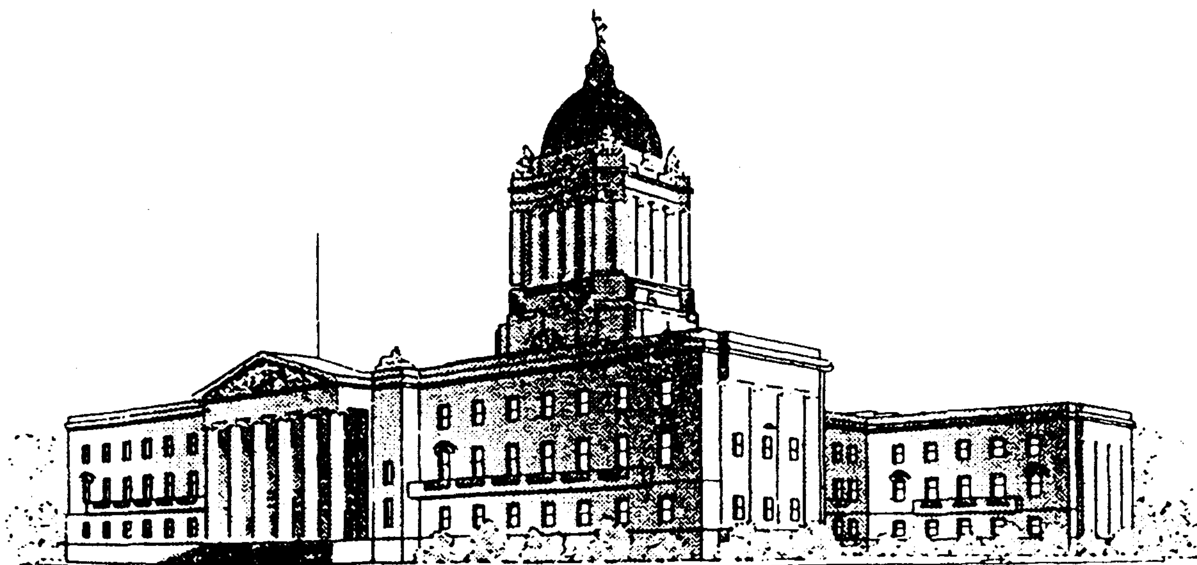
Second Session - Thirty-Seventh Legislature

of the

Legislative Assembly of Manitoba

Standing Committee on Law Amendments

Chairperson
Mr. Doug Martindale
Constituency of Burrows



Vol. LI No. 2 - 10 a.m., Monday, June 11, 2001

MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Seventh Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA

THE STANDING COMMITTEE ON LAW AMENDMENTS

Monday, June 11, 2001

TIME – 10 a.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Doug Martindale (Burrows)

VICE-CHAIRPERSON – Mr. Tom Nevakshonoff (Interlake)

ATTENDANCE - 11 – QUORUM - 6

Members of the Committee present:

Hon. Messrs. Sale, Smith

Messrs. Cummings, Dewar, Maloway, Martindale, Nevakshonoff, Penner (Steinbach), Pitura, Rondeau

Substitutions

Mr. Reimer for Mr. Tweed

APPEARING:

Hon. Jon Gerrard, MLA for River Heights

WITNESSES:

Ms. Kathy Stokes, Manitoba Genealogical Society

Mr. Harold Dyck, Social Planning Council of Winnipeg

Ms. Marlene Vieno, Manitoba League of Persons with Disabilities

Mr. John McGoey, Canadian Home Income Plan

Ms. Gerri Hewitt, Manitoba Society of Seniors

MATTERS UNDER DISCUSSION:

Bill 13–The Social Services Appeal Board and Consequential Amendments Act

Bill 9–The Vital Statistics Amendment and Consequential Amendments Act

Bill 12–The Real Property Amendment Act

Bill 14–The Consumer Protection Amendment Act

Bill 15–The Mortgage Amendment Act

Bill 29–The Residential Tenancies Amendment Act

Bill 30–The Securities Amendment Act

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Mr. Chairperson: Good morning. Will the Standing Committee on Law Amendments please come to order. The first order of business before the committee is the election of a Vice-Chairperson. Are there any nominations?

Mr. Gregory Dewar (Selkirk): I nominate Mr. Nevakshonoff.

Mr. Chairperson: Mr. Nevakshonoff has been nominated. Are there any other nominations? Mr. Nevakshonoff is now the Vice-Chair.

Are there any committee substitutions?

