF board, and there is participation with the teachers' Pension Task Force, in observer status at this point.

Mr. Chairperson: Ms. Todd, do you wish to respond?

Ms. Todd: That is half of the job, right?

Mr. Bjornson: Well, so you are advocating, then, for more participation.

Ms. Todd: Every single time there is anything to do with a retired teacher, there needs to be a retired teacher there to say yea, nay or maybe.

Mr. Bjornson: Okay.

Mr. Lamoureux: You go further to say that those boards, the presence of the retired teachers should be that of a voting nature, not just—

Ms. Todd: Definitely. Without any question. Absolutely.

Mr. Loewen: Thank you for your presentation and thank you for staying this late. I know you were seen using the building, I think, since about 1:30 this afternoon, and you were probably here before that so we appreciate your patience.

With regard to putting a retired teacher on these boards, would you be more comfortable if RTAM elected or appointed individuals as opposed to government?

Ms. Todd: I would, personally I would.

Mr. Loewen: Thank you.

Mr. Chairperson: Any other questions of this presenter? Seeing none, thank you very much for your patience and for presenting this evening.

The next presenter we have registered is Margaret Warrian.

An Honourable Member: Tomorrow.

Mr. Chairperson: Tomorrow. All right, her name will move to tomorrow's list.

The next presenter is Laurena Leskiw. Please come forward. Good evening. Thank you very much for your patience. Do you have copies of your written presentation? Then you may proceed whenever you are ready.

Ms. Laurena Leskiw (Private Citizen): May I ask some questions first before I start and am timed?

Mr. Chairperson: The questions would have to be directed to the Chair.

Ms. Leskiw: To you, then, Mr. Chair. I am concerned about the movement about this table. I am concerned that this hearing is a real marathon for me as a senior, and for most of the retired teachers. We are seniors. My bedtime is three hours past now. I

see people that were here before, on this side of the House, that are not here any longer. Is there a number that should be here all the time, or are we doing presentations for the opposition that will not have the majority of votes when the votes are taken?

Mr. Chairperson: The Chair will respond in the way that the committee itself has substitutions on and off this committee, depending upon which bills are being debated or discussed or hearing public presentations at that time. So you will see members from either side move on and off the committee through that substitution process because they were either the minister or the critic responsible for those particular pieces of legislation you may have, perhaps, witnessed in the presentations this evening.

* (00:30)

Ms. Leskiw: I cannot help but react to that also, because I have the feeling that last year we met the same thing. We were notified at 10 o'clock the night before that we would be presenting at 6:30 the next day and, when it came around to dealing with The Teachers' Pensions Act, we were the last on the night, and it was very late at night. Now, I have taught school for many years. I know the attention span of youngsters, and I know the attention span of adults is even shorter. Am I presenting something that no one is going to listen to? Because if I am, then I am ready to go back to Brandon.

Mr. Chairperson: I really appreciate your patience on this, Ms. Leskiw. It is important, I think, for this committee to be able to hear your presentations. You have taken a considerable amount of your personal time to wait for your turn here, and we really appreciate that, and we would like to proceed if you are prepared to do so.

Ms. Leskiw: Yes, I am, thank you.

Mr. Chairperson: Please proceed when you are ready.

Ms. Leskiw: Mr. Chair, Mr. Minister of Education (Mr. Bjornson) and fellow MLAs. I thank you for allowing me to share with you my grave concerns about the inadequacies of Bill 48, the amendments to The Teachers' Pensions Act.

I have been retired since 1988 as a classroom teacher, a resource teacher, and a long-time member

of various mathematics committees of the Department of Education. This includes a more recent period in the 1990s as the writer of the Manitoba mathematics curriculum. I am a member of the Westman Retired Educators in Brandon, a former president of both the Retired Teachers' Association of Manitoba (RTAM) and of the Brandon Teachers' Association of the Manitoba Teachers' Society and a life member. I have worked faithfully over the many years with the Manitoba Teachers' Society to ensure the best working conditions and pensions for teachers and for the best education of our Manitoba students.

I find it very frustrating to see that our pensions are not meeting the high standards that we had tried so hard to accomplish for all teachers. We have always felt that our Teachers' Retirement Allowances Fund pension would meet all our life needs, and we have always been told that by the MTS. Unfortunately, that is not what we are discovering now. Where is our cost of living allowance, our COLA? Something must change, and I do not see Bill 48 doing that.

The new amendment to Bill 48 to increase active teachers' pension contributions to 1.1 percent will not accomplish this. Of that, 1.1 percent, which goes into Account A, which is our major pension account, there is to be 16.5 percent of that that will go over here in this in what we call our Pension Adjustment Account, pot B, and from this is where our COLAs are paid. This amount of 16.5 percent of the 1.1 percent will be transferred into the Pension Adjustment Account for payments of COLA. This amounts to only \$1.5 million into the PAA account. This is the exact amount we lost last year as a yearly contribution to the main pension account from teachers on sick leave when you approved the elimination of their pension contribution to account A. Yet, these teachers would be credited with their pensionable time, but now their disability insurance contributes nothing to the pension funds.

In our RTAM presentations to you last June, when we read in Hansard of the first reading and heard that the LTD contributions of teachers, their pension contributions, would be eliminated, we were not contacted before that. We knew nothing about it until we read it in Hansard that we would be losing that \$1.5 million contributions into the pension account from these teachers on LTD. This annual \$1.5 million loss, when invested, according to the

TRAF CEO, would each earn the equivalent of \$15 million on average into perpetuity.

Now last year, without any discussion with retired teachers by the MTS or the government, your amendments to The Teachers' Pensions Act allowed the entire cancellation of these pension contributions of teachers on disability. We tried to impress on you that these were two entirely separate businesses and our pension fund should not have to pick up their privatized insurance financial difficulties.

Yes, last year we lost an annual \$1.5 million of contributions, and this year that is the exact amount we are told by TRAF that we would gain in the PAA account by the increase of this 1.1% contributions. How can we be expected to accept this? I see these changes to the pension act as little advantage to our pension fund. It is a real spinning of the pension wheels that are going nowhere.

As you know, inflation has hit everyone, but particularly seniors. When I retired, my Blue Cross premiums were just over \$200. This year I shall be forced to pay over \$1,000 for less coverage and for several benefits with a lower maximum dollar coverage than I had in 1988. This is an increase of over \$800 for less coverage on just my Blue Cross alone. Yet, my basic pension is the same, with only some minor COLA increments added in these years.

The following is a table to show you the amount of COLA we have received recently and what the consumer price index or inflation has been for these same years. This will help you to see the negative effect on our lives as teachers on a fixed income. We have less and less purchasing power each year. Now I regret that you do not have a printer here that has coloured ink in it because I had highlighted it in red ink so that you could really get the message.

Turn to page 2, then to look at those figures. The other day I also heard that in 2004 we received 0.54 COLA whereas the CPI for that year was 2 percent. In 2003, we had 1.68% COLA. The CPI was 3.88 that year. In 2002, we received 0.7 COLA, but the CPI was only 0.7, and I believe that was the year that you made a special change to allow a contribution to come out of the main account to enter PAA to do that. When Drew Caldwell was your Minister of Education, I believe that was done, or else we would not have even had that that year. In 2001, we had 1.77% COLA, a CPI of 3.23, falling further behind.

In 2000, we had a 2% COLA and a CPI of 2.58. In 1998, 0.78. Our CPI was at 1.02. In 1998, 0.73 COLA, and the CPI was 0.03.

The above COLA and the CPI data for retired teachers was received May 13 from the TRAF office.

Retired teachers over these six years received a cost of living increase of only 7.9 percent. That is compounding. When you do your addition and do your compounding with it whereas the CPI was 12.72 on a December monthly difference. Therefore, retired teachers, during these six years, 1998 to '03, alone have fallen behind 4.82 percent. If we include the red figures for 2004 which I had received today, we have a further loss of 1.46 percent, making a total of 6.28 from 1998 to 2004. This afternoon I then heard that, for this year, we are even going to get less and so we are then falling behind 7.98 percent from 1998 to 2005. This is a loss of almost eight dollars on a hundred dollars. That is a lot of money.

Active teachers over these same six years, 1998 to 2003, received salary increases of 17.8 percent, MTS staff, increases of 17.7 percent and this is data from the Manitoba Teachers' Society May '04 newsletter.

Over these six years, retired teachers received an increase of 7.9 percent on pensions, whereas active teachers had salary increases of 17.8. This is a difference of 9.9 percent, and we are all talking about teachers and we are all negotiating. We speak for all teachers. I am wondering, do you really speak for all teachers. The MTS tells us they do, and yet we have fallen behind what they have been seeking.

* (00:40)

One must remember that on pension, your yearly pension is much smaller and therefore in dollars, a percentage increase is much less. If you are looking at it, doing a 5 percent on \$2,000 is much less for someone that has been an administrator and has higher pension than 5 percent on that. Their increase for that over a \$4,000 a month is a lot greater, as you know.

For further comparisons I suppose one could also include the new salary increases to be granted to all MLAs. Is it 9.9 percent? I had heard that but I had also heard 14 percent. That increase, I am told, is to make your salary comparative with other province

MLAs. Please consider that we, as Manitoba retired teachers, would be happy to have a comparative COLA increase with the other provinces in Canada also.

Teacher's private pensions are not large. All retired teachers do not have two or three degrees. When you were giving an average, Mr. Minister, of the pensions that were out, you were averaging in those that have in Class 7 and Class 8, their doctorates. When you average that in, of course, it makes the average pension that is being dealt, sent out from the TRAF board much larger than what it really is for these people. If we were looking at the frequency of these, it would make it a little different, and it would certainly show where the low areas are.

