

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

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

**Vol. LVII No. 7 - 6 p.m., Wednesday, November 23, 2005**

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

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**LEGISLATIVE ASSEMBLY OF MANITOBA**  
**THE STANDING COMMITTEE ON SOCIAL AND ECONOMIC DEVELOPMENT**  
**Wednesday, November 23, 2005**

**TIME – 6 p.m.**

**LOCATION – Winnipeg, Manitoba**

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

**VICE-CHAIRPERSON – Mr. Harry  
Schellenberg (Rossmere)**

**ATTENDANCE – 11 QUORUM – 6**

*Members of the Committee present:*

Hon. Ms. Allan, Hon. Mr. Bjornson, Hon. Ms. Melnick

Ms. Brick, Messrs. Faurichou, Goertzen, Mrs. Mitchelson, Messrs. Santos, Schellenberg, Schuler, Swan

**APPEARING:**

Mr. Kevin Lamoureux, MLA for Inkster

**WITNESSES:**

Ms. Leane Veness, Private Citizen  
 Mr. Sean Radford, Private Citizen  
 Mr. Connor Beach-Nelson, Private Citizen  
 Mr. Colin Neufeld, Private Citizen  
 Mr. Tat Liang Cheam, Private Citizen  
 Mr. Doug Corbett, Private Citizen  
 Mr. Jeff Machnicki, Private Citizen  
 Mr. Stan Hutton, Private Citizen  
 Mr. Eric Loewen, Private Citizen  
 Ms. Dorothy Taylor, Private Citizen  
 Mr. Matt Vodrey, Private Citizen  
 Mr. Ian Macdonald, Private Citizen  
 Mr. Terry Cristall, Private Citizen  
 Mr. S. Mark Francis, Private Citizen  
 Ms. Terri Fuglem, Private Citizen  
 Mr. Martin Kuilman, Private Citizen  
 Mr. Nick Read, Private Citizen  
 Ms. Cecilia Moon, Private Citizen  
 Mr. Stephane Chappellaz, President,  
 Architectural and Building Technologists  
 Association of Manitoba  
 Mr. Wells Peever, Private Citizen  
 Mr. Evan Hunter, Private Citizen  
 Mr. Oliver Beck, Private Citizen  
 Mr. Anthony Wong, Private Citizen

Mr. Josef Nejmark, Private Citizen

Mr. Jac Comeau, Private Citizen

**MATTERS UNDER CONSIDERATION:**

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

\* \* \*

**Madam Chairperson:** Good evening. We met a few times, and things are falling apart now.

Will the Standing Committee on Social and Economic Development please come to order.

This meeting has been called to consider Bill 7, The Architects and Engineers Scope of Practice Dispute Settlement Act (Various Acts Amended).

We have a number of presenters registered to speak this afternoon, as noted, and those presenters have spoken. Before we proceed with these presentations though, we do have a few other important points of information to consider.

First, I would like to note that, if necessary, and that is only if necessary, a meeting has been announced for Thursday, November 24, 2005, at 6 p.m.

Second, if there is anyone else in the audience who would like to make a presentation this evening, please register with staff at the entrance to the room.

**Mr. Ron Schuler (Springfield):** I have not had a chance to speak to the minister about this, but I understand we cannot sit tomorrow morning, because that was not announced in the House. However, is it possible that we could sit in the afternoon, because the House would then have sat previous to that?

I am under the assumption we will get through the presentations tonight, and then if it got late, perhaps we could do line by line in the afternoon.

**Madam Chairperson:** Just before you proceed, we do not have the authority to call a meeting. Only the Government House Leader, as called through the

Legislative Assembly, has the authority to do so. You can discuss that at this point here just to make suggestions to the Government House Leader.

**Hon. Nancy Allan (Minister of Labour and Immigration):** According to committee rules, though, we can sit beyond midnight tonight, and the Chair can make that decision on their own according to the rules. So I would like you to think about that, so that, as we progress throughout the evening and we think we are close, we want the viewing audience and participants to know that there may be a possibility that we can sit beyond midnight tonight to make it happen.

**Madam Chairperson:** As I mentioned, if you have not registered, if you could do so with the Clerk who is at the back of the room.

Also, for the information of all presenters, while written versions of presentations are not required, if you are going to accompany your presentations with written materials, we ask that you provide 20 copies. If you need help with photocopying, please speak with our staff.

As well, I would like to inform presenters that in accordance with the rule, a time limit of 10 minutes has been allotted for presentations, with another five minutes allowed for questions from committee members.

Also, in accordance with our rules, if a presenter is not in attendance when their name is called, they will be dropped to the bottom of the list.

For the information of the committee, I would like to offer the following notes. On your new list of presenters that has just been produced for you for this evening—does everybody have their list there?—presenters 1 through 6 have been called once last evening. Presenter 7 has been called several times yesterday, but, as was agreed by the committee, he will be called one more time today. Presenters 8 through 12 have not been called at all. Presenters 13 through 19 have been called once this morning, and presenters 20 and 21 have not been called at all. Presenter 22 was called once last night. Presenters 23 and 25 were dropped off the list but have registered and are here in attendance. Presenters 24, 26 and 27 have not been called at all.

Just for the information of the committee, this list is the result of us sitting at numerous different times and other people's names being added to the list. Hence, you have some people who have been

called once and some people who have not been called at all.

At present, there are no written submissions, but for the information of the people who are registered here to present, if you do wish to leave a written submission, that submission would appear in our Hansard and would also be read by the people here.

Prior to proceeding with public presentations, I would like to advise members of the public regarding the process for speaking in committee. The proceedings of our meetings are recorded in order to provide a verbatim transcript. Each time someone wishes to speak, whether it be an MLA or a presenter, I have to first say the person's name. This is the signal for the Hansard recorder to turn the mikes on and off.

\* (18:10)

Just for the information of the committee and those present to speak, the other rule that is pertinent here is that at midnight, as of tonight, there will be no longer the ability for people to register themselves to speak. So that is effective midnight on the third night of presentations, which is—yes, Mr. Schuler. *[interjection]* Yes. For the information of those present that is our rule here in committee, so we would accept people's presentations if they wanted to come and they had not registered yet, up until midnight tonight, if we are still sitting at that time. Anybody who has not registered as of midnight tonight will no longer be allowed to register, as per our rules.

I wanted to thank everybody for their patience who have stayed and waited to present. We do really appreciate your willingness to be so patient with us.

The committee calls Leane Veness, private citizen. Hi. Did you have a written presentation you wanted to circulate to committee members?

**Ms. Leane Veness (Private Citizen):** No, I do not.

**Madam Chairperson:** Please proceed then, Ms. Veness.

**Ms. Veness:** Hi. My name is Leane Veness, and I stand before you as a private citizen, and as a student of architecture at the University of Manitoba. Currently, I am working toward completing my graduate degree in architectural design. To complete my degree, I am to demonstrate a mastery in building design, exhibiting extensive knowledge, starting from the scale of urban contextual integration, to the intimate scale of human comfort and behaviour. In

short, I am trained to act as a mediator between you in the public and the built environment. It is my understanding that obtaining a master's degree in any profession acknowledges that one has become completely proficient or skilled in a selected area of study. In my opinion, as it stands, Bill 7, which allows for the profession of engineering to cross over from their area of expertise into the area of building design, diminishing the architect's scope of work, entirely undermines, not only the profession of architecture, but also the master's degree which I have committed the last seven years to obtain.

If this is the landscape in which I am presented with when I complete my degree in a few months, I will be left with no reason to stay and invest my passion for design and my love for architecture in a province which I feel would have completely abandoned any and all investment in my ability as a professional architect. Maybe, I just wanted to add, I think, I was here all afternoon for the comments, and I am getting a little bit, again, disappointed. I think what is being missed here right now is that I do not feel that we should just look at architecture just in terms of numbers or building envelope or building structure or just interior design, but I think that it is important to understand that architecture and building design is an integration of everything, not only is it just a building system, but also how the building exists in the public realm or the cityscape, or how we as a public interact with these buildings. So I think what I get out of my education most is my passion to better our environment, so that you people have a better quality of life in the urban context as well as the scale of architecture. So I just want to make that clear.

I think that if this bill passes, not only does it undermine my degree, but also I feel like you are removing a mediator between you and the built environment, and I think that is extremely important. So it is not just building structure and envelope.

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

**Mr. Schuler:** Thank you so much for coming to committee. It is always great to see young people presenting. I have sat here for over six years and this is probably one of the few times that we have seen that many young, educated individuals coming forward and trying to make their case.

Leane, I am going to ask you a very direct question. The feeling that you get, is it because of what you have read in the legislation? Is it from what

you have heard, or is it from what people have told you? Where are you getting this feeling from?

**Ms. Veness:** I think from all three. I mean, we had the president of the architectural association come by our school, and, kind of, explain what was going on here. Just to hear that, I mean, like, honestly, we work very hard. If I was not here right now, I would be at my studio working. I have invested a lot of time, and to hear that, you know, all of this knowledge that I have obtained from my degree, I am just going to wait and see if the public—like if an engineer can come in and take that area of work away from me, I do not understand where all that time and energy was spent.

**Mr. Schuler:** Do you really believe that this legislation would actually allow an engineer to take a lot of what you have trained for away from you? Do you really believe that—

**Floor Comment:** Yes, I think that—

**Mr. Schuler:** —is the case?

**Floor Comment:** I think it is—

**Mr. Schuler:** You have to wait; she has to acknowledge you first, just so that in Hansard they can put your name in. Believe me, you want your name in Hansard, because it is part of history, so you have to hold on for a moment.

So, again, I just want to be very clear. I think the committee is genuinely interested. I mean, is that the feeling you have that this legislation would allow an engineer to come in and design a room like this, you know, these beautiful rooms that we have in this building? Is that the feeling you have?

**Ms. Veness:** As it stands, as the bill is worded right now, yes, I believe that will happen. There are a lot of discrepancies in the language in the bill, and, I think it was mentioned earlier, the building, the gross area as opposed to the building area, I think is a huge one. I think that an engineer could, and I do not even think it states what type of engineer, so that concerns me a little bit too, that they can, yes, essentially, design anything.

I do not think it should be even discussed in terms of building footprint because I do not think a smaller building does not deserve an architect. I think that any public building deserves an architect because that is what we are trained to do. We are mediators between you and this building, so I think any public building should have me involved, and the other architects.

**Ms. Allan:** Thank you very much for presenting this evening. Could you just clarify, again, who the individual was that came to speak with you about the legislation? I did not quite catch it because I am hard of hearing.

**Ms. Veness:** Dean Syverson. He is the president of the Manitoba Architectural Association, so he just wanted to clarify to us students. I just want to second an invitation to you, Ms. Allan, because I think that if you were to walk into the Faculty of Architecture, you would find probably every student eager to tell you why architects should be in part of this environment. We all have passion for it; we love it and it is our life, so I think you would not have a problem finding anyone to talk to you.

**Ms. Allan:** Actually, you can count on me being there and, actually, my colleague the Labour critic (Mr. Schuler) has spoken with me and we are going to go together. So we look forward to meeting with you.

**Ms. Veness:** Good. I look forward to it.

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

**Ms. Veness:** Thank you.

**Madam Chairperson:** The committee calls Sean Radford, private citizen. Mr. Radford, did you have a written submission you wanted to circulate to the committee?

**Mr. Sean Radford (Private Citizen):** No, I do not.

**Madam Chairperson:** Okay. You can proceed, Mr. Radford.

**Mr. Radford:** Okay, my name is Sean Radford, and I am a student at the University of Manitoba, in the Faculty of Architecture. I am a student in my final years of study, and I am at the point where I have to plan my life and career in the profession of architecture. As the current draft of Bill 7 stands, as I understand it, it undermines the profession of architecture as well as the extensive training I have committed myself to over the last seven years.

My schooling has specifically trained me as a moderator of sorts between the building and its occupants by allowing those in related professions to practise the duties I have been trained to do. It compromises my importance in the process of building and design of the human environment, and, thus, the public's interest.

So, as a young person with much to offer the community both professionally and civically, Bill 7

deters me from maybe putting down roots and remaining in the province I was raised in. If this bill does proceed, it will force me to consider my options elsewhere where my profession is both honoured and valued. Thank you.

**Madam Chairperson:** Thank you.

\* (18:20)

**Mr. Schuler:** Thank you very much. Sean, again, it is great to see that you have come out to committee. I was shocked years ago. I was going door to door, and I went to one house, a very well-to-do, beautiful home. The individual came out and said that nothing you can do will ever have an impact on me. I left fairly sad, because I think, Sean, you understand now how important what goes on in politics, and this bill in particular to what you are going to do in your life.

I am very concerned, Sean, when you make statements like, "deters me from putting down roots." You made another statement very similar. Can you define for the committee what, in this legislation, deters you from putting down roots in Manitoba? What is it specifically?

**Mr. Radford:** Okay. Just sitting around, me and my colleagues, sitting around discussing what the implications of this bill mean to us. From what we understand, the scope of our practice or what we will be practising is removed, and, for lack of better words, maybe neuters our profession. Amongst other things, the grandfathering clause and the wording in the bill opens up discrepancies as to whose job is what, and who is qualified to do the job itself.

**Mr. Schuler:** Well, probably the best news I have heard in weeks is the fact that you and your fellow students are sitting around talking about legislation. That is just music to our ears.

Again, you make a statement, but you do not really get that specific. Is there just a general feeling? What happens if, after this legislation is passed, and none of that comes to pass?

**Floor Comment:** I suppose that is possible, but—

**Mr. Schuler:** I am not done yet. You have to wait, remember? That old waiting thing.

I just want to make sure that this is not one of these things that took on a life of their own, and there is a little bit of panic involved in this. I want to make sure that you guys are saying these things based on real specific things out of legislation. The minister later on will, for us, and she is committed to that, lay

out for us in Hansard exactly what intention is, and that is going to be very important. That is why I have said it is important; you know, stay tuned. You have to also see what goes in Hansard. But do you find that this is a general feeling, or did you actually go through the legislation and you pecked out certain pieces that were of great concern to you?

**Mr. Radford:** In the presentation from Dean Syverson and the discussions, again, with my colleagues, we are trying to understand the bill. I am not a law student, so I do not understand all of the technicalities. But, from what I gather from the bill, aside from the language, it may be the compounding of the different acts within the bill that make it hard to determine what exactly it is that the architect's job is. Additionally, in doing so and putting the onus on the public to decide who is qualified to design their building, which has an impact on the use of the building and the community it is put in, it is leaving this decision to them, which they may see that economically it may be cheaper just to get an engineer, where it may be in their interest and the public's interest to have an architect to design that building for the people that are going to use it. So, to say we are just getting nervous and stuff because of the proceedings and what is going on here, I think we are really trying to understand that and see how we can make a difference and contribute. I do not know if I answered your question.

**Mr. Schuler:** Thank you.

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

For the information of the committee, presenter No. 4, Judy Pestrak, has requested that her name be withdrawn from the list.

For the information of the committee, we have an additional person added. Evan Hunter will be No. 28 on your list, Evan Hunter—

**Floor Comment:** Yes.

**Madam Chairperson:** No, that is okay. We are just adding your name to the list.

The committee calls Jae Sung Chon, private citizen. Once more, the committee calls Jae Sung Chon, private citizen. Mr. Chon's name will be removed from the list.

The committee calls Tina Chakraborty, private citizen. Tina Chakraborty, private citizen. Ms. Chakraborty's name will be removed from the list.

The committee calls Connor Beach-Nelson, private citizen. Mr. Beach-Nelson, did you have some information you wanted to circulate to the committee?

**Mr. Connor Beach-Nelson (Private Citizen):** No, I do not.

**Madam Chairperson:** Please proceed.

**Mr. Beach-Nelson:** My name is Connor Beach-Nelson. I am a graduate of the Environmental Design program from the University of Manitoba. I graduated in 2004, and I am currently working and then plan to proceed on to a Master's of Architecture degree. I am sort of in the middle of my architectural education. While I share the concerns of fellow colleagues and students as expressed earlier this evening and earlier today and the past two days, I am going to talk about something a little different.

I do not believe that Bill 7 is in the best public interest in general. I think it is a reactive bill, conceived upon the faulty foundations of ignorance. It is a hurried attempt to appease the popular and selfish views of those who support non-professionals practising architecture under the guise of protecting Manitoba's economy. If the government is so easily swayed by the inflated economic perspective of industry, how can we be sure that the government is making decisions in the best interests of all Manitobans?

It was suggested previously that the purchaser of the professional service is key to the issue that is before us today and that they should be allowed to choose between an architect or an engineer. For the most part, a built environment is used by and affects many more people than simply the purchaser. Do all of these people get to have their say in this decision? The Architects Act is designed not simply to guide professionals, but to protect society at large. Granting the right to create architecture to unqualified individuals is analogous to stripping away the rights of all Manitobans to use and enjoy quality spaces. Thank you .

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

The committee calls Colin Neufeld, private citizen. Mr. Neufeld, you can proceed.

**Mr. Colin Neufeld (Private Citizen):** I find it very interesting. I was actually here to speak, and I would like to thank my colleague who stood up and asked

that I still be allowed to speak tonight, the other Colin, exactly. Well, I am nervous, and I thank you for your time.

I am before you today to speak as a private citizen regarding this proposed legislation. I thank you in advance for allowing me to participate in order to be heard on record, Hansard, and to facilitate the democratic process.

My name is Colin Neufeld and I have lived in Manitoba my entire life. I appeal to the committee from the perspective of a recently graduated architectural student, current architectural intern and future, hopefully, registered architect. I have completed my educational requirement, and I am currently a part of the Internship in Architecture Program and about to undergo the nine architectural registration exams to demonstrate and certify my abilities and professional training in the design and construction of buildings.

\*(18:30)

First, I would like to state my support for the position of the Manitoba Association of Architects on this matter, as well as the specific points the association's representatives have made. Additionally, I would also endorse the recommendations contained in the Witty Report, made by Dr. David Witty, as the government-appointed mediator in this dispute. Of note, as mentioned in their annual report, the provisions made to resolve this dispute were rejected by the engineering association, because that report failed to allow for the possible exclusion of architects from projects.

Next, I would just like to present a brief personal history just so that you know who I am and where I am coming from. As mentioned, I have lived in Manitoba my entire life, as has my wife. We both went to the University of Manitoba to become professionals in our respective fields; architecture and occupational therapy, one being an old profession and one being a very young profession, for a total of 12 years between us. After completing my undergraduate degree in architecture, my wife and I contemplated moving to Montréal to compete my master's degree. In the end, we decided to stay in Manitoba to complete my degree based on the reputation of the school and my intention to practice here upon completion.

Also, on a further note, my father was a draftsman who worked for various architectural firms in the province eventually becoming a partner

in one of the leading firms in the city. He also ran a successful drafting company for 10 years prior to his passing that I worked for since about Grade 6, I think. If it were possible to deem yourself competent, as we have heard is possible, to practice architecture, he certainly would have qualified. However, all his experience taught him that he was not an architect nor ever would be a qualified architect. He instructed me that if I wished to practice architecture, to complete the requirements and training to do so. While this bill would have benefited the potential for his drafting practice extremely, he would have vehemently opposed this legislation given its potential damage to the architectural profession he dedicated his life to working in.

To summarize, I am a young, aspiring professional and along with my wife and two children, a lifelong Manitoban. This bill seriously jeopardizes both those aspects. First, it guts the profession I am trying to become a member of, and second, I will most likely have to relocate in order to work in an environment that respects and encourages my education and commitment to better my community through the practice of architecture.

I will elaborate briefly now on what causes this reaction. I thank you for the fact that it is important to this committee that so many of us have said we might have to leave. There are three areas I would like to comment on, and in some of them, I will be reiterating many of my colleagues. The first would be, and it is something personal that I take exception to, would be the title of this bill. The phrase, scope of practice dispute, while this may seem a minor point, the title sets the stage for everything that follows in the bill. I believe it inaccurately sets the stage, and there is not a dispute just because someone says there is one. There currently are provincial acts in place that clearly outline the scope of practice for two professions which have recently been upheld by the courts. There is no real dispute, just limited members of one profession illegally claiming to be entitled to practice the other profession. That, to me, is not a dispute.

Secondly, I would like to reiterate what many of my colleagues have already said regarding who defines the architect's scope of practice. Removing this crucial point from The Architects Act and placing it under the control of a private-interest group is alarming to me as an architectural intern but also as a future professional citizen of Manitoba. It sets an extremely dangerous precedent, as we have



heard, to allow the marketplace to govern professional practice.

In particular, the Building Standards Board has proven complete disregard for the value or need for architects and offer me no reason that that attitude would change. While others have discussed the particulars of the scope of work, I would ask this committee to ensure that, regardless of the final approved scope of practice that arises from your discussion, that this scope would remain as part of The Architects Act. This is crucial to monitor and not allow the further degradation of the built environment to the profit of those stakeholders on the Building Standards Board. It simply must remain part of The Architects Act.

I believe, to answer Mr. Schuler's question, as well as some of the others previously, this, to me, is at the core of why you would see young architects leave this province. It not only devalues our profession now but possibly in the future and that, to me, is alarming.

When considering my third point about grandfathering engineers, I was trying to find a non-offensive approach to the discussion. However, I find the inclusion of it offensive and, therefore, the discussion, I apologize, might follow suit. I believe item 15, grandfathering professional engineers, to be a disgraceful use of legislative authority to circumvent a court decision and to validate a profession's illegal activities. I find it repugnant that illegal acts would not only go unpunished, but also be rewarded and allowed to continue under this legislation.

It is undeniable that a significant problem exists made on the court ruling of September 16. A problem exists for all engineers, authorities having jurisdiction and interior designers who engaged in activities not conforming to Manitoba legislation. Of note, they are saying that they now require an architect, however, that is not the case, they always did. Whether or not that was correct, but they did always require an architect. Nothing changed on September 16 and the fact that my profession changes on September 16, as a result of that, I find unacceptable.

How is it reasonable to allow illegal acts to adversely affect the architectural profession while at the same time expanding the scope of practice for the offending parties? I believe without doubt that, if the MAA was shown to have a number of members that had acted unprofessionally, they would be reprimanded appropriately and most likely removed

from the association. They would not be heralded and backed by the association.

APEGM's refusal to address their non-conforming members is the reason we are here today and yet, it is the practice of architecture that is being redefined. I would ask the members of this committee to consider the removal of the grandfathering clause and all related clauses about the retroactive approval of those buildings that were completed and occupied incorrectly. I recognize a serious problem exists and the government's need to address it, however, I do not feel this is the place. I believe it should be dealt with on a one-time basis, and it is unfortunate that this unregulated and illegal form of architecture was allowed. This problem should not be compounded by allowing it in the future. I thank you for your consideration of these points.

In conclusion, I would just like a few more comments. Over the last few days and hours and hours of presentations we have all heard, we have heard many aspects about architecture, engineering and interior design. Over these presentations, we have heard lip service paid to the importance of all the professions in their respective fields. I say lip service as we have heard repeatedly from the engineers and interior designers that there are buildings which have no need for an architect and the expertise that they can offer to a building project. They have qualified themselves to determine when an architect is or is not needed even though they themselves are not architects. This is not a position that you have heard from the architects.

We, in no way, wish to exclude engineers but rather are seeking to work together. To quote from the engineer's annual report which an excerpt is attached to this presentation, in the end, council agreed APEGM's council with two abstentions and no dissenting votes not to accept Dr. Witty's recommendations in principle because in doing so, we would be accepting in principle the notion that the Manitoba Building Code could be changed to read architect and engineer instead of architect or engineer. Council was not willing to accept this notion and we have heard the importance of the word and previously.

I find this an unreasonable position and this could be remedied by the correct changes to Bill 7. If one thing is certain from the last few days it is that both professions are completely necessary. Both have stated this repeatedly, and yet they, the

engineers, cannot accept the very notion that would ensure this. It is stated in the Witty Report that the position of APEGM is that the engineers believe the starting point for this discussion is that they should be able to design all buildings. I find this a ridiculous position that reveals the lip service they have paid us over the last few days.

**Madam Chairperson:** Mr. Neufeld, I will have to stop you there.

**Mr. Neufeld:** Can I say my last sentence?

**Madam Chairperson:** Sure.

**Mr. Neufeld:** Great. The client is only required to protect their interest not the public's. Putting the professional responsibilities of architects and engineers in the hands of private interests is irresponsible, unprofessional to the core, and simply would not be tolerated in other professions.