Now, for someone on a limited pension whose spouse has died or gone into a nursing home, it becomes very serious trying to maintain a house. I know that you as government certainly want us to maintain our homes as long as possible to prevent adding to the waiting list for seniors housing and nursing homes.

I had just been sitting on your committee for housing with people with disabilities. I was the senior person on there so I know it is a great concern, and I am so pleased that you have been considering that. If a spouse dies, the family income may become less than half. Frequently the men, usually with the larger pension, die first, but the cost of maintaining a house is not reduced by half. In fact, the cost becomes even more as the cost of utilities, phone, taxes, insurance, medicine, glasses, dental work, et cetera, have increased drastically. For people with different types of arthritis or polymyalgia, as they say that I have now, we require house modifications. We require new taps, new grab bars, railings, toilets, chairs, other bath fixtures, help with lawn and yard maintenance, snow removal, cleaning and many manual chores. This costs money. COLA is a must. For seniors who live in rural areas or small towns where there is no city transportation system, their car is essential, but with the huge gas increases, their budget is further decreased. COLA is a must.

We have devoted our young lives to providing our Department of Education with one of the best educational systems in Canada, and for us to be treated this way in our last years is a crime. Manitoba retired teachers should not have the lowest pensions and COLAs in Canada. You as a government are

always stating how great the economy is in Manitoba. Then please show us. Let retired teachers have a decent life too. We deserve better now and in the future.

In 1977, teachers agreed to contribute a 16% increase in their pension contributions and to pay for their own disability pension premiums in order to have a full COLA when we did retire. This policy was different to the other groups of Manitoba employees where the government paid for these benefits. After all these years, we find now that there is no money in the Pension Adjustment Account to pay us a full COLA, to which we were promised, or even funds to pay a reasonable COLA. Changes have not been made by you, the government, to increase the rate of pension contributions of active teachers as requested by the Manitoba Teachers' Society and by the TRAF board since the early 1990s. Did you know that Manitoba's teachers have one of the lowest pension contributions in Canada? This year, \$155 million was applied to the shortfall of contributions by active teachers, which meant that there was not the money in this fund now, okay.

Both the main pension account and the PAA are severely underfunded. The actuary has warned you and us that there will not be sufficient funds to meet the future obligations to us as retired teachers and the active teachers upon their retirement. With today's Bill 48 you are recommending that only 1.1% increase go into the main account, but, for the last few years, the actuary has said that even a 2% increase in contributions will not cover the future needs of the fund. Further, we are being penalized again because the main fund must cover the 15% underfunding of pensions by active teachers. Thus, there can be no transferring of any surplus by the good performance of the main pension investments that might exist over to the PAA to cover the COLA.

This leads me to another request that we retired teachers have been asking for in the past. This is to have the investment protocol of the PAA changed to allow transfer permission from Account A to the PAA. This would occur when there has been a superior return on Account A and called a "surplus" by the actuary and then it could be designated to the PAA for payments of COLA. We were also requesting that a less restrictive investment protocol be used for the PAA investments whereby monies could be placed in funds that yield higher profits in

today's market. However, this topic never seems to be part of your amendments to the Pension Act.

As retired teachers in Manitoba, we find it very frustrating that we are not consulted before the negotiations begin between you and the MTS. We feel that we and the active teachers should be advised of what is to be put on the table by the MTS for pension discussion with your Pension Task Force. It is a democratic country and it would be more appropriate if we as retired teachers had some input before we read Hansard to discover what has reached second reading of amendments to our Teachers' Pensions Act. It is too late then to object and to ask for changes. When about 50 percent of the present pension fund has been contributed by retired teachers, we feel strongly that we, as retired teachers, should be included also in the discussions and the decisions on The Teachers' Pensions Act. Let us be involved in the amendments when dealing with our pension monies. After the controversial and media coverage of the Enron, Nortel and the Crocus Investment Fund difficulties, all stakeholders need to be involved and to be knowledgeable about the security of their investments. This communication must improve!

Mr. Chairperson: If I might interrupt there. You have a considerable portion of your presentation still remaining, and I am wondering if you would be willing to have it enter the Hansard record to save you having to read the entire presentation. Would you be agreeable to that?

Ms. Leskiw: Yes, I would be.

Mr. Chairperson: Are the committee members agreeable to that as well?

An Honourable Member: Agreed.

Ms. Leskiw: May I just go over the closing part at the very bottom then?

Mr. Chairperson: Yes, please proceed with the closing now.

Ms. Leskiw: In closing, I wish to reiterate that more than 2% increase of pension contributions is required to have any COLA and security of pensions for active teachers in the future. Therefore, this 1.1% increase will not meet our needs for COLA or the security of future pensions.

That the protocol for investing the PAA needs to be widened to include better earning funds and a method of transferring surplus funds from account A to the PAA account.

That retired teachers and also active teachers need to be kept informed and to have input into what is being proposed for their pension amendments before the imposed deadlines, stop the secret negotiations, this is a democratic society, let the members be involved.

That time should be given for RTAM executive to have feedback with members' chapters on the amendment proposals before they are presented in the Legislature. I know the minister had said tonight that we are represented, but it is in secrecy. Again, they are not allowed to come back and talk to us. That is not representation.

Finally, the most important, that an annual COLA must be provided in addition to our basic pension.

I wish to thank you for appointing a retired teacher to the governance board of the TRAF board this past year. May I also suggest that you include specifically the words "member of RTAM" to the composure of the TRAF board of directors so as to safeguard this for all future years. Thank you.

Mr. Chairperson: Thank you, Ms. Leskiw, for your presentation. Questions of the presenter?

Mrs. Driedger: Can you tell me. When you are asking that the secret negotiations be stopped, where exactly are secret negotiations being held?

Ms. Leskiw: I do not know. I wish I knew that because when we try to get information out in Westman, we are told that that is secret and we do not know what is going on. We do not know what is being proposed to you people here. We only hear of it afterwards, after the first reading. I do not know. Even our person that sits on the committee, on the task force committee, not on the TRAF board, has said that she has been told she is not to take it back and share with us. So that is not representation.

Mr. Bjornson: Thank you for your time and your presentation this evening. I appreciate that.

Mr. Chairperson: Thank you, Ms. Leskiw.

The next presenter we have on the list is Deanna Dolff, private citizen. I hope I have pronounced your name correctly.

Ms. Deanna Dolff (Private Citizen): It is Dolff, as in Rudolph.

Mr. Chairperson: Okay. Sorry for that. Thank you very much for your patience. Do you have a written presentation for committee? When you are ready, you may proceed.

Ms. Dolff: If my eyes can see yet tonight. My name is Deanna Dolff and I am a retired teacher from Brandon. I wish to express my great concern over the fact that in Bill 46 and in the proposed amendments to The Teachers' Pensions Act of Bill 48, the interests of retired teachers have totally been omitted. Two pieces of legislation in less than two years have done nothing to address the needs of retired teachers to have protection against inflation.

After taking a one-year training course at the Manitoba Teachers College, in 1964, at the tender age of 18, I took a teaching position at Loxley School [*phonetic*], a one-room country school with 21 students in all eight grades. I worked very hard that year, teaching non-readers to read, preparing lessons, marking work, correcting tests and using a hectograph jelly pad as my means of copying papers and duplicating tests. Some of you may remember those. The papers always curled up.

My Grade 7 and 8 students wrote the same departmental tests in math, English, science and social studies as the students in Winnipeg who attended junior high schools and had specialist teachers. My reward for this was an annual salary of \$2,900 which, I am proud to say, was \$100 over the provincial grant at the time.

I am happy to say that when I retired three years ago with 38 years of pensionable service, my annual salary was considerably higher than that. However, when I retired, I did not know that my pension could become as comparatively low as I aged. Last year, I received 54 one-hundredths of 1 percent for my COLA. This year, I will receive an even lower four-tenths of 1 percent. If I apply that same four-tenths of 1 percent to my first annual salary, it would have taken 10 years for my salary to increase \$100 to \$3,006; 19 years to increase another \$100 to \$3,103; 27 years to become \$3,204 and, after 38 years of

service, I would have earned the annual salary of \$3,361.59. Fortunately, this was not the case, as teachers negotiated and won increases in their salary to keep up with inflation.

* (00:50)

But now that I am retired, how can I be assured that my pension will also maintain the similar buying power that it had in June, 2002, when I retired? I went to approximately eight pension seminars sponsored by the Manitoba Teachers' Society and TRAF in the 15 years prior to my retirement. Although in 1987, the TRAF board actuary warned that there would be a problem with the PAA account's ability to finance favourable COLA grants should inflation rates be high, I never was warned at these pension seminars that, three years after I retired, I would be faced with receiving practically no COLA with no prospect of improving conditions as long as things remain as they are.

How could this happen? When monthly pension contributions were taken off my cheque, I anticipated enjoying a good pension that would keep up to inflation. Were the retired teachers not receiving good COLA increases while I was contributing? I believed that I had a trust agreement with TRAF and the Provincial Government which would provide the same when I retired. I very quickly found out differently.

I found out that while retired teachers were given a 0.54 of 1% COLA in 2004, changes were made in Bill 46 that no longer required the LTD fund to pay pension contributions for teachers receiving long-term disability. In my mind, TRAF and the LTD fund are two separate entities. I cannot understand how or why there should not be any pension contributions made to TRAF on behalf of teachers on long-term disability. How can a pension fund pay out good benefits when 100 percent of its members are not contributing to it?

I also found out that for more than a decade, there has been a shortfall of contributions by new entrants in the funding of their pension promise, and that the proposed amendment of a 1.1% increase in contributions of active teachers will only partially meet their needs. No significant funds will go into the account that will provide for inflation protection. How long can a pension fund meet its needs when a

portion of its members have not contributed adequately to provide for their own pensions?

As a retired teacher, I believe that I have a legitimate expectation to receive a reasonable COLA, which I contributed to in the past as an active teacher. We have been in an extended period of low interest rates and low inflation which no one believes will continue forever. Water rates in Brandon were increased by 7 percent in 2003, by 9 percent in 2004, and by another 9 percent in 2005. That is a 25% increase in three years. We all know in which the direction the price of a litre of gasoline has gone in the last three years. I do not want my purchasing power to stagnate while all around me wages and prices are increasing.

I expect to live another 25 or 30 years, and life would be very bleak, indeed, if my pension only increased by 0.4 of 1 percent each year of the remaining years of my life. If you recall in the beginning of my presentation, my annual salary would have increased by \$461 in the 38 years I had taught if I had received an annual increase of four tenths of 1 percent. Comparatively speaking, this will happen to my pension. Something must be done. Only the government can enact legislation to ensure that my pension does not deteriorate any further. I only ask to be listened to and treated fairly. Thank you.

Mr. Chairperson: Thank you, Ms. Dolff, for your presentation.

Questions of the presenter from committee?

Mr. Bjornson: I would just like to thank you for your patience and your time and your presentation this evening.

Mr. Chairperson: The next presenter we have on the list is Doug Kinney. Is Doug Kinney in the audience this evening?

Good evening, sir. Thank you very much for your patience. Do you have written copies of your presentation?

Please proceed when you are ready, Mr. Kinney.

Mr. Doug Kinney (Private Citizen): Mr. Chairman, honourable minister, Coach Cummings and other members of the committee, I am here this evening to

present my case to the Legislature to do the right thing and bring forward a law that will afford retired teachers a reasonable cost of living pension adjustment.

My name is Doug Kinney and I am a recently retired, January 30, 2004, teacher. As yet, I have not experienced the same erosion of purchasing power as some of my colleagues here this evening. Nonetheless, I will present in a table form one small example to illustrate what I have experienced. When this single example is extrapolated over 10, 15, 20 years and more, the result will be devastating.

As you can see what my first pension cheque was, my gross pay, \$2,470.15. The last cheque I received at the end of May of this year, \$2,473.12. You can see the comparison of the income tax deducted, \$381.38 on my first cheque, \$380.39 on my last cheque which is, I guess, a little bit of an improvement. My group health, my Blue Cross, on my first cheque they deducted \$85.90, my last cheque, \$95.00. RTAM, my fee was \$1.75, both on my first cheque and on my last cheque. My net pay has gone from \$2,001.12 down to \$1,995.98.

The dramatic change here, of course, is the 10.59% increase in the cost of my Blue Cross group health plan as compared to the 0.12% increase to my gross pay. The increase to Blue Cross is explained rather easily in terms of increased usage. As people age, more things go wrong that require different forms of intervention. Once additional costs of living, such as food and housing, enter the equation, what started as a small problem quickly becomes a monster.

In closing, I urge this body to do what is right. Provide a reasonable COLA so that my retired colleagues and I who have contributed so much to this province can live the remainder of our lives with the financial security and dignity that we deserve. Thank you.

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

Questions of the presenter from the committee?

Mr. Bjornson: Again, thank you for your patience and your presentation this evening.

Mr. Chairperson: Thank you, Mr. Kinney.

We have a number of written presentations for the two bills, Bill 48 and Bill 33. We have a presentation from Joe Dolecki on Bill 33. We have a written presentation from Judy Goodman on Bill 48, a written presentation from Fred Cole on Bill 48 and a written presentation from Leota Nelson on Bill 48.

* (01:00)

Is it the will of the committee to include these written presentations in the transcript of the proceedings? *[Agreed]*

Thank you from the members of the committee.

The folks that were from a significant distance away from Winnipeg, we have concluded that list, but there may be other members of the public who are from out-of-town that may wish to make a presentation this evening. Is it the will of the committee to canvass the audience to find out if there are others wishing to make a presentation?

An Honourable Member: Agreed.

Mr. Chairperson: Are there any members of the public that are here this evening that perhaps are from out of town, that may wish to make a presentation instead of coming back tomorrow?

An Honourable Member: There is one.

Mr. Chairperson: Did you wish to come forward? Come on, absolutely. Good evening. Thank you very much for your patience. Could you please identify yourself so we might know who we are addressing?

Ms. Shirley Augustine (Private Citizen): I am Shirley Augustine.

Mr. Chairperson: Okay, thank you. You have a written presentation that is being circulated, Ms. Augustine? You may proceed whenever you are ready.

Ms. Augustine: I do. You have the written presentation in front of you, but I am going to shorten it down because it has all been said, so I am going to skip a little bit of it. It is there for you to read.

I do not have statistics, but mine reads like a victim impact statement for that is what I feel I am, a victim of a system that I was not responsible for, and

I am just suffering the consequences now. I am formerly a teacher with the River East School Division and now River East Transcona. I retired in June of 1994, 11 years ago. The purpose of my speaking to you this evening, of course, is to voice my concern with respect to a problem with the teachers' pension plan that deals with the cost of living adjustment, hereafter referred to as COLA.

You all know about Bill 48 because that is what we have been addressing, and I did not know how I was going to put this in because I have never done this before, but it amends the terms of the pension plan in respect to the contributions made to this plan by active teachers.

I and all other retired teachers had hoped that the proposed legislation would also include a solution to the long existing problem of COLA payment, and the problem is this: The percentage of COLA grants has been decreasing over the past number of years. In 2001, as a result of legislative amendment, money was allocated to allow for a one-time increased COLA payment, and now in June of 2005, as the terms of the teachers' pension plan are being amended again, I strongly feel that this is an opportune time for the government to re-examine the history of COLA and listen to the concerns and the input of retired teachers.

I am both frustrated and annoyed that this problem has been ignored, omitted, passed over and not even considered for such a long length of time. It was of my thinking that a pension plan is designed to ensure that pension benefits promised within that plan would be paid to pensioners upon retirement. This, I was told, was a reasonable and logical expectation to be considered when I made my plans for my retirement 11 years ago. At that time, I examined all my options. I received an actuarial account of what my base monthly pension amount would be and was told that I would receive a COLA payment based on the amount of the consumer price indexing, CPI, for each year.

I was fully aware that I would have to adjust to less money when making plans for my retirement. These plans could vary and change over the years, but the one thing that would remain constant was the basic yearly amount of my teacher's pension. The only thing I could rely on was the protection of a reasonable COLA payment to offset the rising costs of living expenses.

The lack of a reasonable COLA payment each income year since I retired has resulted in a significant reduction in the amount of pension benefits expected, and this has impacted on my life. It will continue to erode both the buying power of each pension dollar and the amount of disposable income if this problem is not now addressed and corrected.

All of us, in managing income, must consider the basic needs of survival. These are food, clothing and shelter, and, in our modern society, included are transportation, communication and health care needs and whatever other indices are used to come up with a CPI percentage.

I am a widow. I live in my home. Since 1994, my school tax levy on my home property has increased by 39 percent. My natural gas billing increased by 70.5 percent and basic telephone by 100 percent. The price of groceries and clothing has increased, as has the price of gasoline at the pump. Basic survival needs. And those costs are not fixed. They will continue to rise. My basic pension amount, however, is fixed and will never rise.

I cannot ever expect to control the price of crude oil on the world market which affects the price of gasoline at the pump, but I had expected that a reasonable COLA payment would come closer to keeping pace with the inflation rate. This has not happened since I retired 11 years ago.

What I am now asking you, the government, and what I expect, is that retired teachers be consulted when proposals are being made to amend The Teachers' Pensions Act, that the concerns of retired teachers be heard and that these concerns be addressed in a fair and equitable manner in finding a solution to any problems that exist within the pension plan.

I conclude the terms of The Teachers' Pensions Act need fixing as it pertains to COLA and the government has the power to fix it. So fix it. Thank you.

Mr. Chairperson: Thank you, Ms. Augustine, for your presentation. Questions of the presenter?

Mr. Bjornson: Thank you for your patience and for your presentation.

Ms. Augustine: Thank you.

Mr. Chairperson: Thank you, Ms. Augustine.

I believe that concludes the individuals, members of the public who wish to make a presentation this evening, or is there anyone else? No? Then can I ask members of the committee to leave the copies of the bills on the desk, on the table here this evening so that we can reuse them again tomorrow.

I appreciate your assistance in this matter. Just a reminder to everyone present, two other meetings of this committee to consider Bills 33, 48 and 51 were announced and, if necessary, meetings. With the business of this committee not having been completed this evening, this committee will meet again tomorrow morning in this room at 9:30 a.m. to continue with public presentations on Bills 33, 48 and 51 and also meet, if necessary, at 6:30 p.m. tomorrow evening as well.

The hour being 1:10 a.m., what is the will of the committee?

Some Honourable Members: Committee rise.

Mr. Chairperson: Committee rise.

COMMITTEE ROSE AT: 1:10 a.m.

WRITTEN SUBMISSIONS PRESENTED BUT NOT READ

Re: Bill 51

Mr. Chairperson, Vice Chair, Committee Members, presenters and observers.

Thank you for the opportunity to speak to the legislation being considered as Bill 51, with reference to amendments, to certain acts of the Province regarding labour-sponsored investment funds and related matters.

My name is Paul Sveinson, interested citizen, who was not financially stung by an investment meltdown, but rather negatively impacted by backroom dealings of the Crocus Fund and related companies.