**Madam Chairperson:** Thank you.

**Mr. Schuler:** Colin, not to get too personal, but it is great that you and your wife have settled here, and your two children. It is probably just me alone at this committee who cannot help but think they are making dads younger and younger, but, anyway—*[interjection]* Honestly, I remember dads being that young in my day, but anyway.

**Floor Comment:** I look young.

**Mr. Schuler:** Colin, on page two—and I think the committee is trying to grapple with some of the statements, and the three of us at this committee, the Chair, the minister and I, and some of the minister's staff have sat through all of this and, I think, we are trying to come to an understanding. I am going to read a few words back to you off of page two, second paragraph. "This bill seriously jeopardizes both those aspects. First it guts the profession," and I will just pause.

\* (18:40)

Do not speak yet, because she has not said your name. Then you do not get into Hansard. "It guts the profession"; I mean, those are really strong words. I am going to ask you in a moment just to comment on that.

"I am trying to become a member of, and second, I will most likely have to relocate in order to work in an environment that respects and encourages my education and commitment to better my community," et cetera. "Guts the profession" and "have to relocate," I ask this in all sincerity, I do not

mean to be gratuitous about this, because obviously you have written it, do you really mean that? That this so guts your profession that, do you really mean it, that you would uproot your family and leave the province, and what is the linchpin for that? I, too, have three young children and I look at—you will get there, have the third one, by the way, then you start looking at—to move your family.

I know others on this committee would concur with that; that is a very strong statement. I think the committee would like to hear your comments on that. Those are very strong words. If you would just take a moment and if you would reflect on that.

**Mr. Neufeld:** I could offer two points to that. The first would be to talk to the "guts the profession." I believe it begins to, and I believe it opens the door to continue to do so. That is where I stand. By removing the scope of practice from our act, it is put into the hands of developers whom we have heard from, industry stakeholders who have shown and, we work with them every day. It is difficult with some of them. I think it puts it in the hands of people who are not educated to respect my profession and what I do. They also have their own interests and they are not charged to protect anybody's interest except their own. So that, to me, damages my profession and it opens the door to further damage it.

To answer the second thing about uprooting my family, my wife has always vehemently opposed moving anywhere. When we were discussing this the other night, she, with no prompting from me, said, "You know what, as a person who is a professional in this province, I find this disrespectful to a profession and to my husband who has tried to become a professional here." She suggested, she said, "Let's go." She said, "It's over, this disrespects your profession and we should not practise here." She said that.

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

The committee calls Tat Liang Cheam, private citizen. You can proceed.

**Mr. Tat Liang Cheam (Private Citizen):** Good evening, Minister Allan and honourable committee members.

You have heard a lot over the past days about what an architect and what an engineer does. I have heard a lot about what an architect and what an engineer does. But what we have on the table is Bill 7. That is what is on the table.

When I heard the City of Winnipeg's position, I was shocked and I was dismayed with what I heard. With all due respect to Councillor DeSmedt, how can he say Bill 7 is a fair trade-off that balances both professions? Has he read Bill 7, and has he heard the facts presented by my fellow architects? Bill 7 has serious flaws in it, ranging from: No. 1, incorrect interpretation of gross area; No. 2, alterations not requiring architects; No. 3, arenas not requiring architects; No. 4, industrial buildings with high human occupancy not requiring architects; No. 5, engineers who do not have architectural education and certification practising architecture.

The most important, which we have gone over a few times, as far as my career is concerned, is removing our scope of practice from our act and putting it solely in the Building Code, where a group of people called a Building Standards Board that includes only one architect can govern what work an architect does. That is absolutely irrational and ludicrous.

I do thank you for your understanding of that. I prepared this speech yesterday and I have heard your comments. I appreciate your understanding of this issue.

This should be of gravest concern not only to all other professions, but also to engineers and interior designers. What would the engineers or interior designers think about having a group of industry stakeholders determining the scope of work of their profession? This is what subsections 15(1.1) and 25(1) state. Have our scope of work in our act, plus I want to keep calling their office. I do not want to believe it. He is a great guy and that is important.

Architects design buildings for people. Engineers design building components in buildings. Architects orchestrate building components into a holistic whole for people. Our current Architects Act does not exclude engineers. It simply states an architect is required for certain projects. Architects practise architecture including engineers. I look around and all of my fellow architects never design buildings without engineers. We include engineers and interior designers. We collaborate with engineers on all projects. Bill 7 would exclude architects from being required on certain buildings.

I do not have anything against engineers and my best friends are engineers. I truly respect their profession because of what they are trained to do. It is about their training. That is what it comes down to, education, training, certification and practice. My

value of their skills does not make Bill 7 right. Bill 7 is wrong. Dead simple, it is wrong, for the reasons that I have stated.

Further, the design of spaces for people with disabilities is part of an architect's education, training, testing and certification. Engineers are not educated, trained, tested or certified to design buildings for people with disabilities. Bill 7 would allow engineers to design spaces for people with disabilities which is an important training of an architect.

You have heard the well-presented rational arguments my fellow architects have presented. I plead with you, with each and every one of you, who is here today. You have read Bill 7. You have heard the importance of Bill 7. Please consider what Bill 7 says and consider what my colleagues have presented when you make that decision. Let reason, logic and the law prevail and delay the third reading of Bill 7 until all parties come to a rational agreement. Even though we are fewer than our fellow engineers, we are not less than our fellow engineers.

Count on us being part of the wonderful province of Manitoba and what it has to offer the people of Manitoba. You can count on me as a registered architect of the province of Manitoba.

That is my presentation.

**Madam Chairperson:** Thank you.

**Mr. Schuler:** I will try to keep myself brief. Tat-Liang, I think we can all agree that Colin should stay in Manitoba. We are all in agreement there. You say in page 2, and I am just going to quote, "removing our scope of practice from our act and putting it solely in the Building Code where a group of people called the Building Standards Board that includes one architect can govern what work an architect does. This is absolutely irrational." You go on from there.

So from what I understand, from your perspective, it is removing the scope out of The Architects Act that is the greatest offence. Just hold on until you get named. That way you get into Hansard. That, actually, is the crux of it. I understand there are other issues, but for you that is a very big issue. That is very important to you.

\* (18:50)

**Mr. Cheam:** Yes, that is the hugest issue in this entire bill. This is a very important issue. You cannot

count a bunch of fruits and say you have 10 fruits and that is all the fruit you have. All the other parts are important, some of them critically important for the people who have physical disabilities. I would say it is a human rights issue that is vastly important. However, that one part about removing our scope of practice can change all of the other arguments that I presented. It can change any part of any profession, if it is given precedence, but it changes our profession completely. It can change any other part of the bill completely and that for sure is the hugest concern I have.

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

The committee calls Doug Corbett, private citizen. You can proceed Mr. Corbett, but if you do not mind, could you just bring the mike up a little bit. Thank you.

**Mr. Doug Corbett (Private Citizen):** I appreciate the patience of your committee to resolve this important issue and I thank you. My name is Doug Corbett and I am a registered member of the Manitoba Association of Architects and principal of Corbett Cibinal Architects. I support the position of my colleagues and call upon the minister and this committee to delay Bill 7 from proceeding to the third reading.

I would like to speak on two topics; one, a case study and one, what I believe is a shortcoming of Bill 7 and to present a possible solution for your consideration. The case study involves a prominent highrise building in downtown Winnipeg. We were engaged by an interior design consultant to review the Building Code conformance for her proposed design. This building had been designed in 1970 as an open office floor plate with a central core elevator and two exits, the traditional design for a highrise office building. Over the years, it had been renovated by various consultants and, as a result, the concept of having access to those two exits was lost in the fact that it was broken into a much smaller grouping of offices which resulted in dead-end corridors and limited access to two exits.

This, and we all remember *The Towering Inferno*, but this potentially could have been a towering inferno situation as this highrise building was not sprinklered. Ironically, this building is your building and it is occupied by Justice. We mentioned that and we were then retained to correct the design when we had identified the problems with the

exiting. We were retained to renovate nine floors of this building.

Subsequently, we put together what we would call the integrated design process which Rodney McDonald from the Canada Green Building Council spoke to this morning. We hired the original interior designer. We hired mechanical, electrical and structural engineers. We put together a contractor on the team and the users to all together make this building a modern building with no life safety concerns.

I bring that point to you and I had to stress that point that, in my opinion, this issue should not be perceived as a turf war. We endorse the integrated design process and believe that construction is a complicated matter. It involves the expertise of many individuals and no one person can do it all.

The second topic I would like to address, that I think Bill 7 has a shortfall, is the alteration to heritage buildings. Our firm specializes in adaptive reuse of heritage buildings. The portfolio includes Red River Princess Street campus, University of Winnipeg's Wesley Hall, Brandon University's original building Clark Hall which were significant renovations.

Heritage buildings require a sensitivity to creative re-use solutions, material use, detailing and a knowledge of history, all aspects studied in the formal education by architects and not engineers, as I studied engineering before I became an architect. Adaptive re-use of heritage buildings in the upcoming years will be a significant majority of projects as much of our existing building stock does not meet building codes. It requires building-system upgrades, and are culturally relevant to not lose to demolition. One building you are in right now is being slated for upgrades for sprinklers and air-conditioning. You can image that, with a beautiful building like this, if the sensitivity is not here, it could have quite a damaging effect if you are trying to run sprinkler pipes and duct work.

By heritage buildings, I do not just mean the 1900 buildings. There is also a beautiful stock of sixties modernist buildings in Winnipeg that has to be taken into consideration as well.

In closing, this is a possible solution that I would have your committee consider. It goes back 12 years ago. I was on the practice committee of the Manitoba Association of Architects when this issue was beginning to raise its head. At the time, a building

official in Brandon had come to me and said, "You know, I get many people from Brandon and some of my friends coming in with renovations or building plans on a piece of paper not designed by architects, engineers or anything, and I tell them that they have to have professionals involved." He said, "They get quite upset; they blame it on me. They say it is my fault." He said, "I would really like to have a document in the Building Code that I could put on the table. So, see, it is not me making this law; it is actual law."

I put in front of you the Ontario Building Code. It has a matrix. We are also practising in Ontario. At the time I thought that it was a very good matrix. It lays out when an architect and an engineer are required on various types of buildings, assembly occupancies. It is the type of document this building official was looking for that he could simply give back to a lay citizen and say, "I am sorry. It just says right here. It is not me. It is the law."

I would like to just point out that one clause on that matrix, 2.3.1.1(1), says: "An architect shall provide services within the practice of architecture and a *professional engineer* shall provide the services within the practice of professional engineering." I believe that says it all, for what we are after is just to have an integrated design process with all individuals involved, all working together on the benefit of the client and the public. Thank you very much.

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

The committee calls Jeff Machnicki, private citizen. You can proceed, Mr. Machnicki.

**Mr. Jeff Machnicki (Private Citizen):** Thanks for taking this time to hear everyone's speeches.

My name is Jeff Machnicki, and I am a registered intern-in-architecture member of the Manitoba Association of Architects.

I have endured and successfully completed a qualifying year of university, three years for my Bachelor of Environmental Design degree and three years for my Master of Architecture degree.

I have been accepted into a program of internship through the Manitoba Association of Architects, and am currently logging my required 5600 hours of experience under the direct supervision of a registered member of the Manitoba

Association of Architects and a mentor, who also must be a registered member of the association. I am preparing for, and will write, nine exams totally some 27 hours of testing time. Then, and only then, will I will be legally entitled to call myself an architect and practise in the profession of architecture.

A long and rigorous process, but would you expect or require less from someone responsible for human safety within the built environment?

I once heard a gentleman make the following statement, "I know just enough to be dangerous." I stand here today "just enough."

Architects are the only professionals educated, trained and tested in the design of buildings.

\* (19:00)

I am a Manitoban through and through. I was born here. I received my education here. I will raise my family here, and, yes, I will practice architecture here. Please do not jeopardize my chances by passing Bill 7 as it stands. It is riddled with flaws, which have been pointed out by my colleagues before me, and, like you have heard many, many times, I fully support the position of Don Oliver, and call upon the minister and this committee to delay Bill 7 from proceeding to third reading. Thanks for your time.

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

The committee calls Stan Hutton, private citizen. You can proceed, Mr. Hutton.

**Mr. Stan Hutton (Private Citizen):** Before I proceed, if I may just correct something. Before this session proceeded, you indicated who had been here. I was here. I was registered to speak. I was at the City trying to follow up with former colleagues on what the permit status was and missed the first. I did leave last night at about 10:30 anticipating it would be mid-morning today before my turn came up and missed a second time, But they were good enough to accept my name.

**Madam Chairperson:** So you were re-registered, is that what you are saying?

**Mr. Hutton:** Correct.

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

**Mr. Hutton:** Just for the record.

**Madam Chairperson:** Thank you.

**Mr. Hutton:** My name is Stan Hutton. I am here as a private citizen. Having heard the presentation by Councillor DeSmedt on Monday evening, and multiple presentations speculating on the degree of delay in the City of Winnipeg permit system, I feel that it is important that this committee have a better understanding on what is happening in the trenches.

Is there a backlog and, if there is, is the provincial economy grinding to a halt? Accordingly, I spent much of this Tuesday morning, yesterday, in formal discussions with a senior member of the planning department.

To provide some background, I worked in the department for 14 years as an architect in the role of senior urban designer. This was a new position created to add credibility to the downtown zoning by-law introduced in the city in 1988. The City wanted an architect to provide the leadership in reviewing the drawings of other architects, planners, landscape architects, engineers, sign companies and the like.

The new by-law built on efforts of the City to raise the bar with respect to the design of new buildings, major additions, alterations, signage, parking lots, anything affecting the urban design in the downtown. Continuing the efforts of Historic Buildings By-law and the design review under the Historic Winnipeg Advisory Committee, I can tell you that the new downtown zoning by-law, 4800 of 88, was also a response by both the City administration and council to ensure that more effort went into the design of buildings and streetscapes by everyone that was holding a pencil. Many of the new buildings just did not cut it. Winnipeg's image needed a boost.

From the year I arrived in Winnipeg from Alberta in 1979, I was so impressed to think that the big dig at Portage and Main was the new subway system of this great city, I quickly learned that Winnipeggers felt they were falling behind other western provinces. There have been various attempts of renaissance since. The leadership of Lloyd Axworthy brought the city tri-level opportunities under the Core Area Initiative, bricks and mortar projects like Portage Place, linking the Bay and Eaton's were developed to save the downtown commercially and to stimulate it residentially.

The Forks followed and became a reason to celebrate the uniqueness of our city and province and a key destination in the downtown. The neighbourhood main streets program, including the likes

of Ellice, Sargent, St. Mary's, Provencher, Selkirk, Corydon, Osborne, Westin, Academy, Broadway evolved into the development of business improvement zones. Then, of course, there is the new bridge and the Manitoba Hydro building. I am certain that all MLAs will be familiar with the impact of such initiatives had on their communities.

What is the point, you ask? All of these initiatives, enabled and supported by government, have centred on a clear vision of excellence with the employ of the lead design professionals in urban planning, landscape architecture and architecture to establish the framework for the design. My point is that the public recognizes that major improvements have been made in the past 25 years, because of the political leadership at all levels by all parties, and because of a new attitude. The new attitude is, "We can do it, and we will." I do not buy the argument that any bill with flaws must be rushed through because the economy will grind to a halt, but rather that Manitoba has gained and is continuing to gain momentum economically and that the standards for development are higher than they have ever been before.

One need look no further than the current mayor of the city of Winnipeg who built the ballpark on the failed arena site as the primary legacy project coming out of the 1999 Pan Am Games. If you ask Mayor Katz if it was clear sailing at City Hall, I expect that you would get an earful. You may recall the newspaper reports with Sam playing into the hands of public opinion, "City Hall is delaying my project for no valid reason." He was very successful, I might add, in creating panic in the offices of Mayor Thompson and the Executive Policy Committee. Thankfully, the project proceeded. Complicated land agreements with CN, servicing agreements, issues relating to riverbank stability, assessment of any impact to the cultural horizon, were all undertaken by various professions while the architects and engineers in various disciplines carried on with the design and construction documents to proceed with the project in time for the games. The City did find ways to allow the project to proceed. Consecutive permits were issued for site development, followed by foundation only, followed by the main building permit and, finally, the permits for service parking lots, signage, food services and the like.

The City does have more latitude than you might think to allow certain projects to proceed incrementally while applicants adjust to the what the

City is trying to accommodate, the Manitoba Building Code, since September 16.

The City also has considerable discretion on the enforcement side. For those buildings that were under construction as of September 16, and for which no final occupancy permit had been granted, the city does have the option to allow the ongoing construction to proceed, an interim occupancy to be granted with conditions and time frame for satisfying those conditions, and it frequently does extend the interim occupancies to allow for total completion of all outstanding issues. The Crocus building is but one example of a building that has outstanding issues relating to the city's design approval after some four years.

If it is deemed appropriate by committee to recommend that Bill 7 does not proceed, you should know that interim options are available for authorities having jurisdiction to reduce any backlog.

As I stated earlier in my presentation, I did spend much of Tuesday morning in the planning department to get the scoop on any backlog. My intent was to find out what is really happening within the department and to be in a position to fairly represent my findings to this committee. I was given the same answer as I was when I asked the question some three weeks ago at the Building Officials Association trade show and conference at the Canad Inn. September 16, there were over 200 permits in the system. There were some 58 projects under construction, of which some 35 were impacted. Of those 35, the largest portion was industrial. The 23 that were not of industrial occupancy did have the involvement of an architect for the most part. Twelve did not. Perhaps it is these 12 that Bill 7 is looking to protect under the grandfathering provisions, since protecting them retroactively would potentially protect both the City and the Province. If that is the case, then I might concede that it could be effective risk management strategy, but what of the consequences in giving credibility to poor acts of judgment that were untenable in the first place?

When I asked my former colleague at the City what the current impact was, I could not get a definitive response. This was not because the City representative was not forthcoming with information, but rather because that information is not known. The data fields within the AMANDA computerized permit system are not set up to specify which profession, architect or engineer, is involved in a project, for example. On September 16, the

department set to work over a period of several days taking inventory to report on the impact the court ruling might be expected to have.

\*(19:10)

Since that time, the focus of the City has been to identify those projects requiring architects, to notify applicants accordingly and to process all other applications which are complete as efficiently as possible. I believe that, if this were a court proceeding and if the department itself were testifying, you would get the same answer. They do not know. They can guess. They can redirect the efforts of a significant portion of the staff to take inventory or they can speak in general terms about general delays.

The City gives me the impression that the outcome of the September 16 ruling is being taken in stride. The requirement for architects to be involved has been clarified. The permit staff is busy doing their jobs. I get the sense, however, that they are also being more cautious, on the one hand, and more diligent, on the other, to ensure all permits issued have the seals of all the professionals, be they architects or engineers, on the drawings. If Bill 7 did not proceed, I believe the issuance of City permits will never be the same as it was pre-September 16.

If, on the other hand, Bill 7 proceeds I come away with the understanding that the City will ensure that an architect is involved in projects over a specified size. The City will be questioning the competence of the professionals where documentation submitted for permits do not indicate a clear understanding of the Building Code. Under these circumstances, the applicant will be advised to seek the assistance of an architect or an engineer with a specified area of expertise.

**Madam Chairperson:** Mr. Hutton, if I could ask you for your last sentence.

**Mr. Hutton:** Okay. I brought with me today eight City of Winnipeg brochures intended to help the public through the permit process. I believe the pre-September 16 interpretation of the City of any requirement for an architect or engineer has been that an engineer is always required and maybe an architect. More specifically, the requirement has typically been for a structural engineer, maybe an architect and maybe a P.Eng. for mechanical or electrical.

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

**Mr. Hutton:** Thank you.

**Madam Chairperson:** Are there any questions for the presenter?

**Mr. Conrad Santos (Wellington):** Yes, a quick question. What would be the consequences if—

**Madam Chairperson:** Mr. Santos, I am sorry, we cannot hear your question. If you bring your mike a little closer.

**Mr. Santos:** What, in your opinion, would be the consequence if this word "or" is changed to "and"?

**Mr. Hutton:** I believe, sir, that the consequence would be that then the authorities of the jurisdiction would interpret that correctly that an architect should be involved under the appropriate portions as governed by their act and by the code and an engineer would as well. Typically, the package that I submitted will show you that a structural engineer is the most common engineer referred to in the documentation, so usually the City has in the past number of years interpreted that to be always a structural engineer and then, perhaps, an architect and then, perhaps, engineers in the other disciplines.

**Mr. Santos:** Thank you.

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

**Mr. Hutton:** Could I just ask that this be read in its entirety?

**Mr. Schuler:** If it be the will of the committee, we would like to grant leave that the rest of it be read into Hansard.

**Madam Chairperson:** Agreed? [Agreed]

The committee, then, would deem that your presentation has been read.

*Mr. Hutton: The City would not ask for any engineer to do architectural drawings. It is not clear to me how the City would deal with the practice of architecture by engineers under the proposed grandfathering clauses on an interim basis until any recognition certificate is issued.*

*I can tell you from 14 years of experience in the City of Winnipeg's Planning Department that incomplete documentation causes more delay in the issuance of permits than anything else. I believe that it is also fair to say that there is an ever-increasing trend towards the design build model where the client, often a developer, relies more on the trades*

*themselves to design the building systems and looks for an engineer to stamp the drawings even though he/she has no or little involvement in the decisions leading to the design. Committee has been given ample examples over the two days where loopholes in legislation can leave the door open to this type of practice. This is not in the best interests of the public.*

*Councillor DeSmedt spoke on behalf of the City from a statement that I expect was prepared by the Planning Department and reviewed by Legal Services. I get the sense that the Planning Department would be relieved if Bill 7 proceeded because their terms of reference would be clear. I get the sense that the Law Department would be relieved with the grandfather clauses since the City does not want to be subject to further legal action. I believe that the Planning Department feels that Bill 7, if approved, will give the architects much of what they have asked for, certainly more than they effectively had pre-September 16, but less than they have had since September 16.*

*I do expect that the City will update these brochures in accordance with the requirements of any changes to the code, legislation and professional acts. Today, however, we still have one foot in yesterday.*

*These documents are as follows.*

*Assembly Occupant Loads, dated December 2002, architect or engineer.*

*Life Safety Tests In Buildings, dated February 200, not definite on involvement of professional.*

*Multi-storey Multi-Tenant Buildings, dated Nov 2003, interior alteration/occupancy applications comprise 70 percent of the applications that have a waiting time in the Plan Examination Branch, e.g. structural engineer, electrical and mechanical; no mention of an architect.*

*Residential Conversion, dated Jan 2004, guidelines for the conversion of a residential building, house, for a commercial or industrial use. Applicants are advised to retain services of an architect, engineer or other qualified person.*

*New Home Engineered Plans Approval Program, dated July 2004, a pilot project for faster processing of building permit applications for new home construction. Structural plans and details shall*



*bear the seal and signature of a professional engineer registered in the province of Manitoba. The permit timeframe is five working days.*

*The Professional Engineer and Residential Construction, dated Aug 1999, all about a structural engineer sealing structural drawings.*

*What is the Building Permit Process for other than housing, dated Oct 2003. Architectural/Fire Protection drawings, sealed, signed and dated by an Architect or P. Eng., Part 3 only. Structural Drawings, sealed, signed and dated by P. Eng., not specific as to discipline.*

*Mechanical Drawings, sealed, signed and dated by P. Eng., not specific as to discipline*

*Electrical Drawings, sealed, signed and dated by P. Eng., not specific as to discipline.*

*What is a Building Code Classification and Design Summary, dated May 2004, no mention that any professional need be involved.*

*I urge this committee to review Bill 7, go over the application of current practice of the City and other authorities having jurisdiction, and then move forward with the knowledge that you will have created better legislation.*

**Madam Chairperson:** The committee calls Patrick Harrop, private citizen. The committee calls Patrick Harrop, private citizen. For the information of the committee, Mr. Harrop's name will now be put on the bottom of the list because he has not been called more than once. So please put his name on the bottom of your list.

The committee calls Eric Loewen, private citizen. You can proceed, Mr. Loewen.

**Mr. Eric Loewen (Private Citizen):** Minister Allan, honourable members, ladies and gentlemen. My name is Eric Loewen, and I am a professional engineer registered in the province of Manitoba.