Although the eventual amendments may appear to be arriving after most of the horses are gone from the barn, some of them being very expensive mind you, it behooves all of us as legislators, taxpayers and citizens to do our best to protect the concept and improve the product for all to benefit, by putting locks on the door and clearer windows all around the building.

Time allows just 10 minutes, while the provincial auditor took nearly six months and summarized his cursory review of only 16 companies that remained in the Crocus Fund's asset list, many of which have or will be removed as the details of over \$61 million in write downs flow through the public information stage.

As an initial overview comment, what in heaven's name were the highly paid, professional auditors doing or not doing, that this information made semi-public to date could occur, without anyone knowing or blowing a big whistle? Auditor Singleton found four companies alone that started with \$3.7 million combined investment monies and before the proverbial excrement hit the fan, were up to \$32.5 million in cash and another \$3.7 million in guarantees for other parties' financing. 155 infusions of cash over a finite period of time shouldn't have been just a red flag but a nuclear meltdown. Piles of binders presented to the apparently inexperienced or naïve directors caused hours of reading, it has been suggested, and voting was completed evidently on the information contained therein.

Herein lies the rub.

It would now be fair to assume that the real numbers, the critical details of add-ons, portfolio holdings troubles, et cetera, obviously necessary to ensure better governance, was withheld or intentionally misrepresented. As the distribution of blame and responsibility are doled out, don't forget the auditors.

We cannot dwell on each of the revelations, but must reflect on possible legislation amendments to deal with the issues and practices that allowed this expensive debacle to unfold.

On the matter of compensation of executives, perhaps the committee should consider the topping off of annual perks and salaries directly and indirectly not to exceed those of a Deputy Minister

of the provincial Crown, and a minimum five-year cooling off period that would not allow any ex-officer to accept employment or consulting contracts with any current or former fund-holding company, nor any family member whatsoever. An annual report, completed by the directors and forwarded to the minister and Provincial Auditor's office, within 100 days of each fiscal year end. Any bonuses or performance enhancements would simply be tied to share value, ergo fund performance for all the shareholders.

On the matter of competition, the committee should review the concerns of companies that receive funding, losing key officers, directors or shareholders that re-enter the local business community directly in competition with or as a result of their previous corporate involvement. Perhaps a five-year, 500-mile clause could be established, that would also bar the acquisition of assets of a former fund held company through sale, bankruptcy, et cetera. The stunning financial losses of one of the fund's holdings were exacerbated by the founding shareholder starting another company prior to his resignation and subsequent bankruptcy, and then buying back cherry-picked assets to start another operation (still in business today) and signing a space lease from a company owned by another director of the folded company. To rub salt in the shareholders' wounds, the fund invested into another business venture, since written off, with the same party who founded the first company that lost nearly \$21 million.

Most shareholders, if not all, wanted to see their investment grow. Social audits and responsible corporate governance is a quality to be noted, and excellence in these areas highly touted. However, they should be relegated to a scorecard report maintained on the Web site, so those who were really influenced by same, can choose to do business with those companies who are high achievers. However, the bottom line financial results are the single most critical factual evidence upon which all investments, both initial and follow-on are to be determined by the board.

The committee should consider a new, democratic method for shareholders, say 100, to be able to sign a petition to force an audit of the fund's involvement in a particular holding, through the provincial auditor's office at the request of the minister. A number in the area of 250 should be able

to force a full audit in the future when concerns are not or cannot be addressed by the senior officers or directors of the company.

The committee should direct that all press releases of a fund be considered legal documents, and must be filed with the department for evidential use if necessary.

The committee should entertain the notion that page one of the prospectus, and not page 60, for example, contain the key clauses of risk, and the fund using investment monies whenever it wants to for expenses, and suspending redemptions whenever they are short of capital for however long as necessary. Any suspended redemption period of one full year would lead automatically to winding down of the fund in an orderly fashion, and a fair asset distribution of remaining assets to shareholders of record, the common shares first.

As the Auditor noted, only 16 of the 46 companies held were reviewed. The determination of errors, bad judgment, sloppy record keeping and other problems highlighted in the 245 report, are enormous, so by extrapolation, the other 30 or however remain in the asset list are probably fraught with serious problems and will remain so while this veil of secrecy shrouds the entire portfolio and every dealing the fund was ever involved with. Clarification of who those 16 companies are, which companies have been written down or off, the actual September 30, 2004, full financials and the March 31, 2005, six-month interim financials need to be released immediately to reduce the harm to investors and the general public. It is easy to assume losses for the 2005 fiscal year could exceed the reported 2004's loss of over \$18 million, eating up shareholder values. The committee should do everything possible to force this information be released prior to finishing the legislation being prepared. Many more flaws may become apparent which would be best addressed through this committee's efforts all at once.

The final and most important issue in my mind is the contamination, perceived or otherwise, with respect, not easily granted in this case, to the cross financing of a labour fund with a level or levels of public sector financing in any or all investments. They should not be condoned, but in the event of the financial benefit to the marketplace, short and long term, subject to substantially more investigation and

study, independent legislative committee review such as this legislation provides, and a very open process of public input. Hiding behind third party confidentiality should automatically rule out the investment for any funding considerations of this kind.

I'll try to capsule the concern with the primary example, and if time runs out, the entrails will be in the written version.

Social engineering or political interference overruling prudent business practice and normal levels of private sector risk should be treated differently. If the City or Province wants to put a building, for example, on a specific location, then take the credits for the efforts and heat for the decision. Hiding behind third-party FIPPA act rules so as to not disclose details is unacceptable. There is no time to address the involvement of credit unions and directors sitting on each others' boards and the potential conflicts thereof!

A certain empty building on a major thoroughfare was demolished before reports of its suitability for alternative environmentally friendly uses seen in other major cities was tabled. Financing for the effort was announced as private sector lead, with Crocus as one of the loudest proponents! With public hindsight catching up with the few who red flagged the entire project, we see the proposal, unfinanceable and not financially sustainable, occurring at almost the same time that the fund was experiencing a cash flow crisis. Private sector investment, including Crocus, accounts for under 14% of the project's costs, but with huge financial largesse from the public sector, some up front as capital, and even more buried as annual operating subsidies, to carry 65% of the debt-servicing costs, Crocus was able to receive some much-needed capital from that one group of companies which had nearly \$17 million of Crocus monies tied up. Non-competition guarantees, ant labour practices locally, and a secret feasibility report by Ernst and Young should all be reviewed by this committee and made public, very, very public, to avoid disasters of this proportion and impact from ever happening again. If the government wants to subsidize sports or entertainment, then do so publicly. However, the fund should not be a political champion for social engineering nor bad city planning. The fund or funds are investment vehicles with capital retention and job creation as priorities.

In summary, I believe the committee should recommend the Crocus Fund be wound down in an orderly and prudent manner, quickly, before additional value is lost, as a finding of the process underway. There was about 40 cents on the dollar remaining in the fund this spring, but it's dropping daily as those who are not losing money dabble in the blame game. With the 30% tax credit, and some responsible topping up from insurance companies who cover the directors, and a one-time contribution from the provincial government of some \$25 to \$35 million maximum, the 33 800 or so investors would not be so badly hurt. They don't seem to have to be winners, as they bear some of blame for not assessing the risk, but they should not be financially punished, either. Whether a full public enquiry is deemed necessary and the possibility of criminal charges being considered in the fullness of time, it would be appropriate to let this ship sink, as it is listing badly and has taken on too much water. Get the passengers off now, and let it go!

Thank you,

Paul Sveinson

* * *

Re: Bill 33

My name is Joe Dolecki and I am currently an Associate Professor in, and Chair of, the Department of Economics at Brandon University.

I reside on a farm in the R.M. of Daly which, as many of you may know, was visited last Wednesday by a devastating rainstorm that resulted in the destruction of much of our infrastructure (roads, bridges, culverts) and the conversion of substantial amounts of seeded cropland into lakes.

As a consequence, I would formally object to the timing of the committee's hearings on this bill, which has significant implications for rural Manitobans generally, and Daly residents specifically. Moreover, I would formally object to the location of these hearings.

The purpose of this submission, which I expect to form part of the public record on this matter, is to briefly outline some of the major objections I have to Bill 33, and to supply some suggested amendments

for the committee's consideration, with respect to the proposed alterations to the conditional use process.

The focus of my remarks is on this section of the bill, because it deals with one of the most controversial issues confronting rural municipalities in recent years: the proliferation of intensive livestock operations (ILOs) in swine.

As you know, in rural Manitoba, this is an issue that has literally torn communities apart, as rural people have had to come to grips with the implications that ILOs present to the structure and integrity of their rural economy, community and environment.

Bill 33 represents the second attempt by the government to address the ILO issue, the first being Bill 40, withdrawn in the face of widespread public opposition.

The Existing Conditional Use Process

One of the central issues in the debate on Bill 40 was the proposed elimination of the conditional use process. In Bill 33, something called a conditional use process is retained, but in a severely restricted form. I object to this legislative emasculation, particularly as it applies to ILOs, as it is not, in my view, in the public interest.

Under the existing Planning Act, specifically section 53(7), a municipal council may approve an ILO application "if the facts presented" at a conditional use hearing establish that the proposal "*will provide a development that is necessary or desirable for, and compatible with the neighbourhood, community and general environment, and . . . will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity, or injurious to property . . .*" (my emphasis)

These are clear requirements, which an applicant must satisfy as a condition precedent for municipal council approval. Furthermore, the burden of proof here is unambiguously placed on the applicant, and not the council or the community in which the development is proposed.

The role of the municipal council is to determine, on the basis of the evidence presented at the

conditional use hearing, whether the conditions of section 53(7) have been satisfied.