As a brief introduction, I was born and raised in Manitoba, and I obtained my civil engineering degree at the U of M in 1992. I have a strong passion for engineering and a great love of architecture. In first year engineering I actually applied for a transfer to the Faculty of Architecture, partly because I thought it would be more enjoyable to create models at 3 a.m. in the old design studio like some of my friends were than to do calculus and applied math assignments at 3 a.m. In the end, I decided to stay in engineering, and I became a structural engineer

specializing in both buildings and bridges. I have lived and worked across Canada, from the Maritimes to Alberta. I was the lead structural engineer on the Inuvik Hospital in the Northwest Territories, and I have worked in Guatemala on a missionary seminary and school. I have also worked on industrial buildings such as water treatment plants and maintenance buildings; office buildings, both low-rise and high-rise; residential buildings and condominiums; community centres and sports complexes.

At the beginning of these sessions on Monday evening, I was not entirely sure how I would vote if I was on the legislative committee. However, after the last three days of presentations it is very clear to me that Bill 7 should be supported. Today I am going to respond to some of the comments made by other presenters. I will demonstrate that engineers can indeed address human factors in planning and design, and I will address some of the arguments against Bill 7.

Several previous presenters portrayed architects as having an education completely unmatched by engineers. We have heard that architects have nine years of education and training before becoming an architect, at which time they have become both building specialists and building generalists.

So how does this compare to an engineer's education? In the civil engineering co-op program, a civil engineer takes five years of school, integrated with two years of practical work assignments. After graduation, it takes four years of work minimum, including mentoring by a professional engineer and formal reporting every six months to APEGM. So after nine years, we can also receive our professional designation.

*Mr. Vice-Chairperson in the Chair*

We were told Monday that there are no building design courses in engineering. The architects may say that designing a structure is not building design. I will address that in a moment. In civil engineering, I took courses in steel, concrete, pre-stressed concrete, timber and masonry design. I took geotechnical design and analysis, and soil structure interaction. This represents seven courses, all directly part of building design. In second year engineering we were already using the National Building Code to apply the loads from human occupancy to structures. Yes, we take many courses in building design.

So what is a building and building design? You can take the electrical and mechanical systems out of a building, and the building is still both a structure and a building, like cathedrals from past centuries. You could take the statues and the architecture away from the coliseum in Greece, but it is still a structure and a building. But if you take the structure away from the cathedrals and the coliseum, they are not buildings and there can be no architecture. A building is a type of structure with varying degrees of architecture, as well as mechanical and electrical systems.

You have heard from others that as a profession we regularly design buildings such as industrial structures, often with no input from architects, and this is clearly building design. Engineers have the training and experience necessary to design and lead such projects. I would like to be clear in saying that there are many buildings for which engineers should not lead the design team, and Bill 7 addresses this.

Next, I would like to discuss the apparent inability of engineers to understand the human factor in building design. In my professional career I have analyzed the vibrations caused by the footfall of people walking in the hallways of a hospital. I have combined this analysis with the stiffness of the floor structure to ensure that the resulting vibrations do not negatively affect adjacent radiology labs and surgery rooms. I should point out that the criteria for vibration are different for patients' rooms, a general surgery ward or a highly critical neurosurgery unit. These vibrations represent a significant human factor, caused by humans, and could affect a life-or-death situation in surgery. However, listening to many of the previous presentations, you would think that, as an engineer, I have no knowledge about the human factor in building design.

\*(19:20)

I am also a bridge designer. The firm I am employed with recently completed a \$25-million bridge and road project which provides year-round access to the community of Cross Lake in northern Manitoba. This bridge is a quarter kilometre in length and spans the immense Nelson River. In the project planning stages, we had public consultation meetings with the local Aboriginal community. We selected the location of the bridge and the route for the new roadway to accommodate traplines, to avoid Aboriginal sites of significance and to best meet the needs and desires of the community. We lengthened one span to allow for snowmobiles to pass under the

bridge along the north side of the river, which is not always frozen and would otherwise not allow passage. We provided vertical clearance to ensure that, even with snowpack and drifts, there is no danger to snowmobiles travelling under the bridge. We restored the abandoned ferry site to create a picnic area.

The bridge may attract increased human activity in the future, so we allowed for a future sidewalk and lighting of the bridge. The lighting conduits are on the upstream side of the bridge so that the sidewalk can be on the downstream side to allow the locals to fish off the bridge. The local community loves to fish, and it does not work well to cast your line on the upstream side.

These are all human factors and none of them are in the bridge code. It was all just good planning and engineering on this award-winning project. Now, if we put a roof on this bridge, like the old covered bridges in eastern Canada, according to The Architects Act it would now be a building of almost 3000 metres squared. According to the architects, I would no longer have the capability or training to address the human factors. I could no longer co-ordinate the various disciplines for the work and an architect should be the prime consultant. I will refrain from designing covered bridges until Bill 7 is passed.

With respect to the co-ordination role, previous presentations have suggested that architects are best suited, in all cases, to co-ordinate the structural, mechanical and electrical design, as if engineers do not know each others' roles and cannot communicate. In fact, the firm I work for has a buildings group which includes a well-integrated team of structural, mechanical and electrical engineers and technicians.

That is exactly why we have produced award-winning industrial projects. I should add that architects have had an important role on many of these projects, as well, but not the lead role. I have not heard any presentations which demonstrate that there has actually been a problem with such projects and, in fact, the success of thousands of industrial projects by consultants, contractors and owners cannot be disputed.

Some of the previous presentations implied that the likes of aerospace and chemical engineers could, or have been, designing schools, hospitals and day cares, a great threat to the public. These comments have implied that we as engineers do not effectively

self-regulate our profession and that we completely lack ethical conduct.

Professional engineers are required by our act, by-laws and code of ethics to perform engineering within our area of expertise and to conduct ourselves with the utmost ethical conduct. Those who are found to be violating the engineering act are subject to investigations and disciplinary action, which can and does include suspension or complete loss of professional licensure in extreme cases. Fortunately, such cases are rare.

Many previous presentations have cited the risk to human health, safety and well-being as a major concern against Bill 7. However, the presentations have failed to demonstrate that these risks have actually materialized. Yes, there are examples of poor designs and failures on projects by both engineers and architects, but there is no alarming trend or evidence of major problems in either profession. Why? Because both professions are effectively self-regulated and they are made up of individuals with extensive training and a high level of professionalism and integrity.

I have also heard many architects threaten to leave the province if Bill 7 is passed. I do not believe that architects are going to leave the province because they cannot be the lead on, for example, an industrial project. I also do not think that the City of Winnipeg and the general public will promote a return to boring, utilitarian structures, and I do not think that recent advances in sustainable design are going to be abandoned because of the bill.

Finally, many presenters have been requesting further delays, discussions and reviews regarding Bill 7. After over a decade of dialogue, committees, failed recommendations and no results, the engineering, construction and now also the interior design industries have been backed into a legal corner. We do not need review; we need resolution.

In conclusion, I believe that architects play a critical role in our society and that they should have significant input and take the lead role on many projects as accommodated in Bill 7. Architects and engineers should work together, exchanging lead roles at the appropriate times, as has been the norm for years.

There are definitely areas of overlap between the professions, and in these areas engineers have regularly and successfully practised engineering and should continue to do so. However, we have reached

a critical impasse, and the last decade of debate has indicated that further dialogue will be fruitless.

Finally, without any doubt, I believe that Bill 7 should receive its third reading.

**Mr. Vice-Chairperson:** Thank you, Mr. Loewen. The floor is open for questions. Thank you very much.

Next on the list we have Elliott Garfinkel. Second call, Elliott Garfinkel. His name was called this morning, and he will be dropped off the list.

Next, we have Don Petkau. A second call, Don Petkau. His name was called this morning, and he will be dropped off the list.

Next, we have Stephanie Shaw. A second call, Stephanie Shaw. She was called this morning, and she will be dropped off the list.

Next, we have Dorothy Taylor. Do you have papers to hand out?

**Ms. Dorothy Taylor (Private Citizen):** Yes, I do.

**Mr. Vice-Chairperson:** Thank you. The floor is yours.

**Ms. Taylor:** I was going to start this speech on a tear, but I heard last night from one of the committee that the decision is already made. There is no point in my being here, but here I am. I believe in the power of one vote.

I am not an architect. I am not an engineer. My degree is in interior design. I am not registered with PIDIM and I am not required to be to work as an interior designer. I own 49 percent of a small architectural practice. I am the loon who tells the story in the floor. I am the person who would colour the concrete in Costco to make it a more user-friendly environment just like A & B Sound on Pembina Highway.

Our small firm is a design-oriented firm. Our experience enables us to create innovative and responsive design projects in many communities, northern, isolated and urban. We provide strong and clear architectural solutions that integrate context, program and the unique requirements of users. Our commitment is in meeting the goals and objectives of our clients, often involving entire communities as stakeholders in the process. Good design does make a difference.

Our commitment to research, innovative new ideas and changing technology keeps us knowledge-

able and up-to-date. The functional variety and the cultural characteristics of many of our projects demand we integrate art, architecture and landscape environment.

Collaboration: it all begins with a shared vision. In times like these, you cannot afford to partner with someone who is single-minded. There must be a shared vision and shared ideas right from the start. We are talking about teamwork, the method of constant dialogue and complementary skills of architecture and engineering interacting to create better solutions that address challenges and make the most of existing infrastructure and deliver results. We work closely with our clients from the outset, fostering great relationships through our unique approach to consulting services. We listen to our clients, ask questions and examine design issues to provide a wide range of options for review and selection. We have a higher aim to make a meaningful contribution to the people we serve.

We are an architectural firm built on competence and performance. We value community because we know together we are more than the sum of our parts. Together, we can make a contribution that we cannot make on our own. Each of us becomes something better and something richer by participating. As design professionals within a project development team, we provide responsive design management needed to ensure projects are completed within program frameworks, project schedules and, especially, budgets.

Integrity: we believe in doing what we say we will do and doing what is right. We live with integrity because we believe it is the only way to do business.

Our small firm is the only practice in Canada that regularly attends international conferences on education sponsored by the American Institute of Architects. The last conference attended was in Washington, D.C.. There we heard about how the General Services Administration Public Building Service has dramatically transformed the quality and design of their facilities through the internationally recognized design excellence program. Design excellence engages the best private-sector architects, construction managers and engineers to design and build award-winning courthouses, border stations, federal office buildings, laboratories and data processing centres. It works to restore and maintain the vitality of communities where GSA has a presence.

We toured the McKinley High School recently renovated by the U.S. Army Corps of Engineers as a state-of-the-art technological training centre. What we witnessed was a school incredibly wired for technology, but the lecture hall we were in had no microphones, so we could not hear the presenters, nor was there adequate ventilation so we cooked in February.

\* (19:30)

The Building for the Future program is Great Britain's answer to the unique opportunity to transform secondary schools into unique learning environments that will inspire pupils to achieve more. The United Kingdom also has an organization called the Commission for Architecture and the Built Environment which focusses on being a successful client.

We have heard many presentations by the engineers. Their clients were satisfied with what they did for them. Did the client have the benefit of something like the publications *Creating Successful Masterplans* and *Creating Excellent Buildings*, both published by CABI? The point here is not to refute the engineers' claim their clients were satisfied. The point here is we are all richer when all the professionals work in concert with one another instead of this screeching-of-the-nails-on-the-blackboard painful process this legislative process has been.

The architects and engineers agreed on a body of people for the joint committee and agreed on the chairperson, and when the result was the Witty Report, suddenly the report and the chairperson responsible are no longer acceptable to the engineers. Yes, David Witty is the Dean of the Faculty of Architecture, but his degrees are in regional, community and urban planning, which encompasses both disciplines.

The word "architect" is a professional designation. I cannot call myself an architect as I do not have the qualifications and education. Those have been well illustrated by many previous speakers.

To quote from NCARB's White Paper entitled, "Architecture as it Differs from Engineering," which I have e-mailed to every member of this Legislature, quote, "In many jurisdictions, chronic problems arise from engineers seeking to use their registration under the engineering registration act as a basis for designing buildings for human habitation. In

Manitoba, engineers are registered generically with no distinction made among electrical, structural, mechanical and civil engineers, on the one hand, and aeronautical, agricultural, ceramic, electronic, geological, metallurgical, naval, nuclear, petroleum and surveying engineers on the other hand. The first group may have some connection to and interest in systems employed in designing buildings for human habitation, while the latter have no such connection. All the disciplines are, however, registered as engineers." This was written in 1984.

You might sit there and think, so what is her point, only structural, electrical and mechanical engineers would ever consider sealing drawings. But that is inaccurate. You have heard of at least one school sealed by an agricultural engineer in rural Manitoba. This flawed legislation allows him to do it again and there are real problems with the building.

You can also sit there and believe it was necessary as architects do not practise outside of city limits. Sorry, you are wrong again. Our small firm rarely does a job within the city. In the past five years, we have designed schools in Pukatawagan, Garden Hill, Pauingassi, Pine Creek, Sagkeeng and Skownan, plus numerous arenas, bingo halls, band offices, medical offices and nursing stations in you-have-never-heard-of-this-place, Manitoba.

This flawed legislation will definitely affect our practice with the scope of practice being so dramatically changed. I ask the scope of practice remain in The Architects Act. For the MAA to exist as a regulatory body the act needs to stay unchanged. Moving the ability to self-govern those activities that, by law, only architects are permitted to practise effectively ceases the MAA from being a governing body and therefore a professional licensing body.

My partner and I discussed the changes proposed at great length with our staff. My partner and I made the decision to fight this proposed legislation tooth and nail. We knew that everything we have worked so hard to build for more than 20 years was at stake.

Andrew Bickford, the grandfather from yesterday, is my partner in practice and husband of over 30 years. We may, in all likelihood, not be able to continue to work together as we have since high school. It may mean the end of the dream of running a small practice where good design makes a difference and integrity is crucial.

I cannot believe how crazy it is this flawed legislation has made it this far, let alone that it will

probably pass. I ask you, at least, amend it. I cannot believe this Assembly does not realize how professional organizations are regulated by bodies far greater than our little province. I am only beginning to see the ripple effect beyond my own door. Yes, I live in Podunk Junction. This legislation proves it. But I still believe in one vote.

I am only one, but I am one. I cannot do everything, but I can do something. What I can do, I ought to do. That, by the grace of God, I will do. Thank you for your time.

**Mr. Vice-Chairperson:** Thank you. Any questions?

**Mr. Schuler:** Thank you very much for the presentation. You certainly lay out a lot of information for us. Could you just very briefly define for us what change or changes you would like to see?

**Floor Comment:** Scope of practice.

**Mr. Schuler:** You have to wait till your name is announced.

**Floor Comment:** Sorry.

**Ms. Taylor:** Scope of practice. *[interjection]* Do you want an elaboration? Removing the scope of practice from The Architects Act, to me, removes the ability for the architects to self-govern themselves. If they cannot self-govern themselves, then who is going to be registering architects? Who is going to be administering the yearly certificates of practice? Who is going to be overseeing the qualifications? Who is going to prevent the interns that now, you have heard many speak, many of whom have worked with our office, they could go out and open their own office. There is nobody overseeing it.

**Mr. Vice-Chairperson:** Anything further?

**Mr. Kevin Lamoureux (Inkster):** Yes, I just wanted to express my appreciation for the passion that you have put in your comments. It does not necessarily mean that I am going to agree with everything. What I have found is this whole issue has been one of great interest, not only for people here, but the public as a whole. We see presenter after presenter that feels very passionate about this. What came to my mind, and I am going to quote it because I thought you said it best, "The point here is we are all richer when all the professions work in concert with one another instead of the screeching-of-nails-on-the-blackboard painful process this legislative process has been." I acknowledge that it is a very difficult process.

I, for one, know there are two of us that cover this particular committee, myself and my leader, and we have not drawn any conclusions as of yet. Whether it is you or the presenters that presented before you, we very much appreciate the effort and the passion of the discussion. I guess if it was our choice, you would not have to be here either. This is something that would have been able to have been worked out and everyone would have been content. Thank you.

**Mr. Vice-Chairperson:** No further questions? I thank you.

There are two new members added to the bottom of the list. Oliver Beck, private citizen and Kim Wiess, private citizen.

We will continue. Our next speaker, Matt Vodrey. Matt Vodrey, do you have any handouts?

**Mr. Matt Vodrey (Private Citizen):** No.

**Mr. Vice-Chairperson:** The floor is yours.

**Mr. Vodrey:** Minister Allan and committee, my name is Matt Vodrey. I am currently a student at the Faculty of Architecture, University of Manitoba in the graduate program in architecture. A little background, I was born in Winnipeg, went to high school in Winnipeg, and upon graduation, I went and did my post-secondary schooling in Ontario. Upon graduating, I returned to University of Manitoba to do my degree in architecture and now do my graduate degree in architecture.

I would just like to say, Minister Allan, I would like to accept your invitation to come into the University of Manitoba. I would like to see you any time. I would also like to extend the invitation to the rest of the committee. I am free on Tuesdays and Thursdays.

Minister Allan, my concern with Bill 7 is the future of my stay in Manitoba. As you say, Minister Allan, Bill 7 is not intended for us to leave the province, but I ask you, why stay? The Province, your government, Minister Allan, supports my education at the University of Manitoba, but it does not support me when I graduate by undermining the profession that I wish to enter. Why stay? Why set up shop in Manitoba? Why should I be a part of this province when you undermine the profession that I wish to enter? I believe in design.

*Madam Chairperson in the Chair*

\* (19:40)

I believe in design so much I went to design school. I wish to complete my design school, and I wish to become a competent architect. But, once I do this, I have to compete with engineers for jobs that I was properly trained for. By doing this, I will not be able to by changing the scope of the practice.

Minister Allan, your government does not want future architects to leave Manitoba, but you are definitely handing us our hat. I am not a registered architect. I am not yet a competent designer. But I wish to be by following the guidelines set out to be by my governing association. I am a student pursuing a job in Manitoba. By saying this, I support my future colleague Don Oliver and call upon the minister to delay Bill 7 from proceeding to the third reading. Thank you.

**Madam Chairperson:** Thank you.

**Mr. Schuler:** Thank you very much. Matt, you are not a stranger to politics, so I can probably be a little bit more direct with my questioning of you. You say that this legislation could seriously impact your staying in the province or staying in the province for that matter. Based on what specifically? What we want is that we want to make sure, as a committee, as we move into line by line, which now is starting to look more like that will happen tomorrow, that we do not base decisions on, please do not be offended, too much emotion or rhetoric. It has to be on the facts.

Synthesize down for us what exactly it is that would make a young man like yourself or, for that matter, other students male and female, young individuals, go so far as to make fairly strong statements: "That is it. I am taking my stuff and I am leaving." It is something that has bothered me for the last three days. I have sat in a lot of these and been through a lot, but I have not seen, in my tenure here as a legislator, that many young people stand in front of a legislative committee and say to us "This is enough to make us leave the province." So I am going to make it very personal. Please, without the emotion, without all the rest of it, what exactly is it about this bill that says to you, "I am contemplating leaving the province?" because I think that is very, very serious.

I am sorry if I take another minute. We need you here because, you know that cliché, you are going to pay my pension someday. We do not have pensions as MLAs, by the way. But it is horrifying to sit here at this committee and hear it, and we hear it again and again and again and again.

So I ask you, what is the linchpin that makes you say such a statement that our youth, our brightest are coming in front of a legislative committee and saying "We are thinking of leaving" because I will tell you, folks, that is very serious, as a young Manitoban raising his family here, who decided to stay, and I hear the generation younger than me saying, "We are thinking of leaving." I can tell you, I am very, very perturbed by it. Please take your time.

**Mr. Vodrey:** Thank you. I mean, there is power in numbers. I think that speaks for itself. When students come up to you in the graduate program saying "Why are you trying to keep me here?" Then Minister Allan says you are not intending for us to leave. But, by pursuing this bill, you will be saying to us architects and us potential architects that we are not valued in this province by what we do. Our skills, our training, for the past five to six years I have been going to the University of Manitoba and learning this skill, can be done by someone else.

I feel this is wrong. I feel I have gone the proper route, and I intend on carrying out the proper route set for me. But, yet, someone else is capable and competent enough to do this without the proper route. Meanwhile, there are other places in this country and throughout this world that accept my education as being competent and that alone as being competent. Why should I stay here? B.C. is sounding much better right now for many other reasons. This is, as you say, the importance of it.

Self-governing is the issue. We, as architects, and in my future I hope to become one, are allowed by legislation to self-govern each other in our profession. If we are not allowed to any more, why should I be here to do it? I leave it at that. I think it is simple.

**Madam Chairperson:** I just have to ask for leave to go beyond our time limit. Is there leave? *[Agreed]*

Okay. You can ask one more question.

**Mr. Santos:** Five minutes allowed for questioning, and that is the rule.

**Madam Chairperson:** So you are denying leave, Mr. Santos.

**Mr. Santos:** I say we follow the rule.

**Madam Chairperson:** Thank you very much. Leave has been denied.

The committee calls Robert Macdonald, private citizen. Mr. Macdonald, did you have a written

submission you wanted to circulate? You can proceed, Mr. MacDonald, whenever you are ready.

**Mr. Ian Macdonald (Private Citizen):** Minister Allan, members of the committee, thank you very much for the opportunity to join you today. My name is Ian Macdonald, the "Robert" is an alias, and I am presently a practising architect in Winnipeg, registered with the Manitoba Association of Architects.

I came to Winnipeg from Toronto in the fall of 1978 to join the full-time teaching establishment of the Faculty of Architecture at the University of Manitoba and was until slightly less than a year ago the head of the Department of Architecture, the graduate program on architecture, a position which I held for a period of six years. This was preceded by six years as head of the undergraduate Department of Environmental Design, which is the four-year pre-professional program that precedes the master's program.

During the past three years I also served as chairman of the Council of Canadian University Schools of Architecture and in that capacity represented all 10 schools of architecture on the board of directors of the Royal Architectural Institute of Canada.

At this point I just want to offer a correction related to Dean Witty. I wish to correct information that was presented to the committee earlier in the day. I feel obligated to bring this item forward since I personally advanced David's name for membership in the Royal Architectural Institute of Canada. I think the committee should be aware that the Royal Architectural Institute of Canada is not a regulatory or licensing body. It is an advocacy group representing all architects in Canada and advocates the potential of architecture on behalf of all architects.

To quote President Szathmary at the University of Manitoba, when we talk about the Royal Architectural Institute of Canada, we talk about architecture broadly defined, and membership in the Royal Architectural Institute of Canada is not limited to registered licensed architects but also embraces the broader family: interns, students, and allied disciplines who are directly involved in the design of the built environment.

David Witty was awarded membership in the MRAIC as a form of acknowledging his contribution to the public awareness of design in the city of Winnipeg beginning with his work with the former

mayor of Winnipeg and I think has served our profession very, very well.

David's editorial in a recent issue of the *Winnipeg Free Press*, which you may have read, is typical of his personal efforts, and you will notice that most of those comments dealt with urban design and the quality of the urban environment and were not specific to the discipline of architecture.

The other thing that I want to emphasize is the Faculty of Architecture is a multidisciplinary faculty which offers professional programs in city planning, environmental design, interior design and landscape architecture, in addition to the professional program in architecture. The very fact that he can professionally and fairly oversee these disciplines is testimony to his professionalism and integrity, and you will notice that several of those departments are not necessarily on the same side of the fence in this particular debate that we are having.

\* (19:50)

In addition to, sort of, my various roles as head of the Department of Architecture, I have served on three Canadian architectural certification board accreditation teams, which in the past few years, scrutinized the professional programs offered at McGill University, Carleton University and the University of Waterloo. It is interesting to note that all these university schools of architecture are affiliated with the respective faculties of engineering of these institutions. In each case, these schools were required by formal conditions of architectural accreditation to demonstrate how they contributed to and benefited from the association.

This is the nature of our profession. We are not adversarial and it is not an adversarial relationship. Accreditation looks for and promotes respect, cooperation and collegiality with the profession of architecture. There is a full expectation that these historically complementary disciplines value the unique contribution that others make. I would like to talk about these young people who have been so ably bringing me the important issues and their concerns forward to you.

Prior to that, I would like to simply offer a reflective observation of the discipline of architecture in this province. I must admit that during my 27 years at the University of Manitoba, I have never ceased to be amazed at the dominant profile of architecture in this seemingly most unlikely of places. Why does one of the largest and most

distinguished schools of architecture in North America continue to thrive and enjoy such a prominent position within the University of Manitoba and nationally? We have an extraordinary history.

The teaching of architecture began in 1913. We have been around that long. McGill University, beginning in 1904, was slightly ahead of us, but the discipline and the teaching of architecture has long been part of the Manitoba scene. It is, therefore, one of the oldest programs of study in Canada and the first in western Canada. It was the first architectural program in Canada to offer the first professional master's degree of architecture in the early seventies which has served as a model which all other professional programs in the country now have adopted.