This evidence includes a report on the ILO proposal, completed by a provincially appointed Technical Review Committee (TRC) and the testimony offered by the public.

A council then makes a decision to either (a) reject an application, (b) approve an application, or (c) approve an application with whatever conditions it determines to be appropriate. (see also, section 53(8)) A council's determination and decision under 53(7) is final, binding and unappealable.

What we currently have here is a democratic and locally controlled project assessment and review process which, if all participants act in good faith, leads to council decisions that conform to the requirements of efficient (in Pareto's sense), sustainable and locally self-determined development planning. Currently, the people in the 'impact area' can have real, meaningful input into the outcome of the conditional use process.

Of course, from the perspective of the special interest group of ILO promoters, the conditional use process is problematic. The reason for this is clear. In the past few years, the people in rural communities have approached conditional use hearings in precisely the manner contemplated by the existing Planning Act, and the result has been that, increasingly, particular ILO proposals have been rejected at the municipal level.

The changes to the conditional use process contained in Bill 33 are intended to "remedy" this by: (1) reducing the scope of the conditional use hearing; (2) limiting the range of conditions a municipal council can attach to a conditional use permit; (3) enhancing the role of the Technical Review Committee (TRC), particularly in relation to the "environmental" aspects of a particular proposal; and (4) shifting the burden of proof.

Reducing The Scope Of The Conditional Use Hearing

In this regard, an underlying premise of Bill 33 is that the ILO issue is most properly addressed through what has been called "up-front" planning. To achieve this, Bill 33 requires that, by 2008, all local jurisdictions must have "development plans" in

place. These plans must include a "livestock operations policy." It is presumed that at this stage, public participation will feature prominently.

However, under Bill 33, if a local jurisdiction fails to meet the deadline, or if the development plan submitted on the basis of public consultation is at variance with what the *minister* deems desirable for that area, then the minister may *unilaterally impose his/her own development plan, with whatever alterations the minister sees fit to make, upon that jurisdiction.*

This mandatory development plan requirement and deadline removes the current ability for councils to say "no" to ministerial interventions, by refusing to adopt a development plan which contains ministerial requirements at variance with local wishes. Clearly, this enhanced ministerial veto power ensures that public participation in the development plan, while formally present, is substantively meaningless (unless the result conforms to the minister's views) and ensures provincial control, not local/community control, over development planning.

Recommendation: delete the 2008 deadline.

Moreover, under the provisions of Bill 33, it is simply not possible, *as a matter of law*, for a council to differentiate between ILOs and other livestock operations in its development plan, livestock operations policy or in the execution of the conditional use process itself. This reflects the erroneous view, originating with ILO promoters, that there is no essential difference between factory and conventional family farms except size. In my view, this is a fatal flaw in the legislation.

Recommendation: re-draft Bill 33 to permit differentiation between types of livestock systems.

In addition, under Bill 33 the conditional use process itself will no longer be applied to the *expansion* of ILO operations. Evidently, this means that once a conditional use permit is granted, expansion will be unfettered!

Finally, Bill 33 restricts the scope of the conditional use process by removing "environmental impacts," particularly in the matter of manure management, from the jurisdiction of councils. This is particularly problematic, since the matter of spread lands for ILO waste disposal is central to the

question of desirability, environmental degradation and surface and groundwater pollution. The expertise of local people in these matters is, frankly, superior to that available to provincial regulators.

Limiting The Range Of Conditions A Municipal Council Can Attach To A Conditional Use Permit

Bill 33 significantly narrows the range of conditions that a council may impose on a proposed ILO development. In addition to the removal of section 53(8), councils will no longer be able to specify any conditions relating to the application, use and storage (aside from "covers" and shelter belts) of manure. There are a number of councils that have such by-laws in place to protect residents from, for example, nuisance, damage to their water supply, devaluation of property and airborne hazards. These by-laws will now be *ultra vires*.

It is true that, under Bill 33, councils will be able to include measures to ensure conformity with the applicable provisions of the municipality's development plan and zoning by-law. But remember, the "up-front" planning (the adoption of the development plan to which the zoning by-law must comply) is controlled by the minister and subject to ministerial veto.

It is also true that councils may require measures to implement recommendations by the TRC, but these will likely be limited by what the TRC concludes. While a development plan or zoning by-law condition may be considered to be "relevant" to a particular application, the conclusions from the TRC may deem these conditions to not be "reasonable" for that particular application, and hence beyond the authority of a council to impose.

Finally, and most significantly, there is another means by which councils' ability to impose conditions, particularly those that conflict with TRC recommendations, is thwarted.

The wording of Bill 33 increases the likelihood that councils will now be open to *litigation from the industry*, a new and dangerous statutory precedent. The fact that the conditions a council may impose must meet the test of being "relevant and reasonable" means that councils are exposed to legal action by the industry should they impose more conditions that are at variance with those specified by the TRC. Such action will likely succeed, because the courts

will likely interpret the TRC's conditions as the authoritative, legally binding standard.

The irony of this lies in the statutory opportunity Bill 33 provides for corporate ILO promoters, rather than municipal or provincial governments, to determine by means of litigation the regulations governing their activity! This is certainly not in the public interest.

Enhancing The Role Of The Technical Review Committee

Under Bill 33, technical review is the mechanism through which the provincial government will assume jurisdiction over the environmental and health aspects related to ILOs. This is the government's response to requests from the industry and even some local jurisdictions, to enhance the role and weighting of the TRC reports in the decision-making process.

Note that the TRC review process is not a public one. On the contrary, it is completely insulated from public input and public scrutiny under Bill 33, nor will it be accountable to the public.

It must also be remembered that TRC members are civil servants, hired and paid by the province. They are persons who report to other civil servants, who themselves are accountable to their respective ministers, not the public.

Regrettably, past experience has shown that more often than not, the TRC members, particularly the agricultural and Conservation staff, are both the proponents and regulators of ILOs, which I submit is contrary to the public interest. Indeed, there is at least one known instance where a member of a TRC had a personal portfolio that included hog barn investment!

The reality is that the role the public in rural Manitoba has little confidence in the TRC's role in the existing process. Time after time at conditional use hearings, the people have exposed gross errors and omissions in TRC reports.

Permit me to give one illustration from my own experience. In 2003, I participated in a conditional use hearing in the R.M. of Strathclair. There, the southwest regional TRC report advised

Strathclair council that the proposed Premium Pork-Western Swine ILO conformed to an existing zoning by-law, as amended. At page 2 of that report, council was told: "The amendment to the zoning by-law requires that a proposed livestock operation (buildings and manure storage) shall not be located within 328 feet of a water body or domestic water supply. It appears that this operation meets this requirement."

As I noted at the hearing, what the zoning by-law actually says is that these types of operations "... must have a minimum setback distance of 328 feet from any surface water body, *groundwater*, or domestic water supply." (my emphasis)

Here, the TRC "forgot" to include groundwater in conducting its assessment. The fact is that, in order to comply with Strathclair's by-law provision, the proposal had to be sited 328 feet *above* any groundwater supply. As such, the proposal did not, contrary to the TRC report, meet the by-law requirement.

The lesson rural people have learned from experiences like these is that there is a tendency for TRCs to minimize or gloss over or omit consideration of serious problems in ILO proposals. Yet, Bill 33 would enhance the probative value of TRC reports, objectively making their "assessments" in respect of categories such as "reasonable" and "relevant" some kind of standard! That is not in the public interest.

Shifting The Burden Of Proof

As noted above, under the existing conditional use process the burden of proof, in relation to the question of whether a proposal satisfies the conditions set out in section 53(7), is, quite properly, unambiguously placed on the applicant.

Under Bill 33, this burden is shifted from the ILO applicant to the council, or the community in which the development is proposed. It appears that, under Bill 33, council must justify the decisions it makes, including whether any of the conditions it may wish to place on a development are "relevant and reasonable."

This, of course, reflects the erroneous views of ILO promoters, who seek to establish a new corporate "right," viz. the "right" of an applicant to be granted a conditional use permit in a zoned area,

simply by virtue of making an application. This is as absurd as claiming that an investor in a venture capital fund is entitled to a specific rate of return, by virtue of the fact that an investment has been made. It is, in my view, contrary to the public interest to enshrine such a principle, however vaguely, in legislation. Yet, objectively, this is what Bill 33 will achieve.

Overall recommendation: retain sections 53(7) and 53(8) of the existing Planning Act. In short, leave the existing conditional use process intact.

Concluding Remarks

Let me conclude by stating that in my view, under the provisions of Bill 33, the people in rural communities can be certain that they will lose control they now have over their own self-development, as well as the means they can currently use to protect their communities from the negative environmental, health and socio-economic impact ingredients in ILO proliferation.

Moreover, with this bill, they will be able to confidently predict that the rural landscape will be cleared of conventional, economically and environmentally sustainable, family farm-based agriculture in order to facilitate its replacement with corporate-controlled, industrialized food production. In short, for rural Manitobans, Bill 33 represents another cobblestone in the "Road to Serfdom," albeit serfdom with a corporate face. This, I submit, is not in the public interest.

J.F. Dolecki

Re: Bill 33

My name is Rodger Mawer and I am a mixed farmer (cattle and grain) in the R.M. of Daly. I have farmed here for over 40 years.

There are some concerns about Bill 33 that I would like to voice.

1. I would like to say that the hearing time (during seeding) and location (Winnipeg) are a problem. I will have someone read my presentation because I simply cannot attend at this time myself. It would seem to me that a bill that concerns farmers would be

handled at a time when farmers could attend at a location that is not 200 miles away.

2. Corporate agriculture is killing the backbone of the country, the small farmer, as he cannot compete. But the small farmer does a better job of utilizing the country's assets than do corporate entities. The government should take advantage of history and realize that this is not the way we should be going.

3. A smaller operator does not cause the problems that larger ones do for neighbours, the environment, water, the community and so on. Small operators live in the community where they farm. Corporate shareholders do not live with the problems they create.

4. The provincial land use policies are based on the farm practices guidelines. The setback distances here for an operation over 300 animal units of one-quarter mile or less are not enough. Do any of you want to live one-quarter mile or less from a feedlot or a large hog operation? No. Since the minister has a veto on development plans in Bill 33, is the government going to allow RMs to increase setback distances by any meaningful degree?

There should be different zoning and land use decisions for different types of livestock operations, not just based on size, but on production methods as well. Councils should be able to make different rules for different types of operations within a zone and different rules that distinguish between types of manure storage, handling and transportation.

For example, a cow-calf operation that uses a lot of pasture grazing is much different than a feedlot. Lumping all livestock operations together distinguished only on a basis of size will have a negative impact on my operation.

Performance bonds and personal liability should be allowed to be incorporated into the livestock operations plan and zoning by-laws for intensive livestock operations subject to conditional use permits.

5. Last but not least, I take offence at the government's ability in Bill 33 to veto and override development planning decisions made by councils and public hearings. What is the point of people and municipalities making decisions as to how they want

their municipalities and communities to develop if the minister can simply veto these decisions? None.

Thank you for your attention on this matter.

Rodger Mawer

* * *

Re: Bill 33

I would like to communicate my disappointment and disgust at the process and total disregard of this government in severely limiting the citizens and taxpayers of this province a proper and timely opportunity to respond to their proposed Bill 33.

People most affected by this bill are involved in what most people would assume to be one of the busiest times of the year. Add to this the extremely stressful situation many rural residents of southwest Manitoba find themselves in now due to the record-breaking flood conditions. I would find it appalling that this government would try to sell Manitobans on the idea that they had given Manitobans a fair opportunity to speak to this proposed legislation. It would leave one wondering if this was a deliberate attempt by this government to exclude meaningful democratic debate on such an important issue.

Not only the timing is an issue but it would appear to be a government totally out of touch when they are not giving easier, better access for rural residents to be part of these discussions by refusing to hold hearings in regions which are quite a considerable distance from Winnipeg.

Concerned rural Manitoban,

Reed Wolfe

* * *

Re: Bill 33

I received word last evening that an inquiry is being held this evening on Bill 33.

My wife and I had both requested to speak on Bill 40 at a hearing in Winnipeg. Now we are being muzzled by not holding a similar hearing. We are stranded in a flood plain with cattle in a feed lot

ready for pasture and our driveway has been washed out 20 feet wide and 9 feet deep.

My opinion, which I wish to be addressed to the committee, is fairly lengthy. I am a third generation operator of this farm – N 1/2 18-12-22+. During my tenure I was able to raise a few chickens and laying hens which I marketed locally. The government saw fit to limit and eliminate this venture in favor of large operators.

I milked up to 23 cows and shipped to a creamery. This venture was squashed by government in favor of large dairies. Cream shippers were totally eliminated. Milk producers muzzled until now with acid wash for cows teats – acid wash for milking equipment, bulk tanks, tanker trucks, dairy handling facilities and acid to keep the fluid milk from going sour – until now we are drinking acid milk that cannot sour; it goes rotten.

Butter has become so expensive that those on low income cannot afford it. We have to instead be "happy" to use margarine. No wonder we have hallway medicine – all our healthy foods are being driven from the market or from lower-income persons.

I used to raise a couple of pens of pigs to consume skim milk and garden wastes, et cetera and low grade grains. We now need to have a shippers' contract, etcetera to market. Also, rumors keep floating of having to purchase all breeding stock.

I was a 4-H champion hog judge and won a trip to Toronto Royal. Being a "hot shot" hog person, I purchased a sow. For four or five years, I and my local vet fought the situation until I was on the verge of bankruptcy. Then we finally had baby pigs analyzed and found that we had a disease that had built up a resistance to penicillin and three antibiotics. My veterinarian of the time, having been a doctor in World War II, advised me that I had to get out of hogs forever, but also that this resistance could get into our human chain.

A couple of years later my wife had kidney problems. The doctor treated her with several different drugs. Finally, I took the hog disease report to him. On changing my wife's treatment to an unrelated drug, her problems were effectively remedied.

Some 25-30 years after getting out of hogs our youngest daughter, while working on a farm in Alberta, stepped on a nail. She had to be hospitalized with blood poisoning. My wife and I, having been holidaying in B.C., stopped in to visit her on our return home. Finding her in the hospital in Pincher Creek, the nurse informed me they were very concerned. They had her on I.V. with three drugs and the blood poisoning was still advancing. I told her of this resistance on our home farm. They changed her medication and she was out of the hospital in three days. Had we not come at that instant I feel firmly convinced she would have perished.

Now, with our government's love of huge Hog farms, where our Province will surely become rich!! Are we not setting a trap for widespread drug resistance? Hog barns are having to sell all animals and clean their premises on an ongoing basis due to disease, which they should never–

What provisions do we have to monitor possible drug resistance being transferred to, 1) pig barn employees; 2) water pollution of disease resistance from discharge of lagoons on farm lands or, eee-gods–water pollution; 3) consumers of pork sold as healthy animals from contaminated premises! Who in the government bureaus are big enough to take the rap of huge areas of persons who cannot be treated successfully or those who succumb before diagnosis is completed!! After reading this does or will your consciences bother you? Or maybe Maple Leaf, or, for example, McCain Foods, for example, etcetera, has such a stranglehold you cannot make waves!

The little farm enterprise who has maintained a small herd of hogs has been eliminated. Most of these were clean, prosperous farm operations which needed this little bit of added income to keep viable. No wonder farm populations have dwindled. Cost price squeeze has forced farm populations to deforest every available inch of farmland in favor of growing those few extra acres of grain, a crutch to keep on the farm. With this drop in acres of trees and wasteland, plus drainage, has resulted in our current dilemma. Acres of flooded fields, miles of fences washed out, roads and driveways destroyed. All this flooding is also being caused in the springs when snow melt has been stimulated to days rather than months due to lack of tree shelter.

Now with Bill 33 all animal species are being grouped together with wastes, treated as all alike.

Dry cattle manure as compared to factory farms of hogs with millions of gallons of water. Are you also going to destroy the small farmer's ability to derive some income supplement from cattle? In other countries such overbearing tactics by government is known as a Communist state!

Thank you, Scott Smith. I live for the day when an utter rebellion happens in your fair city of Brandon over the stench of the newly proposed feed lot.

Another venture by Virtual Non-farm would be Prosperous group of Mazer Group; Immigrant from Switzerland; Ray Redfe – Fuel and Fertilizer Dealer; Government of Manitoba Head Veterinarian; Hamiota Feed Lot Manager and how many others. Another take-over of Manitoba Agriculture, the backbone of Manitoba, slipping to the lower end of the spine!

Our grain markets; Cargill, ADM et cetera, sell out to U.S.A. cattle markets, previously controlled by the U.S.A. and now in a shambles. Please help to build rather than find new ways to destroy agriculture in Manitoba and indeed Canada!

Sincerely,

F.F. Clair English

* * *

Re: Bill 33

Last year many Manitobans voiced articulate opposition to Bill 40. This bill sought to remove their democratic rights in the context of rural development. The opposition was intense and Bill 40 was withdrawn.

I have only one question: What part of "NO" don't you understand?

Bill 33 is undemocratic and unnecessary. You were not elected to promote jackboot legislation to be enforced by a civil service that panders to corporate interests. Bill 33 effectively muzzles Manitobans who believe that participatory democracy means much more than voting once every four years. It means that we participate in the daily business of our province.

However, if you actually intend to subvert participatory democracy by virtue of passing Bill 33, please let me know. Then I won't waste my time on the next great election day.

You can tell when election day is approaching, when the NDP cranks up its hoary old spins about how it represents the people and the environment, not the corporations and bankers.

Yours truly,

Charles H. Arklie

* * *

Re: Bill 33

I am writing to express my profound concern with several aspects of Bill 33. I'm a small-scale organic producer in rural Manitoba. A few years ago, I became involved as a citizen opposing the introduction of factory barns in my municipality.

Through that experience, I sadly learned that conflicts of interest played an all-too-common part in this whole process, both where I lived and elsewhere (i.e., elected officials who supported these kinds of industries and also stood to gain financially by doing so. Also, members of Technical Review Committees, who were also in the hog business themselves).

I therefore find it astounding that this new bill does not even address the question of conflicts of interest! Its shameless removal of a citizen's right to sue over infractions of The Planning Act is unconscionable as well.

Above all, I am disappointed that my government would so quickly and cavalierly attempt to re-introduce measures that were so widely opposed earlier. I actually thanked the government some months ago for deciding not to proceed with changes to The Planning Act it had introduced at the time. To me, those amendments were clearly intended to promote even more intensive livestock operations that pollute our beautiful province. Having now learned details of this latest bill, I take it back.

I urge the government of Manitoba to once again discard this misguided legislation and replace it with one which respects the rights of thousands of decent, hardworking rural residents of this province who

only want to be left alone to make their honest livings without industrial encroachment.

Q. What became of the Manitoba politician, who, while in opposition, pretended to support our family hog farmers but, once elected, sided with the corporations instead?

A. She was promoted to Deputy Premier.

Larry Powell

* * *

Re: Bill 33

I regret that I was unable to attend this meeting, but it was impossible given the short notice provided.

I am representing the Roseisle Creek Watershed Association, located in the RM of Lorne, part of the South Central Planning District.