The Manitoba program, through its long history, has produced and continues to produce some of Canada's finest and best-known architects. They have distinguished themselves and their institution not only in Canada but also throughout the world. I believe that we all have the responsibility to ask ourselves: Could this educational tradition evolve and thrive without a cultural constituency? You are all politicians and you understand what I mean by that statement.

I would argue that it could not and that it exists because this province has, for the better part of the 20th century, recognized and valued the cultural role of architecture and its important mission of defining who we are, what we value and what we aspire to. I sincerely hope that the outcome of this process is consistent with that visionary history. I think this is a heavy burden that certainly I have as the head of that distinguished school, and you do as part of the history of this province.

The second observation I would like to offer addresses the issue of a professional role and our historic relationship with engineering. The office that I interned in as a young architect back in the late sixties was a relatively large architectural and engineering practice in Toronto with a total staff of 300 professionals functioning together in one space. Half of the staff were architects and the other half were a combination of structural, mechanical and electrical engineers. If you could not learn to work in a multi-disciplinary setting, you got a job somewhere else.

The projects being produced at that time, largely by Manitoba graduates, I might add, included the Toronto City Hall, the original airport terminals at



Pearson Airport and the Toronto Dominion Centre, which at that time, was the largest building project in Canada next to the St. Lawrence Seaway. These projects were executed to their high standard of excellence through the creative collaboration of talented architect, engineers and visionary clients. There was simply no other way of doing it.

Quality architecture has always required collaboration of both innovative and creative architects and engineers in an effective, integrated team setting. This is a basic reality in the making of architecture and one of the fundamental assumptions we make in the education of architects.

The real world challenges, associated with complex and dynamic project settings and changing social conditions, have always influenced the education of architects. Students entering the Manitoba program, for instance, are taught basic representational skills, elegant craft, theory and history, but, more significantly, are made aware of the multitude of stakeholders in the design process. This is done to not only make students aware of other disciplines, but to also develop respect for expertise beyond their own and how to embrace it within the design process.

Architecture is taught in a unique setting that is referred to as design studio. It is within the studio setting where they learn to develop a strategic framework within which to synthesize a multitude of technological, sociological and economic constraints. The design studio closely emulates the real world setting that deals with actual projects, including the contribution, skills and knowledge beyond their own.

**Madam Chairperson:** Mr. Macdonald, I have to stop you at this point.

**Mr. Macdonald:** Gee, I just had my punch line coming up.

**Madam Chairperson:** I apologize. Do you have one more sentence?

**Mr. Macdonald:** The committee should be aware that there are 120 accredited universities of school of architecture in the United States and 10 in Canada. All of these programs take approximately the same amount of time, four years of undergraduate education and two years of graduate education. This level of education reasonably reflects the complexity and rigour of the discipline of architecture and the minimum level of skill to competently execute architectural commissions.

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

**Mr. Santos:** Madam Chair, can we agree that the unread portion also be included in the printing?

**Madam Chairperson:** Is it agreed by committee? *[Agreed]* Your presentation will appear in its entirety as if it was read.

**Mr. Macdonald:** *I am hopeful that the best interests of the public will remain central to any legislative revisions and facilitate the challenging tasks facing both professions in meeting a complicated and resource-sensitive future.*

*Correction: I wish to correct information that was presented to the committee earlier in the day concerning Professor David Witty. I feel obligated to bring this item forward since I personally advanced his name for membership in the Royal Architectural Institute of Canada.*

*Membership in the Royal Architectural Institute of Canada is not restricted to professional architects and has many levels of membership including David's own profession of planning. David Witty was awarded membership to acknowledge his role in personally raising public awareness of urban design in the City of Winnipeg in a variety of ways. David's editorial in a recent issue of the Winnipeg Free Press is typical of his personal efforts. Additionally, he was very proactive in developing working relationships between the Aboriginal community and the University of Manitoba.*

*The Faculty of Architecture is a multi-disciplinary faculty, which offers professional programs in city planning, environmental design, interior design and landscape architecture, in addition to the professional program in architecture. The very fact that he can professionally and fairly oversee these disparate disciplines is testimony to his professionalism and integrity.*

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

The committee calls Terry Cristall, private citizen. You can proceed whenever you are ready, Mr. Cristall.

**Mr. Terry Cristall (Private Citizen):** Madam Minister, members of the committee, my name is Terry Cristall. I am a professional architect and a principal with Number Ten Architectural Group. I am licensed to practice architecture in four provinces. I am a former president of the Manitoba

Association of Architects, and I am also a past chair of the Winnipeg Chamber of Commerce.

These hearings have borne witness to many valid, often opposing, concerns. To everyone's credit, there is clearly a strong commitment to their professional ideals and a passion for what they do. The development community has rightfully demanded that unnecessary impediments to their projects be eliminated. Their belief that The Architects Act will create delays and added costs must be addressed. Professional interior designers have undoubtedly sought, have understandably, rather sought, the right to practice their profession on interior design alteration projects. Engineers have fairly argued for both recognition of the roles they play in many building types and more clarity in the legislation. Architects have, with very legitimate concerns, requested that the integrity of their profession and the value of their services be protected.

\* (20:00)

If all professionals are true to the principles that we claim guide our professional conduct, there has been another right championed in these proceedings; the right of the public to expect the highest standards of performance and protection available through our efforts. Professionals must respect the public good, as well as their project obligations. Legislation needs to be in place to ensure we act accordingly.

The origin of our current dilemma, of course, is the fact that some engineers believe that they should have the right to design buildings just as architects do. Some would say not just industrial buildings or small arenas, but any type of building, all said with some engineers acknowledging, yet discounting, the profound difference in education, training, certification and public responsibility.

The Architects Act, regardless of its age, has correctly decreed in the public interest only those persons who have been educated, trained and tested in the specific field of building design should be allowed to practise accordingly. Now the depth of this education helps ensure our community enjoys the best of the design process. Indeed, the quality of a community's architecture has a very direct influence in its economy and sense of self-worth. The influence of quality architecture is sometimes subtle, but make no mistake, it does profoundly underpin the development of our economic wealth. If we believe these aspirations are valid, we must find solutions that are inclusive and respectful of each profession.

It would be equally prudent to nurture a healthy architectural profession. The fundamental problem my colleagues and I have with the proposed amendments is that they substantially reduce our participation in the most basic of professional rights, that is the right to define one's profession and the skills required to perform it. It now appears the scope of our services will no longer be based on expertise or accreditation. Instead, it will be determined by people who have a very different set of priorities, far less familiar with the thought process that governs design and, in some cases, people who see the practice of architecture as everyone's right, regardless of background.

In my opinion, the proposed changes to The Architects Act are flawed. Rather than providing balance, these amendments are so heavily weighted against architectural involvement as to put at risk the credibility and vitality of the profession in Manitoba. I do not believe it was the intent of the government to marginalize our architectural community, but I fear this will be the unwitting consequence of Bill 7 as currently drafted.

I could speak to many issues that highlight my concern, but I intend to confine my further remarks to the most significant of the proposed changes, that being the amendment transferring control over which exemptions are to be carved out of the architect's scope of practice to the Building Standards Board. In effect, this allows the board to define what will be the practice of architecture. It will not be the Legislature, not our community, rather representatives of the building industry, of which only one has a comprehensive training in building design.

I acknowledge that the Building Standards Board does play an important role in the administration of the construction industry. It has, however, almost no expertise to regulate a profession, nor should it have that role. I suspect this amendment is the consequence of failed attempts between the MAA and APEGGM to resolve their differences. Change the process or change the people negotiating. We should not be putting one or both professions at a long-term risk for the sake of expediency.

There are several proposed amendments which will require interpretation or definition by the Building Standards Board if they are responsible for our profession. These amendments underscore my concern that the profession of architecture is in serious jeopardy. Take, for example, the definition of

building area in the draft table, which defines where a professional designer is required. A subtle substitution of the term "building area" in place of "gross area" when referring to 600-square-metre limitation will permit an argument to be made for exemption on much larger buildings, buildings normally understood to be the joint responsibility of the architect and engineers.

In this regard, I should add that the salient issue is human occupancy. We are not talking about houses, small buildings for business and personal services in this regard. The current legislation exempts buildings for those purposes up to 400 square feet in gross area. The Manitoba Association of Architects is, I know, willing to increase that to 600 square metres gross area, which is consistent with the least restricted jurisdictions in Canada. When buildings become larger they become more complex with greater human occupancy. The term "gross area" therefore critically defines a safety factor in the public interest.

The architectural community appreciates that not all building alterations require an architect. The proposed amendments, however, are so general as to now allow major work normally and commonly managed by architects to occur outside the profession. Imagine the new Millennium Library being built without an architect. That is the implication of the proposed draft table for alterations. That is the thinking encouraged and supported by this legislation.

Arena-type building exemptions now being proposed allow engineers of any discipline to design them provided the buildings hold a thousand or less fixed seats. It is entirely possible to limit an initial permit set of drawings to a thousand seats today and, with the opening on alterations alluded to earlier, add more seats later, all without the requirement of an architect. This may not be the intent of the amendment, but who is to say that will be the understanding a year or two from now when the BSB is asked to intervene.

Then there is the issue of the industrial buildings. The proposed legislation implies that no architect need be involved in any industrial occupancy. Surely there are limits. Industrial buildings can contain hazardous material on large numbers of people. Should we be allowing a different standard of care and protection for factory workers than buildings of the same size used for office and retail functions?

And there is an opportunity for confusion on the engineering exemption clause under subsection 15, which allows the engineering discipline, regardless of training, to oversee the construction of prototypical buildings in lieu of a registered architect. I will skip here; time is out.

The essential concern, however, is that the proposed legislation undermines the credibility of the architectural profession and regulates it to an option of choice. This legislation has all the potential to smother the industry that has been the leading advocate for a quality built environment. We know the current legislation is flawed. Surely, we can address these issues without having to compromise one profession for the benefit of another. We can and should co-exist in a supportive, beneficial, advantageous relationship. Please adjust the legislation to ensure a balanced co-existence. Thank you very much.

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

**Mr. Cristall:** Thank you very much.

**Madam Chairperson:** The committee calls S. Mark Francis, private citizen. Mr. Francis, you can proceed.

**Mr. S. Mark Francis (Private Citizen):** Thank you, Chair, Minister Allan, honourable members. My presentation is a little thrown together, so forgive me.

My name is Mark Francis. I am a business consultant whose work entails efforts on a range of projects. Currently my primary client is C&Q, the new stock market in Canada, and as well the engineers are also currently a client.

\* (20:10)

I am also the local chair of the Canadian Institute of Mining, Metallurgy and Petroleum. My family is one half artists, including my grandmother who trained as an architect in her youth but never practised, subsequently became an artist. My uncle is an architect who trained here in Manitoba. Most of his professional life has been spent in British Columbia. He tells me that for the last several years he has never been happier professionally. He works for engineers in an engineering firm, and, when the opportunity arose for him to acquire more shares in a firm that allowed for joint professional ownership, he leapt at the opportunity and borrowed as much

money as he could. He has never been happier professionally.

In the past, the projects I have worked on have included several relating to the safe processing of environmentally hazardous wastes, multi-modal transportation and other issues and projects across western Canada and Ontario. Most of my consulting has also entailed co-ordinating the efforts of professionals of multiple disciplines, generally at least three. They have included investment bankers, engineers, geoscientists, lawyers, chartered accountants, environmental scientists, professional managers and specific-industry specialists.

I would remind you of Alan Borger's earlier remarks when he talked about the overlap between accountants and lawyers in the preparation of tax planning and how it is important that it is not specifically enshrined in legislation as to where the overlap lies and how it is handled. In fact, either an accountant or a lawyer can manage this. I find that this will play directly to a number of my remarks. I intend to speak about the professionalization of the modern world, the demand for engineers and other trained people, including architects, engineers who have steadily driven safety improvements in industrial processes, in particular the mining and metal processing industry, the impact of marginal costs of business decisions and the value of time.

The modern world has seen intense professionalization of the business community and the world as a whole. It has been important that professional scope be allowed to change on an ongoing basis. Flexibility has been critical. Some of the professionals are recognized, being a business consultant is not. I would hope that you do not take the challenge on because the range of definitions of business consultants is quite broad. In any case, project proponents are becoming increasingly accustomed to dealing with a range of professionals and, believe me, all of them want competent people. They do not distort or twist projects to avoid dealing with a particular professional.

Highly proscriptive legislation can be extremely negative when you try to define professions, and I would call your attention to the handout I gave you. The Eiffel Tower would likely never have been built if this were the case. It was built in 1889 for the International Exposition in Paris. It stands 300 meters, or 984 feet high, is a symbol of Paris around the world and was designed by a French engineer, A. G. Eiffel.

I find it curious and ironic that architects are objecting so intensely to what they claim is a loss of control over the definition of the scope of their practice when, in fact, the MAA has been trying to and has successfully controlled engineers' scope of practice. Indeed, in order to make your legislative change work and in order to accommodate architects' wishes, a branch of engineering is now being defined permanently as architecture. Engineers were greatly distressed by this. My warning to the engineers was that this proposed definition would be used against them politically and indeed, in these hearings, it has. Moreover, future appropriately trained engineers will have great hurdles in getting permission to practise in Manitoba because of this.

Which brings me to the demand for engineers and other trained people. In my travels across western Canada, I am constantly approached to help in locating skilled professionals, engineers, architects, geoscientists and trades peoples. Human relations is not my specialty, so I decline in general. In fact, one contact of mine runs an HR firm which specializes in finding these people. On October 6, again, at the mineral exploration group in Calgary, he approached me and asked if I knew of anyone in Manitoba who would like the opportunity. Finder's fees for making referrals are available. I have to tell you the lure of Alberta, and now Saskatchewan and B.C., is not just pay, but also for young and experienced professionals alike, the opportunity for personal growth and increased responsibility.

Compared to life before September 15, Bill 7 does increase the number of projects on which architects will be required. It also places more limitations on the opportunities for engineers and, in particular, future engineers. In spite of this, APEGM firmly believes that resolving the dispute is of great importance to the public and has therefore decided to support Bill 7 if the only other alternative would be simple reflexive exemptions as exist, for instance, in Saskatchewan.

Any further erosion or amendment to Bill 7 will simply make other western provinces, and the scope they allow engineers, irresistible to young engineers with fewer professional and family roots. I would turn to the role that engineers have played in industrial safety and, in particular, in the mining and processing industry. In times of past, work in the mining and metals processing industry was perhaps the most dangerous and least safe business or occupation to have. People, in addition to working in mines, were in smelters, refineries, laboratories, core

logging facilities, equipment facilities, and offices and office complexes, which had relationships and a variety of physical, spatial forms, both integrated and separated, to these other facilities.

Today while individual incidents are always news stories, and big news stories, the mining and metals processing industry, according to the independent statistics, has one of the very best safety records among heavy industry. The cause of this invaluable improvement, and it is ongoing, is the diligent and persistent work, almost exclusively of engineers, and I must tell you, almost all my partners are geoscientists, not engineers. They have continually striven to improve both the physical processes and the processes as they relate to people's operating behaviour. Engineers have been responsible for the construction, alteration and ongoing maintenance of virtually all of these facilities. Engineers have succeeded in making mining safer and making the processing of metals safer. Members of the mining industry here, I speak, have specifically said they want to be free to engage our engineers and architects as they deem appropriate.

I would like to speak about the issue of marginal costs, not only as it relates to the mining industry, but also the agribusiness industry which is very important in rural Manitoba. Many of you may not know this but most projects, when they go forward, have a debt component. That means that if you add 3 percent to the cost of a project, the lender does not lend you 3 percent more in proportion. The lender's lending is fix-based on future cash flows. In particular, for project expansions the debt component is even higher. This can mean that you could lower the rate return on equity by 6 percent to 9 percent, sufficient to push a project below the economic threshold. It is not a simple question of people will simply pay the cost. Saskatchewan is a highly competitive jurisdiction, and simple reflects of symmetric professional exemption exists there. They could take a large portion of our agribusiness.

My final comment relates to the value of time. It has immense value. We are advised in the old and new testaments as to the spiritual value of time of the moment we have of the spiritual necessity to use time well in this world. Time is considered an asset in professional development and personal relationships, and also in business and management of our financial affairs. It has a financial cost. Time is necessary to build a client so easily lost. Any delay in particular to project proponents, for instance, as a

consequence of the injunction or in the future, reduces the benefit of a project.

Finally, I would say that APEGM, because this loss of time, both legislators, their own time that they have to take away from their clients, their clients loss of time, has meant that despite the fact that this does not contain what they desire are prepared to compromise to resolve it in the public interest.

I would close by saying that time is invaluable. Please pass Bill 7 as written, as soon as possible. Thank you.

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

The committee calls Terri Fuglem, private citizen. You can proceed.

\* (20:20)

**Ms. Terri Fuglem (Private Citizen):** Hello, my name is Terri Fuglem. I am a professor of architecture at the University of Manitoba. I am also design editor of the *Journal of Architecture Education*, which is an American journal that serves the profession in the U.S. and Canada, as well as over 110 schools of architecture in North America. I have also taught and/or practised in Ottawa, Montreal, Vancouver, London, England and Prague in the Czech Republic. *I am NOT a member of the Manitoba Association of Architects.*

I wish to speak against Bill 7, the consequence of which will adversely affect our cities and communities for the following reasons. First, Bill 7 as it is written now will bring about the weakening of both the architectural and engineering professions and the interests of the public. If the Building Standards Board is set up to regulate and arbitrate the professions, as the NDP government is proposing, and is comprised largely of industry representatives, such as developers, contractors and building suppliers, the public interest and safety will be compromised. Architects and engineers both owe a legal duty of care toward the public and to this end carry third-party liability into perpetuity. Developers and contractors, on the other hand, only have a contractual duty and are liable for only six years after the completion of work. Developers, contractors and building suppliers are motivated by profit and profit alone. A 12-member Building Standards Board comprised mostly of building industry profiteers is tantamount to letting the fox guard the chicken house. This would be comparable to pharmaceutical companies governing the medical profession.

My second point is a new law should be an improvement over an old law. Every law that is passed should be just, equitable and clear. Bill 7 is none of the above. Bill 7, as it is proposed, is one-sided, overwhelmingly favouring the engineers, unjustifiable and flawed in its ambiguity. It is clear that the government has not undertaken enough consultations with architects, given that the bill allocates sweeping new jurisdictions to engineers and none, no new jurisdictions, to architects. The bill severely and without warrant weakens the purview of the architect, and I believe this is to the detriment of the public.

Bill 7 is incredibly vague in its language. For instance, the term "supervision" is replaced by "review." Perhaps this little change in terminology does not appear to matter much to people who do not work in the building industry, but from my experience, the consequences could be dire. For example, currently the architect has the right and duty to stop work on-site that is substandard, unsafe or violates the terms of the contract with the client. What is the implication of changing the word "supervision" to "review"? The stakes are extremely high for all players involved.

Large buildings such as the new Manitoba Hydro building cost millions of dollars. What if a contractor were to substitute a high quality, highly effective insulation for one that is cheaper and less effective? What if a contractor does not take the time to properly seal the vapour barrier on such a large building? Both of these examples have actually happened in the building industry, and architects have caught and remedied these problems at the contractor's expense, and rightly so. Such lapses in building construction would not only result in higher heating and cooling costs for the owner, but also the development of harmful moulds that could occur in a climate such as ours that would affect the health and well-being of hundreds of citizens who occupy the building. What will happen to the architects' power to remedy problems to protect his or her client and the public at large if this new wording is put forward?

Similarly, what is fair, clear or good about allowing engineers to undertake building additions and renovations regardless of size or occupancy? An absurd scenario, could an engineer add a hospital to a tool shed and call it an addition? Bill 7 as it is written is unbelievably vague in its wording and legal implications, and I urge the government to reconsider it in its entirety. It is indeed so vague that

it appears to allow all and any engineers, including chemists, plastics engineers and geologists to design buildings. By analogy this type of legislation would allow pharmacists to perform open-heart surgery. Such ambiguous wording and terminology will only lead to further disputes and potentially bizarre and dangerous consequences.

My third point is that architecture and engineering are very different professions with very different expertise. On Monday night, one of the engineers made the claim that engineers and architects should be treated equally. Architects and engineers are not equal professions. They are as different as apples and oranges, or we might even say as different as apples and pumpkins.

Architects, such as Tom Monteyne, explained to this committee, are trained to design buildings for human inhabitation. Architects shape buildings and communities materially and formally for human buildings to dwell, work, recreate and worship in.

Architectural students and professionals study intensively the history of settlements, buildings, land use, the psychological, social, cultural and spiritual needs of a people, the technical aspects required to make buildings air-tight, warm and waterproof, how to make buildings safe according to better standards than the Building Code and how to protect the environment in order to fulfil and exceed our commitments to the Kyoto Accord.

Engineers and engineering students learn how to design structural, mechanical and electrical systems. These skills are learned only by civil, mechanical and electrical engineers, not the 67 other types of engineers. In short, architects are taught to design places and communities. Engineers are taught to design structures, mechanical and electrical systems.

My fourth point is that engineers have argued this bill on the basis that it will hurt the economy if new legislation is not passed quickly, given that we are in a building boom. I realize that politicians operate on the basis of being elected at the prospect of getting votes. I also realize that political terms set at four-year intervals are very short and that governments must respond quickly to perceived needs. However, I will argue that this bill does not make economic sense in the long term.

Currently, Manitoba is the centre for the film industry and attracts millions of dollars in film revenue. Manitoba is not attractive in part because of

the stock of beautiful buildings built by architects over the last century. Indeed, I live in a house designed by an architect, and I have been approached by various filmmakers from the U.S.

In the long term, Manitobans will not thrive without a vital architectural community and without high quality buildings, places and communities. Does Manitoba want to become a collection of fast-food nation communities built with McConstruction jobs and creating McBuildings and McMansions that are costly, that reduce our quality of life?

I often feel that Manitoba thinks it is a have-not province without extra resources or special attributes. There are dozens of communities around the world that have similar geographic conditions to Winnipeg and other communities in Manitoba. Certainly, these cities did not enjoy the geographic and economic benefits that such cities as Calgary and Vancouver enjoy, but what makes these cities so interesting as desirable places to live is that their architecture gives them a unique sense of identity and sense of place. Cities such as Chicago, Amsterdam and Prague are set in simple landscapes where many adversities such as weather, soil conditions and remoteness have not made their cities easy. In other words, architecture adds value to cities and places.

Fifth, I teach a number of students of architecture who are from the province of Manitoba, but also Canada and from around the world. A number of my students have told me they will leave Manitoba if Bill 7 is passed as it now appears. They believe there will be less work in Manitoba for them and what work will be left will be seriously compromised.

In the last election, one of the campaign issues of the NDP was how to convince Manitoba's young people to stay in Manitoba. As it stands, Manitoba loses many of its most talented youth to bigger, more populous and dynamic places. Many of these cities are more seductive because they offer opportunities in design, the arts, culture. These cities are more beautiful and more seductive places to live.

*The Faculty of Architecture at the University of Manitoba has graduated world-famous architects who have chosen other communities in which to live and practice: Eg. Architects, such as Harry Seidler who practised in Australia, or Richard Henriquez and the Patkaus, who live and practise in Vancouver.*

*Given the current difficulty of getting our talent to stay in this province, it will be even less compelling*

*to keep our young graduates here. Wouldn't it be wonderful if the next John Patkau decided to practise in Manitoba instead of Vancouver, or New York, or London, England?*

*Buy why would our youth—whether they are graduates of the architecture program, here or not—want to stay in a province whose buildings and communities are designed by engineers at the behest of developers and contractors, whose only interest is to make a profit?*

*If our young people are going to stay, it will be because our communities feel like real places.*

*There are dozens of exciting cities competing for their attention—very seductive, beautiful and architecturally ambitious cities like Toronto, New York, London, and even Calgary and Vancouver.*

**Madam Chairperson:** I will have to ask you to conclude.

\* (20:30)

**Ms. Fuglem:** In conclusion, no other province in Canada has so drastically limited the purview of architects at the expense of public interest. Bill 7, as it stands now, is a radically substandard piece of legislation. Manitobans spend, at least, as much time in buildings as other Canadians, arguably more given our climate. Do Manitobans deserve less than other Canadians?

*It is clear that this piece of legislation has been rushed. Why is it being rushed through at this time? Because engineers have been breaking the law and acting as architects?*

*I urge the committee and the government to revisit this legislation.*

I would request that the government take this piece of legislation back to the drawing board, consult with architects and architecture students and write this piece of legislation properly and with due diligence.

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

**Mr. Schuler:** Thank you very much, Professor, for your presentation. I caught some of it in the back and then came in right along with you. Obviously, a concern for this committee is a lot of the presentations we have gotten from young people have quite emphatically stated that they feel uncomfortable with the prospect of practising the

profession here in this province, and you have gone on to state some of that as well.

A sentence—*[interjection]* I am not done yet, plus you have to wait until your name is called so you get into Hansard. "A number of my students have told me that they will leave Manitoba if Bill 7 is passed." Another question: Why would our youth, where they are graduates of the architecture program here not want to stay in the province? Another one: If our young people are going to stay, it will be because the communities feel like real places.

Do you really believe that if this bill is passed that we could see a lot of our young professionals, our trained young professionals leave the province, and what would be that catalyst? What is it in this bill that would be the catalyst that says to a young person, okay I have spent all this time here, I have studied, I have got some roots here, but I am going to leave. Could you answer those two questions?

**Floor Comment:** Well, first of all, I believe—

**Mr. Schuler:** She has to call your name.

**Ms. Fuglum:** First of all, I believe my students when they say this. They are not flippant or excitable people. They are pretty sincere and pretty measured. I think the reasons they would leave is, in part, I think the bill has a lot of gaping holes in it.

One of the things that opens up speculation is what will happen when we interpret the section of the bill that talks about additions and renovations to buildings. There is no size or occupancy limitation stated in this part of the bill and a lot of us get a lot of our work from additions and renovations, so I think that is an alarmingly vague part of the legislation.

The second is that I think the fact that the architects are not able to regulate themselves, that they would be at the beholding of a Building Standards Board that has only one architect of twelve members, is really quite alarming. So I think those two things alone would worry the students enough to think that maybe they should head off for Toronto where this kind of legislation has not been enacted.

**Ms. Allan:** Thank you for being here with us this evening.

In regard to the renovations and alterations to buildings, you are absolutely right. It is not spelled out in the bill and that is because it will be put into a regulation. I will be speaking to that this evening, and if you do not have time to stay we will make

sure you get a copy of that. Just for clarification, in regard to the Building Standards Board, there are actually two architects. A representative from the Manitoba Association for Disabilities is an architect.

**Ms. Fuglum:** Okay, but still two out of twelve.

Could I ask one more question?

**Madam Chairperson:** You can respond, if you wish, to what she said.

**Ms. Fuglum:** Okay, the last thing is this difference between supervision and review. I think it is really unclear and worrisome, as I have stated, and I would really urge this committee to revisit that.

**Madam Chairperson:** Thank you.

**Mr. Santos:** Could there be agreement that the unread portion, if any, should be part of the record?

**Madam Chairperson:** Agreed? *[Agreed]* As presented, your entire presentation now will appear as read.

**Ms. Fuglum:** Thank you.

**Madam Chairperson:** The committee calls Martin Kuilman, private citizen. You can proceed, Mr. Kuilman.

**Mr. Martin Kuilman (Private Citizen):** Thank you, Madam Chair, Minister Allan, committee members.

My name is Martin Kuilman. I am an intern member of the Manitoba Association of Architects. I would like to thank you for this opportunity to allow such a large contingent of architects into your committee room, and to allow us to voice our concerns with the proposed amendments to The Architects Act through Bill 7.

I believe that this is a marvellous opportunity for this committee to hear the issues that concern those whose very existence depends on this act. Architecture is a profession that has been well represented here the last few days. We have not come lightly. It is not simply a turf war. I am sure that all of the presentations that have been laid out before you here make that very clear, issues like allowing engineers to practise architecture. Which act would govern such activity? Should those engineers that wish to be grandfathered not be tested to determine competency? Who decides competency? Can competency be defined by one act and not the other? Should it be defined by both acts and how can the joint board determine competency? How



is this competency supposed to be demonstrated to the authority having jurisdiction? Should the authority having jurisdiction have to ask for a résumé to determine competency? Has this all been considered? Should it not all first be decided?

Really, what are we all after? We want to make it clear to the authorities having jurisdiction, to the public and to the two professions, who is required to do what task when it comes to the design and construction of buildings. Sounds simple enough.

It is turning out to be quite complicated. It is turning out to be an issue that needs and requires sufficient time to be studied and planned. This is not legislation that should be quickly passed through the Legislature for the sake of a small group of engineers. This bill will have a vast impact on all of the Manitoba architects from this time forward. Surely we do not wish to sacrifice our futures for a small blip on the landscape today.

We are not interested in creating an architectural climate in this province where those not fully trained in architecture in its full width and breadth create buildings in which we all live, work and play. The heritage of Winnipeg itself owes a lot to the architects that have come before us and to those that are here with us today. Do not rush changes to a professional act that will have long-lasting implications on the spaces in which we live, work and play, without sufficient thought.

I would like to read the contents of an e-mail, which has been sent to Raymond Wan, architect, by Allan Borodkin, the owner of The Dynasty Group.

Mr. Borodkin states, "Raymond, I have been following the issue and, for the life of me, I cannot understand what is motivating our esteemed politicians to change The Architects Act to allow engineers to design and supervise significant buildings. Obviously, engineers provide a very important and necessary function in the structural, mechanical and electrical design of buildings, and architects would be remiss in their responsibility to clients if they attempted to avoid using engineers in these areas of design. But to empower engineers to replace architects in the architectural design and supervision of buildings is ludicrous and destructive to the public interest. What is next in Manitoba, chiropractors performing back surgery?"

"My company, The Dynasty Group, has developed a dozen properties in Winnipeg and, as you have come to know, I am very fussy on the

aesthetics, design, layout and function of the buildings in any development that carries our name. I would not consider engaging an engineer to provide these architectural services. Even if I were developing a bridge, I would still seek design input from an architect. Engineers do not have the education or training to replace the profession of architecture.

"It appears to me that our politicians are being swayed by a very large and well-organized lobby group. They may not appreciate the long-term, detrimental effect that the proposed change in legislation would bring upon Manitoba and Winnipeg in particular. I am referring here to aesthetics, economics and general quality of life. If enacted, this change, in my opinion, would constitute one of the biggest mistakes a government could make for its citizens. Allan Borodkin, The Dynasty Group."

\*(20:40)

Another issue that concerns us involves the Building Standards Board. It seems that nowhere is a professional act laid out in such a way that the act itself becomes subservient to an outside body such as the Building Standards Board. This is a board created within the Manitoba buildings and homes act that is entirely appointed and not necessarily with an architect. It advises the minister on such items as the Building Code, which codes to adopt and implement and which to change.

The proposed amendments to The Architects Act, in conjunction with the changes to The Buildings and Mobile Homes Act, gives control over what work is allowed to be done by non-members of the Manitoba Association of Architects through the Manitoba Building Code, those activities that, by law, only architects are permitted to do. This effectively gives control over what is the practice of architecture to the Building Standards Board. There is no other regulated profession in Manitoba which has its scope of practice defined by a group of industry stakeholders, including business and private interests. The issues brought forward have been so done by some of the most respected professionals in the province today, a group that has experience from all around the world.

I will briefly summarize the table that is proposed by The Manitoba Buildings and Mobile Homes Act, the alterations part of it. Part of what we are trying to do is make it very clear for the authority having jurisdiction to be able to make decisions

without having to question one way or the other, to make it very clear for them and easy for them. This very table allows, or forces, those decisions on that authority to make up decisions in the opinion of the authority having jurisdiction, "alterations to buildings will require a professional architect or engineer" or "is likely significantly affected." These phrases allow, or force, the onus on the authority having jurisdiction to make these decisions, which they are asking, through this bill, to not have to do. They do not want to have to make these decisions. The professional involvement is just "the architect or engineer or both, as determined by the authority having jurisdiction." Those very phrases are not what they are after. I would think that even they would have preferred not to have the onus on them.

Ladies and gentlemen, I support the positions of the rest of the MAA and the many others that have spoken. I call upon the minister and this committee to delay Bill 7 from proceeding to its third reading. Delay it. Reconsider it and rethink it. Thank you.

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

**Mr. Kuilman:** Thank you.

**Madam Chairperson:** The committee calls Nick Read, private citizen.

Just before you proceed, Mr. Read, for the information of the committee, we have had another presenter added to the list, Anthony Wong, private citizen.

You can proceed, Mr. Read.

**Mr. Nick Read (Private Citizen):** Good evening, Minister Allan, honourable members, ladies and gentlemen.

For the handout I gave, I would like to apologize for a few typos. I kind of rushed it on the weekend—

**Madam Chairperson:** Mr. Read, if you could just bring that mike up a little bit. We are having a bit of trouble back here hearing you.

**Mr. Read:** Thank you. My name is Nick Read. I am here as a private citizen, but the experience I bring to the committee is from 35 years as a professional engineer at Manitoba Hydro. I currently manage a maintenance engineering department of about 35 engineers and technologists who are responsible for maintaining all the generating stations in the southern part of the province.

My interest is Group F, Industrial Occupancies, as my group is responsible for alterations to these types of buildings, and most of my following comments are limited to that type of occupancy.

After watching presentations by the architects two days ago, even I began to wonder: If there are over a hundred engineering disciplines, which is news to me, how can we prevent biochemical engineers from designing buildings? Why let somebody who does not have eight years of architecture education design buildings? Six or nine, I have heard about three different versions of that.

Fortunately, there are some good answers to this question. Engineers are subject to discipline for practising outside their area of expertise, so they do not tend to do so. So far, this seems to successfully prevent biochemical engineers from designing airplanes. When working on large projects requiring modifications of existing buildings, many engineering disciplines and years of education are frequently used under the supervision of the stamp holder. Therefore, rather than eight years of education, we frequently have teams put together with literally hundreds of years of education and experience.

Architects are well educated in the design of buildings, but why give an architect the prime consultant role by law in the design or modification to industrial buildings? Sometimes they are more than what is required for cost-effectiveness and at other times are less qualified than engineers, and I am referring to just those industrial buildings.

I want to make it clear I am here as a private citizen, but I am going to use a number of Hydro buildings that I am familiar with as examples. Manitoba Hydro's new head office: Manitoba Hydro wanted a world-class building. Architects were hired and would have been hired law or no law, but another building I am quite involved in is the Gas Turbine building in Brandon. There we put in two gas turbines about the size of this room each. I mean the gas turbines themselves. The important thing about getting those gas turbines in there is being able to take them apart, being able to lift components out of the building, so the building is almost part of the process, and in that case the team was led by engineers and they were the best experts on how to best house those machines safely.

In 1995 modifications were made to the Brandon boiler house also in Brandon. Just to put it in perspective, that Brandon boiler house is 10 storeys

high but modifications had to be made to it, holes cut in the side of it, new duct work put in to allow for a new electrostatic precipitator. Once again that multimillion-dollar project was designed and managed by a team of engineers. Once again, in my opinion, they were the best qualified to both lead and do that work.

I am not an expert in this last area but what about a new generating station, the Power House? The foundation of the Power House is really where our turbines sit. Obviously, whoever is the lead consultant for putting a new powerhouse in, in my opinion, should be engineers. Those engineers in Manitoba Hydro and on behalf of our consultants here in the province are the experts on building those types of buildings.

When my maintenance engineering group plans work on generating stations, we can draw on over 360 engineers in-house, specialists as well as numerous consultants. Do not be taken in by the eight years of curriculum that the architects have tried to emphasize as being important to all buildings. In my opinion, for these industrial buildings the engineering experience is more important.

None of the projects for which I am associated have been stopped by the ruling under question because they do not require approval from the City of Winnipeg. However I am concerned that the September 16 ruling by the Court of Queen's Bench and its broad interpretation of The Architects Act leaves engineers at Manitoba Hydro open to litigation.

I believe that Bill 7 provides the needed clarity between the two acts and allows Manitoba Hydro and other industries to choose when they need architectural services. I also believe that Bill 7 has adequately addressed these concerns and I want to ensure that it gets passed into law as soon as possible.

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

Seeing no questions, we thank you for your presentation.

The committee calls Cecilia Moon, private citizen. Good evening. Did you have something you wanted us to circulate to the members?

Before you proceed, Ms. Moon, could you just bring the mike down a little bit. Thank you.

\* (20:50)

**Ms. Cecilia Moon (Private Citizen):** Thank you very much. My name is Cecilia Moon. Having lived here for almost 20 years, I am presently a first year's master's student in architecture at the U of M. My previous study was fine arts and two years of a pre-master's in the Faculty of Architecture.

I would like to speak to the subject "Architecture as a special profession," which has a unique relationship with engineering. Architecture is the profession which requires and leads to continuous development of technology, physically representing the city's strength.

We must not lose sight of our younger generations who would make Manitoba a place to be proud of in the future. These people dream of becoming famous architects and will influence creatively architectural buildings throughout the world. I believe that the Faculty of Architecture has the capacity to help these young adults make their dreams come true through a course of studies based upon encouraging economy and designing sustainable and aesthetic buildings which will attract more people into cities. Then along comes Bill 7, which is set to undermine building in general.

Building a building requires many skills as an interdisciplinary work of art, such as organizational skills, the ability to take an idea and make it tangible, coupled with business acumen. An architect not only draws plans. She/he must also research health issues, structural sustainability, climate problems and incorporate these parts into the planning before she/he started to work with engineers. The architect not only has these skills but is also able to produce his or her own work of art which evokes an emotional reaction from people.

I see a huge delineation between the work that engineers and architects do. Engineers can build warehouse structures to house merchandise which we see in buildings such as Home Depot, Revy and Superstore. I believe that architects build into buildings aesthetic qualities along with the safety and health-oriented qualities. Hospitals needed to nurture the patients and not be a sterile environment that only house sick people.

Cost is important, but in our hectic, stress-filled world, people need to have a positive reaction to their surroundings, all of which the architect encompasses into his or her plans.

In school, architectural students are taught to use numbers, geometry with lines and angles, just like

engineering students are taught. We are not trying to infringe on their territory since we need those parts in order to design buildings. We needed to keep balance of both professions working together. We can easily see how beneficial this has been in the past. For example, all well-known structural and mechanical engineers have been emerged by working with a famous architect such as Skidmore, Owings & Merrill LLP in the United States by working with Frank O. Gehry; Ove Arup & Partners by working with Norman Foster and John Utzon; Antony Hunt Associates with Norman Foster.

If I, as a student, looked at architecture that is only a building without researching solutions of climate and health issues and structural sustainability, our growth in designing skills would be nothing. Please let your public art, your architecture, nurture here. Architects nurture our emotional side by not only making buildings serviceable, but also making them places we need to frequent and where we enjoy spending time.

What we need to do is find a way to work together and develop new building technologies with our mutual respect for each other's knowledge. We have to remain collaborators working together. Thank you for allowing me to present my thoughts about Bill 7.

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

The committee calls Stephane Chappellaz, private citizen. You can proceed.

**Mr. Stephane Chappellaz (President, Architectural and Building Technologists Association of Manitoba):** Madam Chairperson, Madam Minister, ladies and gentlemen, my name is Stephane Chappellaz. I am the president of the Architectural and Building Technologists Association of Manitoba.

Our association represents approximately 150 individuals who are employed in the construction industry in many capacities and roles. Our membership includes, amongst others, computer-aided drafting technicians, specification writers, technical designers, project managers and educators. Some of our members work for drafting services, some work for contractors and suppliers. Some work for architectural or engineering firms, some work for government, some are self-employed and offer design services for residential and small-scale

commercial projects. We all work with architects and/or engineers on a daily basis, and we have all been affected in some way by the recent decision by Judge McCawley and the subsequent actions taken by the authorities having jurisdiction.

Since the membership of our association is so diverse, it might seem improbable that we could agree on a position on this issue. I have spoken with many of our members over the last few days. One common opinion that has emerged is the concern that the scope of any profession could be controlled by a group of individuals with a clear, vested financial interest in the industry in which these professionals practise.

Another common concern is that it is not enough to merely claim that one is capable of performing a professional service. It is imperative that one demonstrates his or her qualifications and, as you have heard numerous times over the last few days, architects do have to prove their qualifications through many years of university education followed by years of internship and a very rigorous examination process. Merely claiming that one is qualified cannot be sufficient.

Architects employ or contract engineers to design building systems; structural, electrical, telecommunications, plumbing, fire protection, heating, ventilation and air conditioning. Engineers, despite their common designation of P. Eng. or Professional Engineer, are highly specialized individuals who are uniquely qualified to design the building systems in which they specialize. Architects, likewise, are uniquely qualified to synthesize these systems into a building, all the while ensuring that the human element is respected. Engineers might be qualified to design buildings that involve material processing, but they are certainly not educated to design buildings which are primarily meant for human activity.

The current building permit processing backlog has been created because existing legislation has not been respected. To attempt to remedy this situation by simply redefining the law in order to make past inconsistencies and oversights acceptable is myopic and wrong.

I would urge the government on behalf of the members of the Architectural and Building Technologists Association of Manitoba not to proceed with Bill 7. The ramifications are far too important and much too far reaching for all citizens. Any legislation that impacts a profession as much as this proposed bill does should be carefully thought

through and negotiated with the professionals affected. Thank you.

\* (21:00)

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

The committee calls Wells Peever, private citizen. You can proceed, Mr. Peever.

**Mr. Wells Peever (Private Citizen):** Good evening, Madam Minister, members of the Legislature. My name is Wells Peever and I am a lawyer and I have done legal work for the Association of Professional Engineers and Geoscientists for over 20 years. I have been involved in all of the amendments and revisions to their professional statute during that time and I had the primary responsibility for drafting the substantial revision to the engineering profession act, The Engineering and Geoscientific Professions Act, in 1998.

*Mr. Vice-Chairperson in the Chair*

Tonight, I want to address just three specific issues related to the practice dispute settlement act. The first issue is the date of proclamation of sections 4 through 9 of the act. Sections 4 to 9 do not come into force on the same day as all the other sections of the act. Instead, if you look at section 24(2) of the dispute settlement act, they come into force, and I quote, "on a day fixed by proclamation."

Now, I understand that the reason for the delay in proclaiming these sections in force is to allow the Architects Association to pass by-laws necessary to deal with the issuance of certificates of approval. The concern I have is that the legislation does not prescribe a time frame for creating those by-laws. Now, given the history between the two associations and all the rancour and friction around this dispute settlement act, the architects may not be motivated; they may not be anxious to pass the necessary by-laws.

If sections 4 to 9 are not proclaimed and brought into effect, much of the work that has been done to resolve this issue will have been wasted or, worse, the two associations will be back to the minister, arguing about when sections 4 to 9 should be or should not be proclaimed.

The dispute settlement act is a comprehensive solution. Implementing only a part of it does not solve the problem. Unless you want the parties back

here again this time next year, I suggest that section 24(2) contain a clause stating that it comes into effect something like 90 days after the date when the balance of the act comes into effect. That would give the architects ample time to implement whatever by-laws might be required and would avoid leaving this issue only partially resolved.

The second issue, you recall I said I had three issues, relates to section 7 of the dispute settlement act, which sets out the new section 18 of The Architects Act, and subsection 18(1) of the dispute settlement act is captioned "issuance of certificates of approval." It sets out the requirements to be met in order for the council of the Architects Association to issue certificates of approval.

Subsection 18(1)(e) states that an applicant must, and I quote, meet "all other requirements, if any, prescribed by the council." There is no indication in the subsection or anywhere else as to the type of requirements that might be prescribed. There is nothing that says the requirements have to be bona fide. There is no reference point. There is no benchmark for the requirements.

I suggest that there be some reference point or some parameters for determining what sort of requirements can be prescribed by the applicant's birth certificate of approval. I suggest that the benchmark for determining the appropriateness of any requirement be the public interest. I suggest that those words, that is "taking into account the public interest" be added to the end of subsection 18(1)(e). That would ensure that the discretion exercised by the council under that subsection is bona fide and consistent with the overall purpose of professional regulatory legislation.

The third issue relates to the defining of the scope of practice. I understand that a previous speaker suggested that the scope of practice must be defined in the act and not in a regulation or some other place. Typically, in a professional statute, the scope of practice is set out in the definition of the profession, in the definition section of the act. For example, The Engineering and Geoscientific Professions Act sets out a definition of the practice of professional engineering and a definition of the practice of professional geoscience. The Architects Act contains a definition of the term "architect." The Architects Act says, and I quote: "'Architect' means any person who is engaged for hire, gain or hope of award in the planning or review for others of the erection, enlargement or alteration of buildings by

persons other than himself." That is the scope of practice, and it is set out in the act.

*Madam Chairperson in the Chair*

The issue being addressed in the dispute settlement act and the references to the regulations is not the scope of practice. It is not the scope of practice of architects or engineers. But, rather, it is how to deal with the areas where the respective scopes of practice of architecture and engineering overlap.

You recall Dr. Garland Laliberte's presentation and the two overlapping circles, those circles effectively outline the scopes of practice of architecture and engineering. The dispute settlement act does not purport to define the scope of practice of engineering or to redefine architect. In particular, it does not define engineering or architect by reference to a regulation. Those terms and the respective scopes of practice are already defined in the two professional acts. All that is intended by the reference to the regulations and to the Building Code is how to deal with the areas where the scopes of practice overlap. There is nothing offensive in law about that.

The issue of the scope of practice relates to the protection of the public, and that is presently dealt with in the definitions. The issue of the overlap is an entirely separate issue and, I believe, it is dealt with quite properly in a regulation which allows some flexibility in resolving the issue of overlap.

\* (21:10)

Frankly, to say that the regulations define the scope of practice is a red herring. The regulations are simply a mechanism for dealing with the overlap.

So, in summary, I believe the act would be improved and potential future disputes avoided by adding, firstly, a time period for the coming into force of sections 4 to 9, and secondly, by introducing a test of acting in the public interest in the exercise of council discretion in issuing or refusing to issue certificates of approval. Finally, scope of practice is already dealt with—

**Madam Chairperson:** You will have to conclude at that point. I apologize. Are there any questions?

**Mr. Schuler:** Thank you very much and, again, in your opinion, then, you are saying that in The Architects Act where it defines architect, that is the scope, and where it defines, I had it here, practice of a professional engineer, that is the scope of an engineer?

**Floor Comment:** Correct.

**Madam Chairperson:** Sorry. Mr. Peever, you can respond. I have to recognize you.

**Mr. Peever:** Correct, and the purpose of that, the purpose of defining the scopes of practice is to set out the area where unqualified people cannot practise. That is the section that prevents unqualified people from doing something, and that is the purpose of the definition of scope of practice and, as I say, it is already in each of the acts.

**Mr. Schuler:** What we have been debating for the last three days, individuals who have been coming forward, is to a lesser degree Table 2.3.1.3(1), Table 2.1.7. One is building use and the other one is type of work, and under building use, I guess the feeling is, from what I understand from the architects, they wanted to see that in the architect bill. Am I getting that correct?

**Mr. Peever:** I have not been here for all of the presentations, but I am presuming that is the case. What I am saying is it is not necessary to put that in the act. That does not deal with scope of practice. That deals with dispute resolution, resolution of the overlap.

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

For the information of the committee, we have another individual who will be added to your list, Josef Nejmark, private citizen.

The committee calls Evan Hunter, private citizen. Mr. Hunter, do you have a written submission you would like to circulate?

**Mr. Evan Hunter (Private Citizen):** No, I do not.

**Madam Chairperson:** If you could just bring your mike up a little bit so we will be able to make sure Hansard catches your remarks. Thank you. You can proceed.

**Mr. Hunter:** Good evening, ladies and gentlemen. Before I begin, I just had a conversation with a colleague of mine. He wanted to address a lot of the questions Mr. Schuler had to previous presenters and that question being: What is it about the act that would make prospective architects leave the province? I quote him directly. "The reasoning behind many architecture students' proclamation that they will leave the province if Bill 7 passes is as follows: Bill 7 opens a door for engineers to practise many forms of architecture."

In its nature, it is aimed at leaders in the engineering industry, those who have been practising architecture for some time, who usually seem to own or have vested interest in a design-build firm. Indeed, many engineers who have spoken in favour of Bill 7 fit this category.

The Architects Act kept these individuals somewhat under control. They undermined the authorities having jurisdiction, only occasionally allowing some of these individuals to trickle through the process and that is what led to the injunction. In this bill, if it passes, this will open a door for engineers to practise architecture and condone these past infractions, and that will allow these leaders to bring more young engineers through the door and continue to work as they have.