The control of land development is important to us. Our District has no piped in water; it is entirely dependent on the local groundwater. Consequently, protection of our water quality is essential to the district's future. Unfortunately, the quality of water in our watershed is poor as noted in Manitoba Conservation's report, "Overview of Water Quality Data Collections from Roseisle Creek 1998 and 1999" and measurements taken for the recent Stephenfield Watershed Management Plan.

It is with concern for our water and environment that I provide you with the following comments concerning Bill 33.

On the positive side, I am pleased to see that a municipality without a district plan/zoning by-law will have to meet minimum livestock siting regulations. To date, our municipality has been allowing development of operations that don't even meet the setback distances in the Farm Practices Guidelines.

Some recommended improvements to the Bill:

1. Strengthen the language to help ensure environmental protection.

- a) Clause 62.1 Consideration of Water Protection Act has to be changed to read that a development plan must include (rather than must consider) any restrictions placed by section 4 of The Water Protection Act.

b) Clause 62.1 must also include wording to ensure that the zoning by-laws conform to the WPA. The need to spell this linkage out to the municipalities is evident in the current draft of Lorne's zoning by-law wherein it gives no attention to the need for water protection as stated in the District's Development Plan.

c) For clause 71(3), Contents of Zoning By-law, place the following points under a separate clause stating that the zoning by-law must (not may) contain provisions prohibiting or regulating each point:

(g) the cutting and removal of trees or vegetation; (k) the removal, excavation, deposit or movement of sand, gravel, soil or other material from land; (o) the grading and elevation of land; (p) the outdoor storage of goods, machinery, vehicles, building materials, waste materials and other items; (s) waste storage and collection areas, and facilities and enclosures for storing water and other liquids; (t) the manner in which any use of land or a building is undertaken, including the hours of operation and the regulation of noxious or offensive emissions such as noise or odours; (v) the protection of scenic areas, heritage resources and sensitive land; (w) the construction, location or placement of a building on sensitive land; and (x) the construction of a building within a specified distance of a water body or groundwater source.

2. As an off-shoot of this Bill, the Province must address the inadequacies of the Technical Review Committee. Experiences with this group across Manitoba are anything but positive. To entrust our environment and the public's health and safety to a group that has no terms of reference, nor accountability to the public, is very irresponsible.

Although there is more to be said, I end my presentation as I have run out of time to work on this. In future, I would hope that more notice be provided, especially on items of such importance to rural Manitobans.

D.E. (Ted) Ross

* * *

Re: Bill 48

Chair, members of the committee, ladies and gentlemen, I am here today to express my extreme disappointment and displeasure at the changes to the Teachers' Retirement Pension Act represented by the amendment before the committee today.

Last year, Bill 46 provided relief for a few retired teachers who could buy back maternity leave. The remainder got a 0.5% increase. The bulk of the benefits of Bill 46 last year went to the treasury of the Manitoba Teachers' Society. This amounted to approximately \$1.5 million worth of relief every year. This has assisted in undercutting the viability of the teachers' pension fund.

This current bill is an insult to each and every retired teacher in the province. It starts to address the shortfall of pension funding by active teachers, but it gives retired teachers nothing. This year, we will get approximately 0.4 percent as a cost of living increase. I would like you to contrast that with the 9.9% increase that you, as MLAs, will receive this year. Contrast this with the COLA increase received by retired teachers in B.C., Alberta, Saskatchewan, Manitoba, Ontario, Prince Edward Island, N. B. and Nova Scotia. The lowest 2004 increase was Manitoba's at 0.54 percent. Others ranged between 1.3 percent to 3.35 percent for the Cost of Living Allowance.

I understand all the arguments. The Pension Adjustment Account gets a certain amount of funding and that account is the one that pays the cost of living. There is only enough in the account to pay so much, or is it so little? Blah, blah, blah. We hear it all the time from the Legislature. When money is needed, all of a sudden it is found.

Government set up the pension act. Government decided to defer their liabilities. Government set up the Pension Adjustment Account in the act to provide inflation protection. Government made a commitment by that action to manage that account in such a way as to provide a reasonable cost of living allowance. Would they create it to produce an unreasonable cost of living allowance? Obviously, that account has not been managed appropriately. Governments, as you know, initiate amendments to acts. Fix it. All it takes is the political will and the guts to do it. Schreyer had the guts and the will. I do

not see any political will in this amendment relating to retired teachers.

I understand the mentality behind this and the lack of political will. They believe retired teachers and other retired people are a burden, not an asset to society. Give them platitudes and a pat on the head and they will be happy and they will go away. Give them "I would like to thank you personally for your service as a teacher" and send them away. They believe retired people are too dumb to recognize crap when they step in it. Senile, over the hill.

I believe that governments do not recognize the contributions that seniors and retired people make to the economy of the communities in which they live. They buy goods and services in the communities in which they live. They are the heart and soul of almost all volunteer organizations in the communities. Charities, if they had to pay for the services they receive from their senior volunteers, would not be nearly as healthy as they currently are. If senior volunteers were removed, government would have to pick up the slack with dollars, if they level of funding were to remain the same for services and research. Sporting events, i.e., curling, summer and winter games, local festivals, et cetera, which bring millions of dollars of revenue to the communities, would suffer dramatically if senior volunteers were not there. The list can go on. What I want to point out is that seniors are money multipliers in their communities, not a liability.

What do we want?

1. We want fairness. The Minister of Education, himself, at the NDP convention in Brandon this year, admitted that 0.5 percent was not acceptable. I wonder how he feels about 0.4 percent, which we are projected to receive this year. He also suggested that we should wait for the amendments to the act which were coming. We couldn't expect full cost of living but a figure near 2 percent may be possible. We were told to be patient. We have been and basically the result stinks. I find it totally unacceptable that the issues of active teachers have again been addressed and those of retired teachers have again been ignored. We are getting a very clear message.

2. We want inflation protection. Throughout our careers, we have paid a portion of our pension contributions for inflation protection. Where is our Cost of Living Allowance? Where is that protection?
3. We want the problem fixed. The problem relating to COLA has been flagged by auditors for 15 years or more. The act governs our pension. Who is managing the act so as to provide reasonable results? Why has nothing been done? You knew there was a developing problem, or should have known. There were "red flags" going up a long time ago. Who is responsible for those red flags and the inactivity? Fix it.
4. We want consultation with respect to changes to the act and changes to COLA. It is clear that others have no interest in looking out for the concerns of retired teachers. We want RTAM representation on all committees that relate to our pensions.
5. We want respect. Respect for who we are and what we do and not for only what we did.

Let me give my view on politics and government. Governments recognize only their political self-interest. The role of political parties is essentially to get elected. The role of government is to stay in power. Everything in politics flows from that.

Let me give you some insights on teachers. Teachers, active and retired, generally have been prone to do their job and let "Big Brother" take care of them, whether Big Brother is the MTS or the government. They have had that trust that Big Brother will do the right thing by them. The adage that hell hath no fury like a woman scorned also applies to teachers whose trust has been broken. I can tell you, I am amazed at the anger that is there when I point out to retired and active teachers what is happening to their pension and COLA. When I tell them about the muddling and the fiddling and inactivity that has gone on, that has cut up the value of their pension.

Teachers are people who have always had a strong dedication to causes when moved. Retired people do have time to organize, they do have time to push for changes, they do have time to talk to each

other and to others, relatives, other seniors and other community people. Retired teachers have many community contacts. Check the numbers of teachers eligible to retire in the next few years and the number already retired. Remember the multiplier effect. We ask not to be ignored.

Ray Sitter

* * *

Re: Bill 48

I would like to express my concerns with regards to the COLA issue in relation to the Retired Teachers' Pension. I am a teacher who retired in 1999 and I was led to believe that my pension would be adjusted yearly in accordance to the annual inflation rate (or Consumer Price Index) Since my retirement in 1999, this has not happened.

Pensions are an important part of many retired persons' income, and in many cases, such as my own, they are the major source of income on which we depend. As things presently stand, my pension—and my stand of living—is effectively being eroded daily by the lack of a COLA. We all know that costs generally continue to go up, regardless of world conditions, and with a limited and dwindling income, it is impossible to maintain a decent standard of living. This is hardly a prospect for hard working citizens to look forward to in their older and more vulnerable retirement years.

To add insult to injury, my pension has, over the years, been negatively impacted due to the circumstances of my being a woman, which means that I was the partner who became a mother, and who was obliged to give up paid work for long periods of time in order to raise and care for my children.

When I began teaching in 1966, after receiving a Diploma in Child Study from the University of Toronto in addition to my B. of Sc. in Human Ecology from the U. of M., I was penalized by the province's refusal to acknowledge my specialized training and was not given the Class 5 standing I was entitled to. As a result, I was a Class 4 teacher for my entire career, and that standing lowered my pension benefits considerably.

In 1971, I gave birth to my first child and I stayed home as a full-time mother to raise my children for

the next 9 years, until my youngest was able to attend school. Being unemployed, I was naturally unable to contribute to a pension for those years, which further lowered my ultimate benefits considerably. When I did return to teaching in 1980, I did so half time for several years, since I was still obligated to look after my home and children, and had to accommodate my responsibilities both as a mother and teacher. Part time work also affected the size of my pension negatively, since it takes twice as long to accumulate one year's worth of pension benefits working in this manner. Meanwhile, my husband, who was also a teacher, suffered no such difficulties, and continued to accumulate his pension benefits throughout this time, since his obligations as a father did not extend to his staying home to look after the children.