This trickle over time will become a flood. More and more engineers will begin practising architecture, and over time architects will, in effect, be washed away and, along with them, the quality of our built environment. Architects and architecture students will not so much choose to leave, as they will eventually be displaced as the entire engineering industry moves through the door. Again, I assert that is the opinion of a colleague of mine.

In coming up, I originally intended not to argue who is competent to design buildings. My concerns with this bill are that they do not respond to the best interests of the public. Now, architects, much like other professions, are self-regulated and they have a fiduciary responsibility to the public, not just their client. What this means for architects usually is a response to the general urban landscape, neighbouring buildings, concepts of future use and environmental impact.

Engineers have a similar responsibility in their act. They have to act in the public's best favour. I am not clear with how that is. I am fairly certain, though, that it is not the same as architects. But this bill will allow non-professionals to obtain certification to design buildings. These individuals will not have a professional responsibility by not being a member in either of these professional organizations. A further risk to the public's interest is that part of being an architect is assuming a great deal of risk in taking on a project, and a great deal of risk, i.e. professional liability, the chance to get sued.

Engineers, I assume, if this bill passes and they assume this certification, would also have to assume a lot of risk. But it is not the same sort of risk because they have not been going to school for six

years and three years of internship. They would not lose that professional accreditation. They would only lose a certification they gained from some board.

Now, should a building fail, the public needs protection. That is and has always been the case. You know, there are varying degrees of a building to fail. A building can be ugly, and people design ugly buildings all the time. A building can just not work right, let us say the doorway to someone's office is not big enough for the desk they wanted to put it there. There can be failures in the building envelope. This is expensive and architects get sued often for this. There can be a structural failure or problems with egress, and heaven forbid these happen. But, unfortunately, they do happen and people are responsible for that.

Now, architects have education. They are taught these things. Currently, if they do not do these things well, if their buildings fail, they lose clients, they face lawsuits and they lose their professional status. Engineers have some education, I will admit. I have actually taken some engineering courses that deal with building design, design of building structures that is. But we need to guarantee, if this bill passes, their competence in human matters, in dealing with the public, et cetera, all those issues that I explained earlier under the architect's fiduciary responsibility.

Now, non-professionals, there is a question mark there. There are lots of question marks. Will they have the sort of insurance? Will it carry out much like professional insurance does? Their competence is just going to be asserted by a board, if I understand the bill correctly. Many people have said this already, but I have to assert that this is a very, very scary notion because the people that make up this board are responsive to industry, not the public interest.

So, to propose a solution to this, I would say non-architects cannot practise architecture. They do this in every other province with their architects act; just propose exceptions. Architects do not want to be designers of turbine houses. So why would we force them to be? But we need to make these exceptions.

So, to conclude, I am going to say, personally, I am not going to leave this province. I was born here, raised here and I have friends and family here. I know, should this bill pass, I can go out and if I work hard enough and if I do a good enough job, I can succeed. But there is no guarantee for the public that other people will do that if this bill passes. Thank you.

\* (21:20)

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

The committee calls Patrick Harrop, private citizen. Is there a Patrick Harrop present, private citizen? Mr. Harrop's name will be dropped to the bottom of the list.

The committee calls Oliver Beck, private citizen. Mr. Beck, did you have a written submission for the committee?

**Mr. Oliver Beck (Private Citizen):** No, I do not.

**Madam Chairperson:** Okay, you can proceed.

**Mr. Beck:** Thank you for this opportunity to speak in opposition to Bill 7 in its current form. My name is Oliver Beck and I am a student member of the MAA.

I will speak on three issues tonight. Firstly, a personal note. My wife and I came to this province from Ontario, drawn by the excellent reputation of the Faculty of Architecture, as well as the inexpensive cost of living. Our daughter was born here and we have another on the way. Like many other students, I feel that the authority of the profession will be undermined by the passing of this bill in its current form, suggesting to me that this is not a province which will support my career.

My second point, historic places. For the past two years I have worked with the Historic Resources Branch of Culture, Heritage and Tourism, though I do not speak on behalf of the branch. While there, I have been working with the built heritage of this province. I am talking about historic grain elevators, labour temples, utilitarian structures, synagogues, churches, the entire Exchange District and so on.

These buildings represent the sole and spirit of the culture. They provide tangible economic, environmental, social and cultural benefits. I understand the passing of Bill 7 in its current form would erode the requirement of an architect to be involved in interventions or renovations of historic buildings, many of which have been designated under The Heritage Resources Act. Empathy and sensitivity toward culture, built or otherwise, are hard-wired into architects. Not to say that mistakes have not been made, but our entire curriculum consistently references the need to be thoughtful and sensitive to human and cultural issues.

Just before coming this evening, I looked at the U of M's Web site to see what humanity-based courses were part of an engineer's education. I may be mistaken, but I think I saw only one, an English course. Do not get me wrong, I do have great respect for engineers. However, I do not view them as a profession used to working with concepts rooted in the humanities.

Thirdly, seniors residences, and this is with reference to gross versus building area. In one of the MAA's recent meetings, the point was raised that with this bill in its current form, personal care homes would likely be built without input from an architect. I find this appalling. It would be wrong to allow people in the final chapter of their lives to live in a building designed by someone with no training in the area of human occupancy. This is the time in a person's life when they deserve the richest architecture our society can offer, given that they have much less time to appreciate it. Thank you.

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

**Floor Comment:** Thank you.

**Madam Chairperson:** The committee calls Kim Wiese, private citizen. Once again, the committee calls Kim Wiese, private citizen. Ms. Wiese's name will be added to the bottom of the list.

The committee calls Anthony Wong, private citizen. Good evening, Mr. Wong. Did you have written submissions you wanted to circulate?

**Mr. Anthony Wong (Private Citizen):** No, I do not.

**Madam Chairperson:** Okay, that is great. You can proceed, Mr. Wong.

**Mr. Wong:** Scope of practice and stripping away of, I know something about that. I have had major design decisions taken away from me. I have been publicly chastised and ridiculed on my decisions and my budgets.

I am an engineer. What makes me unique, I believe, is the fact that I also work in the Faculty of Engineering at the University of Manitoba. So I think my perspective from an engineering standpoint is somewhat unique. I have a Bachelor of Science in Computer Engineering. I have a Bachelor of Science in Computer Science. My official title is technical manager at the Faculty of Architecture, and I have been there 12 years.



The reason I am here, and I made the decision to register to speak only 45 minutes ago, is to try and give some balance to the proceedings here. I am not here as a representative of APEGM. I am not here on the urging of the MAA. I have not been given scripted statements as, I believe, some of the students here have from the Faculty of Architecture.

The continuum of education from architecture's perspective is something I would like address very briefly. From talking to professors, graduate students, it seems to me there are basically three different types of architecture design schools. You have a practical design school where architects are trained to use the Building Code, build and design according to code. You have a sort of middle ground where you have some practical training and some theoretical training. Then, on the far right, rocket-science type, you have got theoretical architects that do work that I cannot even begin to understand.

So what does that mean? It means that, as we listen to different presenters here, you may be hearing a broad spectrum of architectural training and experience. In much the same way, engineers can be chemical engineers, nuclear, agricultural, electrical, computer. There is some analogy in the architectural world.

Now, there has been lots of talk about life safety Building Code issues. I have spent dozens, if not hundreds of hours talking to professors, staff, undergrad students, graduate students, and the common theme from all my discussions is that at university there is very little or no formal education on life safety, accounting, budgeting or business management. All that education is gained after they graduate. So I want to make that clear. That education is gained after they graduate from architecture because that has profound implications on who can actually gain some of the experience and knowledge on life safety and Building Code issues.

Now, because I only registered to speak, my presentation may be somewhat unpolished. There are several more points I would like to mention. The Canadian Institute for Barrier-free Design, it was, I believe, renamed The Universal Design Institute, was based at the Faculty of Architecture. It was shut down several years ago. So if you are talking about planning for and designing for, let us say, the elderly, disabled, the people who were in that institute are no longer there to teach.

\* (21:30)

I only have one more statement to read. This statement is from the Law Reform Commission 1994 Report No. 84. On page 26, paragraph 1, it says the reality is that in no profession are all activities engaged in by members potentially harmful. To prohibit others from providing harmless services solely because they are within the scope of practice of a licensed profession maintains a useless fiction.

So I would urge that this committee carefully consider your decision and that you examine all aspects of the decision.

Sorry, one more comment. There have been multiple invitations to visit the Faculty of Architecture. I believe that is actually a good idea, but I would hope that you would also visit or at least on your team have a balance of engineers too, so you would get a balanced viewpoint. Thank you.

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

I just wanted to make one comment to the people in the general public, Just make sure that if you are here to speak that you have registered to speak. We are getting close to the end of our presenters' list, so I just want to make sure that everybody who is here is given an opportunity to speak if they so desire.

The committee calls Josef Nejmark, private citizen. Did you have a written submission you would like to circulate?

**Mr. Josef Nejmark (Private Citizen):** No, I do not. I did not expect to speak until half an hour ago.

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

**Mr. Nejmark:** My name is Josef Nejmark. I am a member of the MAA. I have been serving on the Building Standards Board as a representative of the MAA for probably in excess of 20 years, so there were a number of building standard boards over that period of time.

I was always serving on the conjunct board of architects and engineers through the process of Dr. Witty's efforts to resolve problems that existed for many, many years in Manitoba, and I am on the MAA council, so that I saw the situation with the dispute that was going to come for many years first-hand and in particular over the last year and a half, two years.

When I learned that the scope of practice is removed from The Architects Act, I was as

distressed as every other member of our profession. I am registered also, by the way, in Ontario, Saskatchewan, British Columbia, Alberta and the Northwest Territories. Last summer I was in Ottawa passing Building Code exams for the Ontario association and Municipal Affairs and had to study in detail building codes which in Ontario have a table of scope. That same table ends up in the Architects Act. So it is a consistent scope in both act and Building Code.

I really do not believe that the table of scope of practice belongs in the domain of the Building Standards Board. The Building Standards Board consists of one architect which is me right now, one engineer, a number of what we call stakeholders who are not really interested and knowledgeable enough to deal with architect and engineering scope. So what will happen is that the Fire Commissioner's office will have to establish the table as they do right now.

I am a member of the Building Standards Board. The table is out there produced but I have not had any input toward the table. There was no discussion. That means that government will produce the table and will maintain it. The Fire Commissioner's office will do all those things and the Building Standards Board will be rubber-stamping, I guess, because there is one architect and one engineer. We cannot agree probably on the scope ever. Since all other processes failed, and they did not fail because architects were not co-operative, architects approved every step of Dr. Witty's process and report. That should be clear because misunderstandings are flying around.

Another concern I have, being in the middle of this disagreement with our engineers over the years, is that statement by engineers that when status quo of defying The Architects Act for the last 12 or 15 years is broken and we go to deal with a solution, like we do now, we want Manitoba-based resolution. Why that is said, Manitoba-based? Why not consistent with what is happening in Ontario, B.C., Alberta and other provinces? Because that means properly regulating scope and giving architects ability to perform their work properly.

I want to address one other notion that is going around in respect of building permit process. I am really concerned that authorities having jurisdiction, whether we are dealing with Fire Commissioner's office or City of Winnipeg, are going overboard with not being able to distinguish between projects that are within architects acts, for which judgment was

handed down, and projects that have never been meant to be within architects act.

So clients come with projects that are tiny, below 400 square metres, and they can get building permit. Why? Because authorities having jurisdiction refuse to do a judgment call. Here we hand out, in that table of scope, a way for authorities having jurisdiction make a decision, which project will require architect, and which will not. It was always this discussion, how plan examiner is to make judgment call on issues like that. Now we are handing it all to authorities having jurisdiction.

I personally believe that law should prevail, not individual's judgments out there, which will be different in Fire Commissioner's office, different in City of Winnipeg and different further down in the province somewhere.

So that table belongs with architects act. That table may be negotiated and be part of memorandum of understanding worked out by joint board between engineers and architects. But it certainly does not belong in Building Standards Board. By doing so, we better say Fire Commissioner will produce the table and tell engineers and architects who does what. Well, that is definitely precedent in Canada and I do not know why Manitoba needs to be so different. Is there anything good about being that different?

I think that is all I have to say. In addition to that, I have big disappointment with how disagreeable the process is. It could have been resolved many, many times throughout using the Dr. Witty process. I am done.

**Madam Chairperson:** Okay. Thank you.

\* (21:40)

**Mr. Schuler:** Thank you very much, and we certainly appreciate your presentation. We had an individual make a presentation, and he put forward the argument that—did I miss something?

**Madam Chairperson:** No.

**Mr. Schuler:** Okay. In The Architects Act, under "architect" definitions, it lays out "means any person who is engaged for hire, gain, or hope of reward" and so and so forth. The argument being made by that individual, that lays out the scope. In the engineering act, under practice of professional engineering means any act of planning, design and composing, and the argument being made was that laid out the scope for engineers. That individual basically said that the

scope is laid out in both acts. Do you agree or disagree?

**Mr. Nejmark:** I believe that the acts are pretty simple if they are dealt with in the proper legal way. That means The Architects Act clearly says that the architect designs buildings and the engineers act does say that engineers design systems for the buildings, or so it should, and should take one other further step, the engineers act, and distinguish between structural, mechanical, electrical, electronic and other civil engineers, which it does not right now. In almost all other provinces that distinction is very obvious and very important to the public.

**Madam Chairperson:** Just a moment.

**Mr. Schuler:** No, no, you did not answer the question, so—

**Madam Chairperson:** Mr. Schuler, proceed.

**Mr. Schuler:** Thank you. The argument made that that was defined in each act, or the scope was defined in each act, and what is being discussed and what seems to be the bone of contention, really, are the two charts that have been presented. So, besides the scope laid out in both acts, are you then arguing that the building use and the type of work should also be placed in the act?

**Mr. Nejmark:** If the act is being changed, because right now The Architects Act defines very precisely the scope. If it is being changed and we go for a table that defines scope, that table should be in the act and in the code, not just in the code and not just in a domain of one group that does not represent even whole Manitoba, because it is the Fire Commissioner's office, while the City of Winnipeg is separate.

It is like giving away to the authority having jurisdiction the ability to manipulate that table any time they wanted because, myself as an architect being on the Building Standard Board, I will have no way to prevent any substantial change to that table any time. It is too serious, too important an issue to not only engineers and architects but all Manitoba, and it should not be treated lightly.

Was I helpful this time? Thank you.

**Madam Chairperson:** Thank you very much for appearing before the committee. Seeing no other questions, we thank you.

For the committee's information, we have one more presenter to add to the list, Jac Comeau. So I

will now call the remaining couple of presenters we have.

Patrick Harrop, private citizen. One last time, Patrick Harrop, private citizen. Mr. Harrop's name will be removed from the list.

Kim Wiese, private citizen. Kim Wiese, private citizen. Ms. Wiese's name will be removed from the list.

We are now at the final presenter that we have listed. If there is anybody else, one last reminder, if there is anyone else in the audience who would like to speak, please register with the Clerk at the back.

Jac Comeau.

**Mr. Jac Comeau (Private Citizen):** Thank you. It is actually Jac Comeau.

**Madam Chairperson:** Jac? I am sorry. Jac Comeau, did you have a written presentation?

**Mr. Comeau:** No.

**Madam Chairperson:** You can proceed.

**Mr. Comeau:** I was not really planning to speak, but I was asked specifically to speak by a number of students, because they were upset about some of the earlier comments. I think the reason why they found me was I am the last architect here, or not architect, but a member of the architects' association. Otherwise, this would probably go on for a lot longer. As you, I think, can see, the architecture community is extremely concerned about what is going on, so I am going to be brief. I am mainly just going to speak to this note that passes on concerns of the students, so I will basically just read this.

One of the previous speakers stated that the students were scripted as to what to say in front of this committee and, like I say, I have been asked by these students to respond to that because they are extremely angry this has been suggested. The fact of the matter is that, and I can attest to this because I do sit as an intern member on the MAA council, that they were, in fact, told to do the exact opposite of this, that they were discouraged by the MAA from speaking, and two of them were to be called to speak for them, not for them all to speak. They did choose to do this on their own, and they did their own research and wrote their own speeches and appeared before this committee on their own volition. To imply that these young people cannot speak for themselves, they find extremely, and I find extremely, disrespectful and untrue, so I just wanted

that to be on the record because I know that that has become quite an issue for a number of you, is why the students are upset about this.

That is all. Thank you.

**Mr. Schuler:** Just for the record, was it somebody from this committee who indicated to you that all these young people had been scripted? Because I do not remember hearing that.

**Floor Comment:** No, no, it was not from the committee. It was one—

**Madam Chairperson:** Excuse me. Just a moment. I have to recognize you. Are you finished, Mr. Schuler?

**Mr. Schuler:** Remember this, if you want to be in Hansard you have to wait for your name to be called.

If I can just finish, and then I would like you to respond, because with a great degree of seriousness, I think, we have been asking these questions because it is not normal in the years that I have been here that so many young people come forward and say, "This is absolutely devastating to our careers and even further to our personal lives." I have not seen that before, and maybe it has happened. Maybe one of these gentlemen lived through it. I have not, and that is why, in all seriousness, and I think the committee was asking, you know, like, "Did you discuss this with this." You know, "Where is this coming from?" So, if someone did indicate that I did not hear it and maybe I was outside of the room when that was said, I just want to be very clear. This committee, neither the minister nor anybody, certainly not at this table, would ever have suggested that, because what was being said here is taken very, very seriously. I have not seen this kind of thing, and I have been through a lot of these. I have never seen something like this before, and we take that very seriously, I want you to know.

**Madam Chairperson:** Mr. Comeau, you can respond.

**Mr. Comeau:** Yes. Sorry, if I made that unclear. It was not somebody on the committee who said something. It was not something that was said by the committee. It was someone who was presenting, so I am sorry if I misrepresented that or that was unclear. But, as far as like you say, it is a serious issue. We have more people who have come and spoke to this than we get to come to our annual general meetings, and we truly would continue for another three days if there were more members. Everyone who has spoken

has spoken. If we had more people this would go on. It is a serious, serious matter, so that is all we say, is take it serious, and I think that you are taking it serious, but I think that if even the engineers' lawyer himself was here nitpicking at the language, that is all we are saying is let us get the language right. There is obviously a problem. There are backlogs or whatever there is. There are problems between professionals that work together. There are problems with people who are schooled and educated together, and what is on the table, according to a lot of people, everyone who could speak, is that it is not going to work. It is going to make the problem worse. We want change, there is no question. There is not one single person who has come up here and said throw the bill out, just get rid of the bill, we do not want any bill. We have said it needs to be tweaked.

\* (21:50)

**Mr. Schuler:** I appreciate that clarification. A young architect in the hallway gave me a note, and I will read this into the record at a later date. If you happen to have the chance to speak to those young individuals again, let them know. The minister, in all seriousness, indicated that she would be willing to take departmental staff and go and try to answer all the questions posed, and we are willing to do that on a bipartisan basis. I would be willing to go, as well, because we want to make it very clear to all these young people that we would love them to stay in Manitoba. Your and my pension depends on young people staying in Manitoba, so there is a little vested interest there too. It is important we keep our young. I appreciate the clarification.

**Ms. Allan:** We have appreciated the number of people that have come to speak at this committee. I think that has been quite evident because of the simple fact that I think we have broken every committee rule in regard to the number of times that people can speak and putting people back on the list. In fact, we have to take some of the practices that we have done to a Rules Committee meeting. But we have really tried to be as open as possible because of the interest in this legislation.

In fact, it is an unbelievable thing to tell you this, but when the previous government sold MTS, they had as many people present as we did in this piece of legislation. So I think that gives you some kind of idea of how many presenters have been here this evening, and we have appreciated everyone that has been here, and we certainly appreciate the young people that have been here and we will come and

visit. The Labour critic has offered to come with us, and I think that is unprecedented as well to see that kind of co-operation between parties. We take your issues very seriously and I look forward to visiting your faculty.

**Madam Chairperson:** Thank you. At that point, we have now reached the end of the list, so I just want to check one more time that there are no other individuals who wish to present. We have called all the individuals, and everybody has been called twice and, in some cases, for people who were out of town, more than twice.

That concludes the list of presenters that we have before us. Are there any other persons in the audience wishing to present to this bill? Seeing none, that concludes the public presentation process for this bill. We thank all those persons who have presented.

Is it now the will of the committee to proceed with clause-by-clause consideration of the bill?  
*[Agreed]*

For the information of the committee, I would like to mention that as part of the rules package adopted by the House on June 16, 2005, we have a new rule governing speaking times for members in standing committee. While speaking times in committee have previously been unlimited, according to our new Rule 87(2), "No MLA attending a Standing or Special Committee meeting may speak for more than 10 minutes at one time in any debate, however there is no time limit on the number of times a member can speak, unless otherwise agreed to by Committee." So I guess at this point I would ask whether or not there is a MOU?

**Ms. Allan:** Madam Chair, I would like—

**Madam Chairperson:** Just before you proceed with opening remarks, I just wanted to also remind the members who are here in the gallery that participation from the gallery is not permitted during clause-by-clause consideration of the bill. We do thank you very much for your participation.

Does the minister responsible for Bill 7 have an opening statement?

**Ms. Allan:** Yes, I do. I would like to take this opportunity to clear up some of the misunderstanding on some specific issues that have been raised by a number of architects over the last couple of days. However, before I do that, I would like to address

what I believe is the major concern: the scope of practice.

It should be clear to all members of the committee that there is a long-standing dispute between architects and engineers as to their respective scopes of practice. For the last 15 years, the associations representing architects and engineers have been attempting to resolve this dispute but have been unsuccessful. We have heard from the City of Winnipeg, the AMM, developers and interior designers that as a result of the recent court decision, a significant number of building and occupancy permits in Winnipeg and throughout the province have been put on hold or called into question and a number of other projects have been delayed. We have also heard from some presenters their personal stories about the delay of their specific projects.

It is unusual in Manitoba and in Canada for a dispute between two professional associations over the respective scopes of practice to have such a dramatic effect on the public as this dispute has had. One of the effects of the decision is that municipal and provincial government officials in Manitoba have been told that they must apply the Building Code in a manner that is consistent with the requirements of The Architects Act. On the face of it, that would be fine. However, The Architects Act was originally written almost 100 years ago and, in many ways, has not kept pace with changes in building construction.

It is apparent that The Architects Act in Manitoba and those in a number of provinces are inconsistent with the Building Code. In many provinces, that inconsistency appears to be tolerated. However, one effect of the recent injunction is that this inconsistency must now be addressed in Manitoba. In the weeks leading up to the introduction of this legislation, my departmental officials worked very hard with the representatives of architects and engineers as well as authorities having jurisdiction, interior designers, construction industry representatives and other key stakeholders to arrive at a mutually acceptable language that would address their scope of practice dispute. That effort was also ultimately unsuccessful.

We have heard comments from architects about the need to revisit the issues of industrial buildings, arenas and gross area versus building area. All these are examples of how the solution we have come up with is not yet acceptable in their eyes. Similarly, a number of engineers have commented that they

believe they should be able to design more buildings than would be permitted under this solution.

Faced with this situation, it was apparent that there was a need for a flexible legislative instrument to determine which work may be done by engineers, interior designers or non-design professionals. The Manitoba Building Code is a regulation under The Buildings and Mobile Homes Act. As a regulation, it provides the flexibility that is needed to determine who does what. The Building Code is also the instrument that municipal and provincial governments use to regulate building construction. It is with that in mind that we choose the Manitoba Building Code to specify which work can be done by non-architects.

We have heard that using the Building Code to set out work that can be done by non-architects is unprecedented. Though this approach may not be common, it is not without precedent. Section 23 of the Saskatchewan Architects Act states that a non-architect can design buildings that fall within Part 9 of the National Building Code. While this approach may not be common, it is not illegal or without precedent. It provides clarity to both professions, municipal officials and developers as to when architects and engineers are required.

But what is of key importance is it also is flexible enough to permit the two professions to continue discussions in an effort to further refine the details, the overlap. It is critical to note that while the Building Code identifies which work can be done by non-architects, the MAA will retain its authority as a self-governing body charged with regulating its profession in The Architects Act.

We strongly encourage the MAA and APEGM to continue to address the issues arising from their respective scopes of practice. At such a time that it is apparent that the two professions have reached something resembling a consensus, we would certainly consider adding provisions to The Architects Act that identify what activities can be done by non-architects.

Let me now turn to some of the specific issues that have been raised by architects over the last few days relating to the Building Code. As such, those issues are not issues with this bill, but issues with changes that will be made to the Building Code to provide clarity and to help protect the scope of practice for architects.

\* (22:00)

Alterations: Based on the very general language explaining our intent for changes to the Building Code, a number of presenters concluded that such significant alterations as the new Millennium Library or alterations to the Victoria General Hospital would not require an architect. This is not the case.

The changes to the Building Code respecting renovations will do the following: Clarify that those alternations that do not significantly affect such things as fire safety systems, life safety systems, structural systems, environmental separation systems, heating, ventilation and air conditioning systems and/or useable floor space will not require architect or engineer involvement. They can be done by interior designers, contractors, building owners and others, as appropriate. Alterations that do significantly affect those systems will require an architect, an engineer or both design professionals skilled in the work they are undertaking.

To be clear, architects will be required for alterations that significantly affect architectural features of buildings. Architects will, in new construction, continue to design all Part 3 buildings: hospitals, art galleries, restaurants, museums, large office buildings more than three storeys or more than 600 square meters, large retail stores, same as office buildings, and large residences. The only Part 3 buildings that engineers will be allowed to design are small arenas and industrial buildings. Part 9 buildings can be designed by non-architects. The Manitoba Building Code has been designed and developed for use by non-professionals.

Gross area versus building area: While it is clear that The Architects Act in many provinces uses the term "gross area," the Manitoba Building Code, the building codes in most other provinces and the model National Building Code have all used the term "building area" for quite some time. The use of "building area" to classify buildings in the Building Code is not new, nor is it unique to Manitoba. The model National Building Code uses "building area" to classify buildings into Part 3 or Part 9 buildings. The code does not refer to gross area. Part 9 buildings are not intended to require design professionals and, as a result, the requirements in Part 9 of the code are much more prescriptive than the requirements in Part 3.

It is apparent The Architects Act in Manitoba and those in a number of provinces are consistent with the Building Code in this regard. In many provinces, that inconsistency appears to be tolerated.

However, that inconsistency must now be addressed in Manitoba. We do appreciate that architects continue to have concerns about the term "building area" and the potential that fire walls could be used to avoid the need for an architect. However, changing the Building Code to use the term "gross area" would first require considerable discussion. Because Canadian provinces have committed to work toward harmonizing their provincial building codes with the model National Building Code, that discussion may need to take place at the national level.

Building Standards Board provides the minister with advice on matters related to building construction codes and standards. However, government is also free to consult with any other stakeholders it considers to be appropriate. I would like to make this commitment to architects and engineers: Any future changes to the code regarding requirements for the involvement of architects and engineers will be undertaken only following proper consultation with your professions. If the APEGM and the MAA determine that the best vehicle for that consultation is the joint board, that will be the vehicle we will use. Otherwise, we will consult directly with the two associations.

Arenas: It is worth mentioning that both the Witty Report and the 2003 joint board memorandum of understanding would allow either architects or engineers to design small arenas. A number of architects have spoken favourably about the Witty Report over the last few days. The Building Code provision that permits either engineers or architects to design small arenas is an exceptional provision that responds to the unique needs of northern and remote communities.

The Building Code regulation will make reference to arenas with fixed seating capacity of 1000 or less, rather than arena-type buildings which could be interpreted in such a way as to extend that exception to a number of other assembly occupancy buildings.

Grandfathering: In the negotiations leading to Bill 7, the representatives of the MAA and APEGM both agreed to a streamlined process.

**Madam Chairperson:** Sorry, I just wanted to interrupt for one moment. Is there leave for the minister to complete? *[Agreed]*

**Ms. Allan:** Thank you so much.

The provision will ensure that a very limited number of engineers who have developed special knowledge will be allowed to continue their practice. The joint board, which includes architects, can set the requirements for the certificate, and can place specific conditions on each. The issue of liability insurance has been raised a number of times. Section 16(1)(b) requires that prior to issuance of a certificate the joint board must be satisfied that appropriate liability insurance is in place.

Grandfathered engineers will be regulated by APEGM. The joint board could also rescind their recognition certificate if they violate the conditions of that certificate.

A number of architects have spoken favourably about the Witty Report over the last few days. The Building Code provision that permits either engineers or architects to design small arenas is an exceptional provision that responds to the unique needs of northern and remote communities.

Bill 7 provides clarity and is respectful of both professional associations. We believe there is a role for both professions in building a strong Manitoba economy. We have heard many stories from architects and engineers who have worked side by side on projects and have a great deal of respect for one another. I would like to personally thank my Deputy Minister Jeff Parr and Nancy Anderson of the Office of the Fire Commissioner, who have gone above and beyond the call of duty in preparation of Bill 7.

You have heard many presenters over the last few days recommend an exemption clause in The Architects Act that would let the free market decide. That would have been the easy route for my department, but it would have been open season on architects. We felt strongly that it was our public responsibility to work respectfully with both professional organizations and stakeholders, such as the authorities having jurisdiction and the construction industry, in the best interest of the public and the Manitoba economy.

I respectfully acknowledge this bill is not perfect and it saddens me. I would have loved to have been the Minister of Labour who resolved this long-standing dispute over scope of practice, but I believe that we have come a long way, and I will continue to work toward that goal. We still have more work to do. This legislation provides the framework and a building block for moving forward. We are committed as a government to continuing the

dialogue with both professional associations to resolve outstanding issues. That is my commitment to you.

I can honestly tell you that I was concerned about this bill. These matters are complex and particularly when you are working with polarized constituents. This is not the best environment to make public policy, but as a politician you do not always get to choose your legislation.

I am appreciative of the opportunity to hear the presentations that we have heard over the last three days. Many of them have been very thoughtful. Something that one of the presenters said to me struck me: "Minister, you are the arbitrator," and I realized that is what I have done with the assistance of my officials.

We have taken the best information possible from our stakeholders and other jurisdictions and drafted Bill 7. I have every confidence that Bill 7 is a good piece of legislation. If it was not, I would not be asking my colleagues on both sides of the House to support it.

I am pleased to see that so many young professionals came to speak to Bill 7. They are a new generation and our future in this province. I hope they stay engaged in this process. We believe that the changes to corporate structures to allow non-architect firms to hire architects will lead to even greater work opportunities. I especially wanted to say to student and intern architects that we value your creativity and hope you will stay to practise your profession in collaboration with all of the important professionals in the design industry as we continue to build Manitoba.

I hope these few comments have assisted in clarifying our intent with Bill 7.

**Madam Chairperson:** We thank the minister. Does the critic from the official opposition have an opening statement?

\* (22:10)

**Mr. Schuler:** Yes. I probably will not speak mine as quickly as the minister. I also do not have mine typed out for me, so bear with me.

First of all, I would like to take the opportunity to thank all of those individuals who presented. I have been, as I think I have mentioned numerous times, at this table, on this side, dealing with legislation over the years. In fact, six years ago when I sat here, often I was by far the youngest person in

the room, and periodically presenters would look at me and say, "Well, son," and then go on and make their comments. This has been a unique experience because now I look at some of the presenters, and I felt like saying, "Well, son." It just shows how the dynamics have changed for this piece of legislation. Normally, one does not get young people coming out to committee.

The minister made a comment that this may not be the best process. There is a quote, and I do not know who made it, but I will attribute it to whoever did, that said, "You do not want to watch the making of two things: one is legislation and the other one is hot dogs." Both of them can make you sick, but it is a necessary process. I think it is important for the public to come to these meetings to see what actually goes on.

I quoted a constituent half way through these meetings when I went to this individual's door, and they said, "I do not vote because nothing you can do has any impact on me." I walked away very sad because that individual has no idea what he is talking about, and I think we have proven that the last three days. This is very serious business.

In fact, as I spoke to young people, initially, we had one young person, then a second young person, it was both engineers and architects, both coming forward on either side of the issue, and I felt, as we were getting more and more young people, that something had to be said because the comments that our young, highly educated, incredibly bright, smart young people stand in front of a legislative committee and really bare their souls to individuals that they have never met, have no clue who they are, but are willing to publicly on the record say that this could, potentially, be enough for them to uproot and leave the province. I think that is very serious.

As we go through this, I have a whole series of questions that I want to ask. We hope that we get intent on the record, maybe not quite as quickly as the minister has done it this time. But I think we should take the time and flush out issue by issue that, perhaps, we can help some of those young individuals reconsider that feeling that they have because, folks, that bodes very poorly to the committee and the minister, to all of us. It bodes very poorly when young people say, "What you are doing here has enough of an impact that I might leave." I think we have to deal with that here at this committee.



For those of you who do not know, the minister and my relationship has been rocky over the years. She has made all kinds of outlandish allegations in the media about me. But, on this issue, I actually believe we should be going into those faculties, maybe both of them, and saying, "Let us just have another look at this. Let us talk about this, and see if we cannot allay some of your fears."

When I was appointed Labour critic in 1999, former Labour Minister, Harold Gillehammer, and for those of you know him, he was not a man of many words, came into my office, and he said, "I am going to give you some advice. I have got some very important advice for you." I thought he was going to tell me that if you went down into the basement of this building, in the far corner, that is where the bodies were buried. But he sat down and he said, "Ron, never get between the engineers and the architects." He got up and he walked out and I thought and that is good advice? I scratched my head, and I have for six years understood that wisdom.

Folks and committee members, ministers, as the minister have found out over the years, I think this committee meeting was important. I think, once and for all, we had to have the discussion, very publicly, on the record, but we had to have the discussion. However, we have to come to some resolution. I think you can do this once, and we did this once about a year and a half ago. We have done it twice for the last three days. I think it is enough, and especially when our young professionals come to committee and start to say, "This is getting a little bit over the top; I do not know if I can live and work in this environment."

I say to all in this room, because the leadership of all three associations are here, I do not think we should do this again. I think that there are now mechanisms in place if this legislation proceeds, as I assume it will. Let us deal with those mechanisms and let us not do this again. I do not think it is good for any of us and certainly not for our city and our province.

I want to take the opportunity after I have done my opening remarks, and I am going to use some of the presentations, and if the minister will indulge us we will take some time. I want to lift concerns out and then the minister can, on the record, and I hope she does it a little slower, put the intent on the record because, if there is a dispute, it is back to Hansard

and intent. That is the first place where everybody will go, and I think we should be very clear.

I know the minister was a little bit concerned there were some things said and the minister did not quite want to intervene at that time because emotions were in the room and emotions are beautiful. I mean, it is not always negative, but I can understand why the minister maybe did not want to take on those issues right away, but I think we have to deal with those.

I think in the next hour and 45 minutes and if need be tomorrow, and if need be the next day, and if need be the day after that until we have worked through the issues, we will do that and move it on to third reading and the bill will, of course, keep moving on. I think this is important. I knew it was important coming into this. Did I believe it was going to be over 200 and some people important? Probably not. This is a substantial interest that has been shown by your respective organizations.

You have indicated to us as legislators this is not to be trifled with. You take this serious and so will we. We appreciate your presentations. We appreciate the written presentations that we will be working off and those who could not do the verbal presentations and we will move on here and I will endeavour, as the critic for the Progressive Conservative Party, to treat this with great care. We will go through this process with great respect and let us see if we cannot resolve some of these issues. Those would be my opening remarks.

**Madam Chairperson:** We thank the critic.

**Mr. Lamoureux:** Madam Chair, I would ask for leave to give a few brief comments at the opening.

**Madam Chairperson:** Is there leave for the—

**Some Honourable Members:** Leave.

**Madam Chairperson:** Leave is granted.

**An Honourable Member:** We will break the rules for a Liberal.

**Mr. Lamoureux:** I appreciate that from my colleague from Springfield.

I guess I was, back in August, one of those lay people. My understanding of engineers and architects was probably no better than my neighbour who happens not to be either, and over the last number of weeks it has been very informative both for me and my leader. When I am not here he has been here, and

obviously, when he is not here I am here, and we have had a great deal of discussions. There has been a great deal of dialogue between the architects and the engineers, and I learned something from the presentations with the interior design profession. You know you always tend to gain something when you go through a process of this nature.

\* (22:20)

Part of the concern that I would have is the fact that typically, when there is a majority government, a bill that is brought forward and has that sort of support, it is going to pass. We are going to be going into third reading and I suspect, after having dialogued with my leader, that there is the possibility of a report stage amendment. I know that we are giving that consideration as we review the written presentations and just have a discussion amongst myself and my leader. There are some concerns that I do share. What was kind of touching is the fact that you have three professions that are out there, and quite often, much like even in a marital relationship, sometimes people say things that they do not necessarily mean, and it can be somewhat hurtful for other professionals.

I trust and hope and believe fairly confidently that we are going to be able to get over that hurdle because I think that we all want to do the right thing no matter what our profession might be. I think it was Dorothy, if Dorothy is still here, that made reference to the fact that it is like that scratching of the chalk board in her comments.

I suspect that there is no MLA—you can see that there is a great deal of discomfort. You could hear it in the voice of the minister responsible for the legislation. You could hear it from the passion from the member from Springfield. It is a difficult issue put on the table and the last thing we want to do is to see people leave the province because of legislation.

I give full marks to the department of architects and I think it was mentioned that we have the second oldest or it was 1916 when we first got up and running. It seems to me that we are attracting a great deal of not only Manitobans but Canadians throughout the country. It makes me proud being a Manitoban to see that we have that sort of quality education at our university facilities, especially when you catch the periodical *Maclean's* that seems to be somewhat misinformed.

We do have a lot of wonderful young people and whatever is ultimately passed through, I trust and

hope that those young people will see the benefits of remaining in our province. At times, at least what I have witnessed over the 14 years of being in an opposition is that you get emotions that kind of get charged up and people want to emphasize a point and I think we do not want to lose the overall perspective.

There are some concerns that I am going to be looking for the minister to comment on. The scope of practice is one of those concerns. I think that it is something that is obviously very critically important and there is a huge difference in terms of legislation versus regulation, and if it is going to be in regulation, what sort of checks and counterchecks are going to put into place to ensure that the interest of the public is going to be best served.

So that is a concern that we would have right up front. There are some other concerns but we will wait until we get into the clause-by-clause discussion. I know there are going to be a number of questions from the member from Springfield and I might throw in a few myself. But, otherwise, I thank the committee for providing the opportunity to say a few words.

**Madam Chairperson:** We thank the member for his comments and I also wanted to thank everyone for giving him leave which allowed him to speak to the bill and make opening remarks. We did not break any rules by giving leave. We have allowed him to speak.

**Mr. Schuler:** If it would be agreeable by the minister, could we have a global discussion on the legislation and then once we have done that, go clause by clause?

**Madam Chairperson:** Is there agreement from committee then that we will go global, meaning that we will move from area to area, and after that is completed, and you will give me notification that that is completed, at that point then we will proceed with clause by clause? Agreed? *[Agreed]*

**Mr. Schuler:** Minister, over the last three days we have heard a lot of young people coming forward, a lot of basically the architects coming forward and saying that the flashpoint for them is the scope of practice not being in the architects bill.

Can I just read to you from architects bill 1(1), and I will read it already with its revised version, "'Architect' means any person who is engaged for his gain or hope of reward in the planning or

review"—the word "review" replacing "supervision"—"for others of the erection, enlargement or alteration of buildings by persons other than themselves."

Are you under the impression that that is actually the scope of practice for an architect?

**Ms. Allan:** My understanding of the legislation that we have before us is that the legislation refers to the scope of practice, meaning what architects can do and what engineers can do. It is what a couple of the presenters referred to as the overlap. I think it is important to note that both of the acts, the engineers act and The Architects Act, have clauses in them that both professions retain their authority as a self-governing body that is charged with regulating its profession.

The language can be confusing. There is absolutely no question that the table that identifies who can do what, I suspect, there would be a preference to take that table and put it in their acts. I certainly know the architects would prefer that, but as the officials from my department were mediating, conciliating, cajoling, whatever you want to call it, and working with the professional associations and the authorities having jurisdiction, there were certain situations where there was not agreement. What we are pleased with, at this point, is that we have a flexible legislative measure to work with. I said very, very clearly that we would continue to work with both professional associations and maybe we can continue to work together and we can get consensus in regard to who does what in the table. At some point down the road, maybe, that might be possible.

**Mr. Schuler:** In the engineers act it states, and I am reading, again, from Definitions 1 and it goes down, "**Practice of professional engineering**" means any active planning, designing, composing, measuring, evaluating, inspecting, advising, reporting, directing or supervising, or managing any of the foregoing that requires the application of engineering principles and that concerns the safeguarding of life, health, property, economic interest, public interest or the environment." Would that be the definition of scope for the engineering act?

**Ms. Allan:** Yes.

**An Honourable Member:** Is it—

**Mr. Schuler:** I cannot take my own lesson. To get my name in Hansard I have to wait for my name to be called. I apologize to the gallery.

So in both acts we still have the scope clearly laid out.

**Ms. Allan:** Yes.

**Mr. Schuler:** Again, I want to be very clear that in The Architects Act that comes under definition 1(1), under architect then means, "Any person who is engaged for higher gain or hope of reward in the planning or review of others of erection, enlargement or alteration of buildings of persons other than himself." That would be the scope for an architect?

**Ms. Allan:** Yes.

**Mr. Schuler:** In the discussions that we had, the issue that seemed to come up, and you have referenced it already, is the Table 2.3.1.3(1), Professional Designers Required, building use and the other one is Table 2.1.7, Alterations.

This is actually where the difficulty is coming in. I take it, when we had individuals coming forward and saying, "But why would our youth, whether they are graduates of the architecture program here, not want to stay in the province whose building community is designed by engineers?"

I take it, the difficulty they were having was herein, with these two tables?

\* (22:30)

**Ms. Allan:** In regard to alterations, the alterations is not in the legislation. It is in the regulation. We believe that the alterations do not significantly affect the original design intent of the building, so including alterations in the regulation will allow for the future refinement. Both associations will continue to be consulted for their advice and their guidance.

**Mr. Schuler:** Table 2.3.1.3(1), is it anywhere in The Architects Act, in any form of any kind? I mean it obviously may not be exactly like this, but can it be found in The Architects Act presently?

**Ms. Allan:** In The Architects Act, if you look on page 13, at the top of the page, it makes reference to section 25(1). It makes reference to buildings, but it is not laid out in a table, per se.

**Mr. Schuler:** Section 25(1) is titled "**Work that may be done by non-members.**" Would the committee just indulge me, I do want to read it, just so that—

**Madam Chairperson:** Okay, as long as you kind of move your mike because as you turn each time, it is a bit harder to catch what you say.

**Mr. Schuler:** I remember saying that a few times this evening.

"25(1) Subject to subsection (2), nothing in this Act prohibits the preparation or alteration of plans, drawings, or specifications for, or any architectural work in connection with erection, construction, enlargement or alteration of,

"(a) a building that does not exceed 400 square metres in area or three storeys in height and that is used or intended to be used for residential, business or personal services, or mercantile occupancy or medium or low hazard occupancy as those expressions are described in *The Manitoba Building Code* established and adopted under *The Buildings and Mobile Homes Act*; or

"(b) any building outside a city or town, used or to be used for private dwelling, or for farm purposes, or for outbuildings or auxiliary buildings in connection therewith; or

"(c) any grain elevator or grain warehouse."

So 25(1)(a), (b) and (c) are going to be removed from The Architects Act?

**Ms. Allan:** The section you reference is going to be removed and it will be replaced with the reference to the Manitoba Building Code in Bill 7.

**Mr. Schuler:** And that reads?

**Madam Chairperson:** Minister Allan, just to clarify your previous comment.

**Ms. Allan:** So, what I think you are asking me is you are referencing Part 9 buildings, and that is in section 25(1)(b)(ii) in the new bill.

**Mr. Schuler:** I think what we are trying to get to is what is it in the change that seems to have gotten people, architects in particular, upset about the changes in the act.

In the new legislation it states: "25(1) Nothing in this Act prohibits a person or firm from performing architectural work (a) that relates to a building to which *The Buildings and Mobile Homes Act* does not apply; or (b) that, under the applicable building construction code adopted or prescribed by regulation under *The Buildings and Mobile Homes Act*."

So I guess then it is clear the difficulty individuals are having is that what was once prescribed in the old act under 25(1) now under the revised 25(1) directs individuals to The Building and Mobile Homes Act. Would that be fair?

**Ms. Allan:** If I was to say what has got the architects concerned, I think what I would have to say is that it takes it out of legislation and puts it in regulation.

**Mr. Schuler:** Was there ever something comparable in the engineers act?

**Ms. Allan:** No, not in the current act.

**Mr. Schuler:** So it was never found in the engineers act but it was found in The Architects Act, and what Bill 7 does is it removes it from The Architects Act and puts it into the Building Code. It also then lays it out a lot clearer. Is that a fair statement? Does it define it a lot better?

**Ms. Allan:** Absolutely. We believe it provides greater clarity.

**Mr. Schuler:** So in your discussions with the architects this was one of the issues that they would have raised with you that they had concerns with, the fact that it was being moved into the Building Code.

**Ms. Allan:** Yes.

**Mr. Schuler:** The reason why it was moved into the Building Code is?

**Ms. Allan:** Back to what I said earlier. What we wanted to do was have a flexible legislative instrument so that we could continue to dialogue and resolve issues.

**Mr. Schuler:** And the concern of architects seems to be that there is only architect on that board and that it would be the industry then that would decide any changes rather than the architects or architects and engineers.

**Ms. Allan:** The government makes the regulation, not the Building Standards Board.

**Mr. Schuler:** So, if the Building Standards Board wanted to make some changes, it would have to come as a recommendation to government?

**Ms. Allan:** Correct.

**Mr. Schuler:** You had said earlier on that, and far be it for me to put words in your mouth, so if I understand this correctly, you had indicated that you would be more than agreeable to having these kinds

of things go to the joint board. That was the agreement?

**Ms. Allan:** Yes, or if they did not want it to go the joint board, we would dialogue with both professional associations.

**Mr. Schuler:** Then regulations can only be changed by Order-in-Council. Is that correct?

**Ms. Allan:** That is correct.

**Mr. Schuler:** Order-in-Council for all of us who may not understand that, that is Cabinet. Correct?

**Ms. Allan:** That is correct.

**Mr. Schuler:** So, just to be very clear, the changes that are going to be made to this regulation, it would have to have Cabinet approval?

**Ms. Allan:** That is correct.

\* (22:40)

**Mr. Schuler:** So it is not the Employment Standards board?

**An Honourable Member:** No.

**Mr. Schuler:** Manitoba home building and mobile homes, the Building Standards Board, they could not make the change?

**Ms. Allan:** That is correct.

**Mr. Schuler:** The document in front of us called Table 2.3.1.3(1) called "Professional Designers Required," it says "draft" on here. Is that what the department is planning to put forward through you to Executive Council? Is this what is going to find its way into regulation?

**Ms. Allan:** I think we have actually made some changes since. I do not know if you have the latest update.

**Mr. Schuler:** I do not know what you have, Minister. But I would like to see what you have in a new draft. I mean, that would be great. It is just that this seems to be the area of concern, so I would like to see one before the regulations go to—

**Ms. Allan:** We are going to get you copies immediately.

**Madam Chairperson:** While we are waiting, I just wanted to remind the critic if he could refer his questions through the Chair as opposed to saying directly to the minister. Just if he could refer them through "does the minister." Thank you.

**Ms. Allan:** Are there any other questions while we are waiting?

**Mr. Schuler:** Has this draft gone to the joint board? Has it been shown to the engineers and the architects?

**Ms. Allan:** It has not gone to the joint board, and there has been a discussion about it with both professional associations.

**Mr. Schuler:** Have the associations seen it?

**Ms. Allan:** They probably have seen the same version that you have, but they have not seen the latest updated version.

**Mr. Schuler:** Is it possible to share it with the two associations here this evening?

**Ms. Allan:** We have to ask our legal counsel in regard to the legalities of that.

**Mr. Schuler:** Then, on the draft of Table 2.1.7, well, I guess it is going to be one of those difficult questions to answer, from the first draft, has it changed since we received our copy?

**Ms. Allan:** Not in substance. We have just changed it from a table to text format.

**Mr. Schuler:** May we have a copy of the new format?

**Ms. Allan:** We have had a discussion with our legislative counsel people and we believe that we can distribute it if we stamp "draft" on it. We are also having a discussion with the Clerk in regard to whether or not we should be tabling it and providing it to all committee members. We are just trying to sort out the rules and the legalities.

I think what we are going to try to do here is stamp this document and distribute it to as many people in the room who would like it. If that is what you would like to do, that is what we are going to try to accomplish in the next little bit.