In 1994, after 26 years of marriage, I suffered a marital breakdown and was subsequently divorced in 1997. And even though my husband and I were both employed by the same school division and belonged to the same teachers' union and the same pension plan, the subsequent pension split was again an unequal one, which further eroded my pension. The pension split is also governed by laws and actuarial figures, and because my pension was obviously the smaller of the two, I was required to be given a lump sum of money which was deemed to be the commuted value of half the difference between our respective pensions. Firstly, the amount of the commuted value seemed less than equal to my mind, and when I consulted a staff officer at the Manitoba Teachers' Society, I was informed that I was correct, but the results could not be changed until the laws affecting pension splits were changed. The Staff Officer agreed to work with me to change those laws, but at the time I was suffering from a great deal of stress resulting from my separation and divorce, and could not afford the time and energy that was required.

Secondly, the lump sum that I was given was required to be placed in a locked in vehicle, such as a LIRA, which meant that, regardless of how that money was invested, either in GICS or the stock market, I would be subject to low interest rates and/or the ups and downs of the market, neither of which would provide me with the guaranteed pension amount yearly that my husband could rely on.

And now, since my retirement, my pension is being further eroded with the lack of an adequate COLA. I

find this situation to be most inequitable and unfair, and I would like you to seriously consider the situations of women like myself, who, because of career interruptions for the purpose of raising children, and because of marital breakdowns, are in the position of living on much smaller pensions than their male counterparts. I urge you to solve the problem of the Teachers' Pension's COLA, to at least allow one aspect of the pension system to benefit all teachers equally and fairly. Thank you.

Judy Goodman

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Re: Bill 48

I am pleased to have the opportunity to make this presentation at the Committee hearings for proposed Bill 48.

I have been a teacher in Manitoba since the fall of 1963 and from that time until now I have contributed to the Pension Fund for thirty-nine years. I intend to retire this summer. I have worked hard. I have worked for the government and for a local school division. I have upgraded from the single year of Teacher Training until I have a Master's Degree in Education as well as a Bachelor of Arts. I have improved my qualifications and my salary. My increased salary has allowed me to make larger pension contributions and should provide for a larger pension. I would like now, to enjoy retirement and the opportunity to be independent.

My husband is also a teacher, a teacher who has been retired for eight years. I have watched with considerable interest the money he has received and what has happened during the past eight years. Currently he receives \$2000 more dollars per month than he did when he retired 8 years ago. That is an increase of approximately 9%. In that time the cost of living has risen 15%. He is now at a lower standard of living than when he first retired.

I have no quarrel with the Teachers' Retirement Allowance Fund. I have contributed to that all my working life, as I believe I should have done. I expect to receive a pension that will allow me to have some quality of life, as I do not intend to sit and vegetate. I am concerned that as the years go by I will have fewer and fewer dollars on which to live. I am aware of what has happened to teachers older

than me who retired a couple of decades ago with smaller pensions when wages were lower. Many of them are living close to or under the poverty line at a time when they are unable to supplement those incomes. They were valuable, contributing members of society and should not be reduced to living on less than they require. And I do not wish to see this happen to my family and to me.

I am pleased to see that the government is in the process of increasing contribution rates for active teachers. This is a change that is long overdue. I would have been happy to pay a larger share during my working years. In my view the increase should be somewhat greater than the 1.1% increase which is being talked about, but the proposed increase will address some of the under contributing which is happening. Perhaps a further increase will be implemented in the near future.

I am concerned, however, about the Pension Adjustment Account (PAA) that pays the Cost of Living Allowance (COLA) that is intended to address inflation factors. No additional funding has currently been allotted to that fund and it is not able to pay the cost of living increases required to keep pensions at an even purchasing level. Indeed this year while the consumer price index is up 2 percent, the COLA paid to retired teachers will be 4/10 of one percent—less than a quarter of what is required. The gap between what can be purchased with those dollars and the real cost of living widens.

The Pension Plan should, if current trends continue, work its way out of a deficit situation and into a surplus situation in the next few years. In my view, at least a portion of this surplus should be directed to the Pension Adjustment Account. Retired teachers, and teacher like me who are soon to retire, have contributed almost half of the dollars in that fund. Our dollars should be directed to providing us with adequate pensions and cost of living increases, not just to subsidizing the under contributing of currently active teachers. We would like to know that our pensions will keep pace with the rising cost of living and to know that we will not be living in poverty after being gainfully employed and contributing to the economy for most of our lives. A portion of the surpluses placed into the Pension Adjustment Account would help to halt the potential reduction of my retirement income.

A further concern of mine is the minimal input into discussions on pensions enjoyed by retired teachers.

Retired teachers should have full representation on any task forces, committees, or boards related to pensions. The Retired Teachers' Association of Manitoba is the best source of nominees to such bodies and I would suggest they could be trusted to name responsible individuals to any such bodies. They have a large stake in any actions affecting pensions.

In closing I would like to thank you for the opportunity to have a say in this issue. Steps are being taken to address the pension difficulties and I thank you for that. I ask that the government continue to investigate this issue and to address the issues surrounding the Pension Adjustment Account and its inability to pay a full cost of living allowance. We must stop the march of retired teachers into poverty.

Respectfully submitted,

Gayle Karen Robertson

* * *

Re: Bill 48

I, Leota Nelson, member of RTAM, Retired Teachers' Association of Manitoba, since its inception, RTAM Board member for 10 years and strong supporter of MTS during my 40 years of teaching (1947-1988), wish to add my support to the RTAM Board's concern that proposed legislation amendments to The Teachers' Pensions Act do not deal with the interest of retired teachers.

Throughout my career, I have paid a percentage of my pension contributions for inflation protection. Now, at age 77, I find my COLA almost non-existent. Also, I deplore the fact, that after 40 years of service to Manitoba education, I may have the lowest inflation protection among teacher provincial pension plans.

Although I may not have that many more years, I do not relish the severe loss of purchasing power that looms unless the Legislative Assembly of Manitoba takes definite action to fix the funding issue of our COLA account.

Leota Nelson

* * *

Re: Bill 48

Members of the Legislative Committee
Manitoba Legislature
Winnipeg, Manitoba

Ladies/Gentlemen:

For thirty-six years, I was involved in the education system as teacher, principal and assistant superintendent of schools. Like my fellow educators, I contributed to the teachers' Pension Adjustment Account (PAA) which funds the Cost of Living Adjustment (COLA). Now, upon retiring, it appears that the future holds little hope of a meaningful COLA, and that, as a result, we will experience a serious loss of purchasing power.

Based on these concerns, may I request the provincial government to consider funding the PAA so that we will be guaranteed a reasonable Cost of Living Adjustment and ensured that if there is any loss of purchasing power, that loss will be minimal.

Respectfully submitted,

Fred C. Cole

* * *

Re: Bill 48

As a retired woman teacher, I would like to address the issues raised in Bill 48, changes to The Teachers' Pensions Act. The changes proposed in this act can only give retired teachers, and those about to retire, dismay. We did not think that we would have to deal with alterations to the rules after it was too late for us to do anything about the consequences.

Our expectations were legitimate. We spent our lifetimes teaching, and we anticipated retiring on pensions sufficient to meet our needs. The original, negotiated terms were clear: We gave up disability pensions and we paid higher premiums in return for a full cost of living adjustment. Now the rules are changing, and we can no longer expect anything like a full cost of living adjustment. The implications of the change are slow to emerge, but they are very real.

I am speaking for myself, but I believe that my situation is typical. I am an average Class 5 teacher. I

taught over a 35-year period, but my pensionable service was 23 years. The 12-year difference includes two years of non-pensionable service in England, raising two children (no buy-back possibility there) and a return to university. My pension seems to be about average for women teachers of my age.

I do not believe that I am asking for anything more than that which is owed me. I worked hard, gave honest service and expected to receive what had been negotiated: full cost of living adjustment.

However, since I retired six years ago, I have seen my pension rise by an average of less than 1 percent per year, hardly the rise of the cost of living. I can expect to live for about another 20 years and, comparing the 1% rise to a reasonable projection of a 2% cost of living increase, I will be looking at a shortfall of about \$600 per month. Since the cost of living rise is likely to be, on average, higher than 2 percent, I expect to be facing an old age of impoverishment.

Hoping the pension situation will cure itself is not good enough. We have paid actuaries to show us what is likely to happen and, if we believe in their mathematics, we must also believe what they tell us. Everyone involved in the teachers' pension scheme needs to wake up and do something.

That said, the something that is done must be at the expense of retired teachers. We have given honourable service and paid our dues. This time you must do for us. Sliding away from the obligation that you have to us simply will not do.

Barbara Teskey

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Re: Bill 48

Please give this matter your attention.

I join with the teachers of Manitoba, both active and retired, in stating my disappointment with the contents of Bill 48. Its provisions are inadequate both with respect to the increase in pension contributions and the portion assigned to the COLA. I am told that the input of the Retired Teachers Association, an organization which represents over 9000 retired teachers, was not sought in the preparation of the

Bill. If true, I find such disregard for people who have contributed thousands of person-years to our public education system totally unacceptable.

Despite the warning of the TRAF Board actuary in 1987 and in every valuation since, the depletion of the PAA has until now gone unaddressed by our provincial governments. Since 1999, the ability of the PAA to support an adequate annual COLA has steadily declined. If Bill 48 is considered a response to this situation, it fails as the PAA will continue to decline with the very real possibility that it will shortly be unable to support a COLA at all.

Sufficient funds need to be added directly to the PAA if the situation is to be rectified.

There is considerable agreement that the future development of our province depends on the continuation of the fine tradition of responsive public education. The teachers whose contributions build and sustain that tradition deserve a more serious consideration of the COLA than is provided by Bill 48.

I respectfully request your attention to this concern.

Bob Swayze