**Mr. Schuler:** Of course, once the stamping gets into full swing, the minister can stamp my copies.

In the meantime, can I just ask what the changes are from the new schedule, as compared to the old schedule?

\* (22:50)

**An Honourable Member:** Can I have a personally signed copy, too, in that case?

**Madam Chairperson:** Just a moment, we have a question on the floor, Mr. Lamoureux. So you will just have to wait a moment, please.

**Ms. Allan:** Well, of course, we are not sure what the first document is you have, but we think that what the changes are is in regard to Table 2.1.7. It is changed from table format to text, which I referred to earlier, and it clarifies that the work that can be done by an architect or an engineer, or both.

**Mr. Schuler:** In the document that I have, it says under Professional Involvement, "architect or engineer, or both as is determined by the authority having jurisdiction." Has that changed?

**Ms. Allan:** The change is that the authority having jurisdiction would determine what a significant alteration is, and if it is a significant alteration, it would have to be done by the appropriate professional, or both.

**Mr. Schuler:** Okay. So "where the authority having jurisdiction determines that an alteration to a building covered under subsection 2.1.2 will, or is likely to, significantly affect the integrity of" and then you spell out the points as were in the original draft, but you spell it out a lot more. For instance, "fire safety systems" are now "fire safety systems including fire alarms, sprinklers, and standpipes," and it goes into a lot more detail there. Also, I see at the bottom you put "the plans, drawings, and related documents submitted with the application to make the alterations must be prepared, signed and sealed—"

**Madam Chairperson:** I am sorry. You just faded out.

**Mr. Schuler:** I apologize. Now, this will be handed out, or has been handed out?

**Ms. Allan:** We have handed out the schedule, right? That is what we are prepared to hand out. Are you asking us to hand out something further, because the other section that you have is part of the regulation, and I would really have concerns about starting to hand out a regulation. That would really concern me.

**Mr. Schuler:** So the regulations have been drafted?

**Ms. Allan:** Yes.

**Mr. Schuler:** So it is just a matter, again, just procedurally now, of the bill being passed and then the regulations can go to the first round of committees or groups, or what process would you go through then?

**Ms. Allan:** The bill will be passed and the regulation will be passed by Cabinet.

**Mr. Schuler:** So will there be any consultation on the regulations?

**Ms. Allan:** We have already consulted with the professional associations when we were having our deliberations about what this bill would look like and with the authorities having jurisdiction in regard to the table. That will be the only consultation we will be doing. Well, we feel like we have already consulted on it.

**Mr. Schuler:** Okay, and the schedule, is that not also part of regulation?

**Ms. Allan:** Yes.

**Mr. Schuler:** So, will there still be consultations on the schedule or is the schedule now going to go into regulation as it is?

**Ms. Allan:** That is correct.

**Mr. Schuler:** It is then after the regulations come out, that is when—if there are some changes desired, it would either go to a joint board or whatever procedure then would take place.

**Ms. Allan:** Yes, that is the commitment that I made.

**Mr. Schuler:** The schedule, although it is part of regulations, we are going to allow the schedule to be handed out?

\* (23:00)

**Ms. Allan:** Yes, we have made a commitment to distribute the table with draft stamped on it, and that is what we are going to be doing.

**Mr. Schuler:** That table, then, for anybody who is interested, lays out what used to be, in part, in The Architects Act under 25.1, and which, in the new legislation under Bill 7, 25(1), will refer to that table.

**Ms. Allan:** Yes. That, plus more.

**Mr. Schuler:** So for individuals that are concerned about, in particular, architects, what is going to happen with their scope of practice, they will see the draft schedule and they will know exactly, then, how it works with the legislation in the schedule? Is that correct?

**Ms. Allan:** I do not think I had a question. Sorry.

**Mr. Schuler:** Fine. Then we sort of know how the process is going to work and I think, then, it is very

clear what is going to be in the schedule. I mean, it is going to be handed out.

Seeing as that was a very important part of where the architects' concern was, I think it is very important that we walked through that particular process and had a very clear understanding where it was going to be and how it was going to be administered and I think that is very important, not just for us at the committee, but all of those who will later on be reading Hansard. So I certainly appreciate that.

I do not know if any of the other committee members have a question on this particular issue. If not, then I would suggest we would move on to the next topic.

**Mr. Lamoureux:** Just two very short ones.

The minister indicated in her opening remarks that when she is going to be making changes, because there was a lot of concern in terms of the scope of practice going from legislation into regulation, in her opening remarks, I believe she said something to the effect of that if we were going to be making changes with the regulations, that she would be working with the stakeholders, in essence, before any changes would be made. Did I interpret that correctly in her opening remarks, the future changes of regulation?

**Ms. Allan:** That is correct.

**Mr. Lamoureux:** The question, then, that I would have now is the minister has indicated that she has regulations that are already complete, that once the bill passes those regulations will be—the Cabinet would be in a position to pass, I am anticipating, would likely pass before the end of the year, Cabinet. Did she apply that same process that she is talking about going into in the future on future regulation changes to the regulations that she is going to be putting into place, likely before the end of the year?

**Ms. Allan:** Well, my department has just spent, and I referenced—well, I would have to say probably an incredible amount of time, since the September 16, when the court injunction came down, dialoguing and working with both professional associations in regard to these changes and the authorities having jurisdiction. In my opening remarks, I said that one of the things that we wanted and one of the reasons for this going into a regulation is that there are still a couple of things that we would like to get some consensus on. We will continue to work with both professional associations and we can do it in two

different ways. We can do it through the joint council or we can do it directly with the two professional associations.

**Mr. Lamoureux:** Finally, I guess I am just looking for some sort of assurances from the minister that the regulations that are now completed, pending approval from Cabinet once this legislation is passed, those regulations, does she feel comfortable that the same principle that she is talking about in terms of future changes has been applied to these ones?

**Ms. Allan:** If you are talking about consultation, yes.

**Mr. Schuler:** I want to go onto the next topic. It was just one of those issues that came up and I was concerned about it, and that is that Jennifer Stockford had given a really good presentation, an interior designer, and this is by no means accepting this, taking a side on any side. I am just going to read from the presentation and then, minister, if your department could clarify. Again, I am not accepting this as being fact nor am I taking a side here. I just wanted to raise this issue.

I quote from her document: "I was informed by the City of Winnipeg that my drawings had to have an architect's seal. This resulted in me e-mailing my drawings to an architect's office. This architect then superimposed my drawings onto his sheet with his logo, added a small Building Code compliance blurb and sealed it."

Then it goes on and editorializes. "Is that something that is then remedied by Bill 7, so interior designers then on their projects will not need an architect?"

**Ms. Allan:** It is back to the section in the regulation in regard to alterations where the alteration is not significant. It is back to that list, fire walls, right? It is back to that particular list, and if it is not, then an architect is not required, and you should know that officials from my department worked with the interior design professional association and they are supportive of, I believe it is, an individual called Jason Kasper and they are supportive of the legislation.

**Mr. Schuler:** I want to move on to the next issue. There was a presentation done by Kent Woloschuk and Kent did a really good presentation with the different charts. It had to do with the gross area versus building area and talked about a one-storey office building, a gross area of 600 square metres, building area of 600 square metres, which is

basically 15 metres by 40 metres. I think the minister probably remembers this presentation.

He went on then to discuss a three-storey office building, gross area of 1800 square metres, still a building area of 600 square metres and then gives the occupant load. He went on to the third diagram and I did not necessarily have that much trouble with the first two, but he talked about a three-storey office building separated by fire links or fire walls, gross area of 5400 square metres, plus building area of 600 square metres, and because of the use of fire walls would not necessarily need an architect to have a look at it.

In fact, there was another one by Blaine Repko, and, again, I am just quoting here: Anyone with a drafting program on his computer may design a building of any size provided he draws a fire wall every 600 square metres which would technically keep the building within size restrictions of the proposed legislation.

We also had one individual talk about that you could have a renovation to a hospital, et cetera, et cetera, and as long as it was always within 600 square metres, you would not need an architect.

I know, minister, that at one point in time you had during committee tried to explain that. Could you once again explain how that would not necessarily be the case.

\* (23:10)

**Madam Chairperson:** Minister Allan, and just prior to when you answer, thank you, Mr. Schuler, for remembering. Just, in the future, if you can, please put it through the Chair. I would really appreciate it. Thank you.

**Ms. Allan:** Well, there is nothing new here. The building area approach has always been used in Manitoba, and I think I outlined that in my opening remarks in regard to building area and being harmonious with the National Building Code and how if there was going to be a change to gross area, that that would have to be a national conversation.

Also, in regard to the fire wall issue, there is nothing new here as well. Fire walls have been used in designs before, I believe in 5 percent of permits or something in that area, and so there is nothing new here, 5 percent of annual permits, so there really is not anything new here in regard to the use of fire walls in buildings. It has to do with safety and it has to do with the Building Code.

**Mr. Schuler:** In the building code as laid out, could someone build a gross area of 5400 square metres plus as per the drawing, a building area of 600 square metres, with an occupant load of 576 persons, is there anything under this schedule that would prohibit them from doing that without an architect?

**Ms. Allan:** Yes, they could, as long as the Building Codes were met.

**Mr. Schuler:** So is it possible, then, that you could have a three-storey office building separated by links or fire walls, an unlimited gross area but a building area of 600 square metres as, and I thought this was a little over the top, but there is the drawing, in theory then, there is nothing that would prevent a person from doing that under this schedule as long as they used links or fire walls?

**Ms. Allan:** In theory that would be possible.

**Mr. Schuler:** In theory, a hospital with a building area of 600 square metres or, I am sorry, a three-storey office building, as long as it stayed as a building area of 600 square metres, in theory that could all be done with an unlimited occupant load. When you say in theory, why in theory and not in practice?

**Ms. Allan:** It would have to meet the requirements of the Building Code in regard to safety. *[interjection]*

**Madam Chairperson:** Excuse me, I am sorry, I will have to ask members of the public to refrain from participating and if that is a difficulty, I would ask you to leave and then return. Okay?

**Ms. Allan:** I think it is important to know here that we are not unique in Canada in regard to this. There are lots of other jurisdictions that do this in Canada.

**Mr. Schuler:** Could the minister tell the committee which jurisdictions those would be?

**Ms. Allan:** The jurisdictions that use building area and not gross area are British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, excuse me, and Nova Scotia. Ontario also uses building area and gross area.

**Mr. Schuler:** And in each one of those jurisdictions, as long as you used fire walls or you had separated by links, one could build an unlimited building as long as you met code, without an architect.

**Ms. Allan:** It depends on the type of building. If it was a Part 3 building, you would have to have an architect, like a restaurant.



**Mr. Schuler:** I know it is late and everybody is getting tired. I just want to be really clear. What buildings could you not do this with? The minister mentioned a restaurant. What other buildings, for instance, could one not do this with?

**Ms. Allan:** The current Building Code in Manitoba requires that permits for Part 3 buildings must be accompanied by plans sealed by an architect or an engineer. In the new proposal it would say that, in most buildings, you would have to have an architect and an engineer. And, not or.

**Mr. Schuler:** Could the minister give us that answer one more time?

**Ms. Allan:** The current code requires that permits for Part 3 buildings must be accompanied by plans sealed by an architect or engineer, and in the new proposal that we have it would say that the plans would have to be sealed by an architect and an engineer for most of the Part 3 buildings.

**Mr. Schuler:** To the minister, could she explain what a Part 3 building would be?

**Ms. Allan:** Assembly-type buildings, restaurants, museums, art galleries, hospitals, jails, large office buildings, large, large residences and large retail buildings.

\* (23:20)

**Mr. Schuler:** Thank you, and as just one member of this committee, I would hope that jurisdictions would not allow this kind of a thing to happen. Perhaps the minister should put that on the record that the intent was not to allow this kind of an exception to get through. It does concern myself and members of this committee. I have difficulty with this kind of thing taking place. We want public safety above all. We respect our architects and engineers and want them to protect us from ourselves, at times, but also from a catastrophe that we have seen around the world where a catastrophe hits and some of the buildings stand beautifully and others crumple, and that was, because code was not followed or somebody slipped around a corner and did not quite follow what should have been followed. The fact that there is a way to get around it, I think, does cause a little bit of concern to myself and to members of the committee.

**Ms. Allan:** Well, the extreme example that you see in that document would be rare.

**Mr. Schuler:** Thank you to the minister. I do have another area of concern, I am just trying to find it now, and that has to do with the arenas. I understand

what the intent is there, and by no means indicating that I do not think one group or the other is not 100 percent, because I do not think this committee has ever taken a position like that, I guess what we want to ensure is that safety is checked off by everybody. In fact, I guess when you get closer to it as an individual, and you appreciate what has been built and that it is safe because you have your own children in it, right now the way the exemption reads is a seating occupancy of no greater than 1000.

Can the minister just take a bit of time and explain that, as compared to an occupancy permit?

**Ms. Allan:** I think it is worth mentioning, and I mentioned this in my opening remarks, that both the Witty Report and the 2003 joint board memorandum of understanding would allow either architects or engineers to design small arenas. We do understand that this is a unique feature in the legislation and it is an exceptional provision that would respond to the unique needs of the northern and remote communities. I am not so sure how you want to reference this in regard to the occupancy permit.

**Mr. Schuler:** I think one of the concerns that was raised is that—I take as an example the Beausejour Arena, they actually had no seating. In fact, they were waiting for the old arena to be torn down and they were buying their seats. I take it they are installed. My colleague from Beausejour is not here right now. But, actually, until the seats went in, there was really no seating capacity. I am just wondering, is that what had been agreed to? I do not know, I was not privy to the negotiations. Was it seating capacity?

I know if you build a church, for instance, the City will come and they somehow figure out, or somebody figures out, what your occupancy permit will be and it goes room by room. The sanctuary has so much, the foyer has so much occupancy allowed, and that is your occupancy permit. The basement, or a room built next door for banquets, they give you an occupancy permit. They do not give you a seating permit. They give you an occupancy permit.

Am I splitting hairs here? Is it the same thing? It is just that I would be a little bit concerned if we went with seating, and we allowed something to be built that could actually take 3000 people. It is just a question there.

**Ms. Allan:** I just wanted to comment. If we think there should be some refinement in this area, it can be the subject of further dialogue with the

professional associations. It was in the Witty Report and in the 2003 MOU, the recommendations there, so we can continue to look at it.

**Mr. Schuler:** Again, I am convinced that everybody in this room is concerned about safety and that there never would be a problem. However, there is always that one exception, and I think we want to be really careful when we move this legislation through that it is very clear that the—Minister, what is the intent, I guess, is what we are asking from you to sort of put on the record, is the intent, like is it for an arena that takes 1000 people? Is that 1000 people sitting or 1000 people standing? Can you just give us some—like, what was the thinking? And I do not know, so that is why I am asking.

**Ms. Allan:** A thousand seats.

**Mr. Schuler:** So could one use the term "occupant load"? I just want to make sure that we are not building a facility that can seat 1000 people and stand an extra 1700. I think that, when we get into this, it should be very, very clear and I guess I will not use the name of the town, I mean, I go to a community somewhere and the building is one of these half-moon wood structure kind of buildings. I am taking my life into my hands going into this building, but it is used for a lot of things. There are candles, they use it for weddings, you know, a hall like this if the town were to put it up would be used, I suspect, for everything. And you know all the town's young people could be in there, I think an example was a rock concert or a dance or something like that and we want to make sure that if something goes wrong with the building that there is enough egress that it is very safe, that is not just an arena and then it is shut down and it is not used for anything else, because I know for a fact that you can put a lot of people, when the ice is gone, you can put a lot of people on that floor space, and often the walls are moveable and you can expand it.

Anyway, it is something that came up and I felt that it came up consistently through the three days and it is just something I wanted to raise. I think it is very important and, certainly, as your department looks at this, let us be very careful what we mean by 1000. Are we talking occupant load? Are we talking occupancy permit? Is it an arena that takes it—because I have been to arenas where it is a very small little circle around and you kind of stand, you have those heaters and you are not going to put that many people in there, probably 1000 people at max would ever make it into that building, but I have been to

some that are magnificent buildings, and they take seating of 1000 but can have an occupancy load of more than that.

Anyway, I am going to leave it at that. I think I have raised the concern of the committee. I would be very careful about this. I think I have said it, and I will say it ad nauseam, what we are talking about is very serious, and I do not one day want to open a newspaper and read that something went wrong in an arena and it got in under one of these things. So that is why I raise it at this committee.

**Madam Chairperson:** Mr. Schuler, are you looking for a response to that?

**Ms. Allan:** Well, I mean, I guess I do not know what to say. Apparently, in the Witty Report, there was, I asked if, there, had looked at defining it in regard to size and that was discussed during the Witty Report and that was rejected. So, you know, it is something that we will continue to work on. What we specifically wanted is we wanted a mechanism for small arenas to be built. It will still be built by a professional so, of course, we are hoping that, as you say, it will meet the code and it will be a safe building.

\* (23:30)

**Mr. Schuler:** And I am basically done. I just want to go through one more presentation and put the concerns out there. Then I would be more than willing to, I do not know if my colleague has a couple questions, and then start doing line by line.

I want to go to the Robert Winslow presentation, and I think you wanted to respond to some of this. He had indicated that according to Table 2.1.7, which we have been discussing, that the following renovations could have been done without an architect, and he mentioned the Centennial Library, the Millennium Library, could have been done with an architect. Minister, is that possible, through the Chair?

**Madam Chairperson:** We will rephrase that. Could the minister please?

**Ms. Allan:** Can I clarify? I apologize, I do not specifically recall the Winslow presentation. Are you talking about alterations?

**Mr. Schuler:** That question, I take it, was through the Chair right?

**An Honourable Member:** Yes, absolutely.

**Mr. Schuler:** I will read it. I, of course, unlike the minister, remember each and every presentation, verbatim, Minister.

**An Honourable Member:** Of course, you do.

**Mr. Schuler:** According to the draft version of Table 2.1.7, every single renovation or alteration project could be completed without the involvement of an architect. Based on the draft table such projects would include such notable examples as renovation of the Millennium Library, Red River campus, Polo Park Shopping Centre, cardiovascular wing on St. Boniface Hospital, hip-and-knee surgical suites, Concordia Hospital, Brandon Hospital, museum at The Forks, Ashdown Warehouse, Clarion Hotel and it goes on and on.

**Ms. Allan:** So we are back to the definition of "significant alteration," and they would have to have an architect in regard to those kinds of buildings, just for clarification, where it affects the architectural features.

**Mr. Schuler:** If the minister could just, one more time, explain that one more time please.

**Ms. Allan:** Another example is if it was a life safety system, that would require an architect. It is back to that table that I referenced. If it was a significant renovation to a building, right? If there was going to be a change to the intent of the building and there were fire safety systems, life safety systems, it would require the services of an architect.

**Mr. Schuler:** I will basically conclude with this last comment/question. The minister mentioned that in the Witty Report it had been agreed to that, for instance, an arena seating of 1000 capacity, that it had been agreed to both sides. I hate to go back to the Witty Report because it was something that was never proceeded on, however the minister did bring it up. The Witty Report also recommends going with gross area and not building area. Is that correct? Which means all Part 9 buildings?

**Ms. Allan:** We would have to look at the Witty Report to clarify that.

**Madam Chairperson:** Mr. Schuler, you have no other questions at this point?

**Mr. Schuler:** No, I am done and if other members have a couple of questions, then I would be prepared go.

**Mr. Lamoureux:** Actually, I have three questions, one of which I was hoping the minister would be able to answer now and the other—

**Madam Chairperson:** Could you just move your mike a little closer, Mr. Lamoureux.

**Mr. Lamoureux:** I have actually three questions, one of which I would appreciate an answer now and two the minister can actually respond to during third reading. Maybe she could take the time just to reflect on it and as long as she responds to it in third reading, I would appreciate that.

One of the presenters made reference to the time delay. I think it was sections 4 to 9 or something of this nature. Does the minister or the department have any sense of what sort of expectation there is before that would be, in fact, enacted.

**Ms. Allan:** I think I recall that particular presentation. Are you referring to the sections 4 to 9 that had to deal with the by-laws? *[interjection]* Okay.

Jeff Parr is reminding me of my meeting with Veronica Jackson, who said that they would have a look at that issue and get at it promptly.

**Mr. Lamoureux:** I will leave that issue at that for now but, again, in third reading if she could give a firmer indication, I think that would go a long way at least in alleviating some concerns of individuals.

The other two questions, again, I would prefer if the minister actually took some time to think about it and got back to me on third reading, so this way it is recorded in Hansard.

The member from Springfield made reference to a presenter and there were actually a few presenters who were interior designers. The one who really got me thinking was the individual, I believe she said she had, like, four or five contracts. She has been doing this for 20 years as a business, and now she was told that she is going to have to get a stamp, an architectural seal put onto it.

The question that I would have her answer is can she indicate how this legislation would affect that situation if, in fact, it will affect it.

The other issue that I would appreciate some input on or her to comment on in third reading is, again, going to the scope of practice. She has provided me at the request of the member from Springfield a draft of the building classifications and the designers required. I have, because of one of the

presenters, the Ontario Building Code, which has some similarities to this.

I guess the question that I have is that quite often we will see in legislation appendixes. This way, an appendix, again, in order to have it changed, you would have to bring it forward. Is there not any possibility of having an appendix, especially if you have the shareholders in agreement with whatever her draft or her final proof actually might be? This way it would give some assurances that at least it is a little bit better in definition of scope. I understand that the vast majority of Canadian provinces, jurisdictions, do have that.

Again, I am not looking for an answer. If she wants she can answer them now. My preference is that she gets on the record on those issues during third reading. Thank you.

**Ms. Allan:** I am fine in regard to the interior design one because that is back, I believe, to the alteration renovation, but we will make sure we have a look at that presenter's report and make sure that we are clear in regard to how we are responding.

I just want to make sure I am clear in regard to what you are asking me. Are you asking me if we are putting the schedule of who can do what in an appendix?

**Madam Chairperson:** Just a moment. Just if I can remind everybody that if you could refer to people as the member or the minister.

\* (23:40)

**Mr. Lamoureux:** For the minister, what I am looking at is, obviously it is not going to be an appendix to the legislation. But if you had, for example, this draft and you had the engineers and the architects come together and say, "You know what? We agree with this draft," would the minister be prepared to put that into an appendix of the legislation, if, in fact, they agreed to the fact that this would be better in terms of defining the scope of their professions?

**Ms. Allan:** Well, if they would agree, both professional associations would agree, on that schedule, we would be prepared to put it in their acts.

**Madam Chairperson:** Seeing no other questions on the general review, at this point we are now going to proceed to line by line on the bill.

During the consideration of a bill the enacting clause and the title are postponed until all other

clauses have been considered in their proper order. Also, if there is agreement from the committee, the Chair will call clauses in blocks that conform to pages with the understanding that we will stop at any particular clause or clauses where members may have comments, questions or amendments to propose. Is that agreed? *[Agreed]*

Clause 1 and 2—pass; clause 3—pass; clause 4—pass; clause 5—pass; clauses 6 and 7—pass; clause 8—pass; clauses 9 through 11—pass; clauses 12 through 14—pass; clause 15—pass; clauses 16 and 17—pass; clauses 18 through 21—pass; clause 22—pass; clauses 23 and 24—pass.

Shall the enacting clause pass? I am sorry, Mr. Schuler.

**Mr. Schuler:** If you just want to do the enacting clause, I just wanted to say something.

**Madam Chairperson:** Yes. Shall the enacting clause pass?

**Mr. Schuler:** Just before we finish off this part of the legislation, I do want to say a particular thank you to all the individuals who tried to make this as pleasant as possible. Thank you, Madam Chair, for keeping the meetings going, and to all the legislative staff who were here. I know some of the faces have changed over the evenings, but we really do appreciate all the work, and, on behalf of the committee, to the departmental staff who sat very patiently, as well, to all of you, I thank you very much. You have certainly made this a much easier process for us. I just wanted to put that on the record.

**Madam Chairperson:** Mr. Schuler, on behalf of everyone else, we thank you.

Enacting clause—pass; title—pass. Bill be reported.

Now, before I close the committee, I just wanted to thank everyone who stayed so long, and I want to thank you for your involvement. I know that this has been a somewhat emotional event, and I really appreciate everybody who has come. So thank you.

At that point, the time being 11:44 p.m., what is the will of the committee?

**Some Honourable Members:** Rise.

**Madam Chairperson:** Committee rise. Thank you.

**COMMITTEE ROSE AT: 11:44 p.m.**