Committee Substitution

Mr. Frank Pitura (Morris): With leave of the committee, I would like to substitute the honourable Member for Southdale (Mr. Reimer) to replace the honourable Member for Turtle Mountain (Mr. Tweed) as a member of the Standing Committee on Law Amendments, effective immediately. *[Agreed]*

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Mr. Chairperson: This morning, the committee will be considering the following bills: Bill 9, The Vital Statistics Amendment and Consequential Amendments Act; Bill 12, The Real Property Amendment Act; Bill 13, The Social Services Appeal Board and Consequential Amendments Act; Bill 14, The Consumer Protection Amendment Act; Bill 15, The Mortgage Amendment Act; Bill 29, The Residential Tenancies Amendment Act; Bill 30, The Securities Amendment Act.

We have presenters who have registered to make public presentations to Bill 9, The Vital Statistics Amendment and Consequential Amendments Act; Bill 13, The Social Services Appeal Board and Consequential Amendments Act; and Bill 15, The Mortgage Amendment Act.

It is the custom to hear public presentations before consideration of bills. Is it the will of the committee to hear public presentations on the bills, and, if yes, in what order do you wish to hear the presenters?

Some Honourable Members: Agreed.

An Honourable Member: In the order that you have them.

Mr. Chairperson: We will do them in order of bills, numerical order. I will then read the names of the persons who have registered to make presentations this morning: On Bill 9, The Vital Statistics Amendment and Consequential Amendments Act, Kathy Stokes, representing the Manitoba Genealogical Society; and on Bill 13, The Social Services Appeal Board and Consequential Amendments Act, Harold Dyck, representing the Social Planning Council of Winnipeg; and Marlene Vieno of the Manitoba League of Persons with Disabilities; and Bill 15, The Mortgage Amendment Act, John McGoey of Canadian Home Income Plan; and Gerri Hewitt of Manitoba Society of Seniors.

Those are the persons and organizations that have registered so far. If there is anybody else in attendance that would like to register, or who has not yet registered and would like to make a presentation, would you please register at the back of the room. Just a reminder that 20 copies of your presentation are required. If you require assistance with photocopying, please see the Clerk of this committee.

Before we proceed with the presentations, is it the will of the committee to set time limits on presentations?

Mr. Dewar: Based on past practices, I recommend that we set a time limit of 15 minutes for presentations and 5 minutes for questions.

Mr. Chairperson: It has been recommended 15 and 5. Is there agreement? *[Agreed]*

How does the committee propose to deal with presenters who are not in attendance today, but who have their names called? Shall these names be dropped to the bottom of the list? *[Agreed]*

Shall the names be dropped from the list after being called twice? *[Agreed]*

Did the committee wish to indicate how late it is willing to sit this morning?

Mr. Dewar: I suggest we sit until the work of the committee is completed.

Mr. Chairperson: Is that agreed? *[Agreed]*

Bill 9–The Vital Statistics Amendment and Consequential Amendments Act

Mr. Chairperson: I will now call the first presenter, Kathy Stokes, representing the Manitoba Genealogical Society.

Ms. Kathy Stokes (Manitoba Genealogical Society): Thank you, Mr. Chairman. I am Kathy

Stokes, the Vice-President of Communications for the Manitoba Genealogical Society. The society appreciates this opportunity to speak on behalf of the changes proposed to The Vital Statistics Act.

We are particularly pleased that under the changes there will be unrestricted access to birth records more than a hundred years old, marriage records more than eighty years old and death records more than seventy years old. This will bring Manitoba more in line with other provinces and will per-haps lessen our province's reputation for being the most stringent in Canada.

I would point out also that the learned committee which studied the release of censuses on a national basis spoke of the difficulty in drawing a line between privacy and freedom of information. What they said, I thought, was very appropriate. They said: The farther away something is from the event, the lesser the right to privacy and the more the right to freedom of information. So I think that these guidelines that are proposed here for revisions are quite appropriate and that you have to be careful. There are many people living to over 100 years at this time, and you would not want to release their birth certificates without their permission were they still alive, but, when people have been dead for 70 years, surely that is a sufficient time lapse to allow these things to be released.

Having said that, we wish to bring to your attention several other points. Even though anybody will be able to apply for the records mentioned if these amendments are passed, we wonder how the access is going to be obtained for these records. Do we still have to pay $25 per certificate for each record that we wish, or will Manitoba consider, as other provinces have, putting the records on microfilm and distributing them through interlibrary loan or through their archives or through their local libraries or through religious libraries, or will we always have to go still through the Vital Statistics agency here?

For instance, in Ontario, you can order up through your interlibrary loan indexes to the vital events approximating the same time frames as these, find the record you are looking for, then order up the film itself and print yourself a copy off the microfilm, and Vital Stats is not involved at all. So, in other words, the records move from being Vital Statistics records to being archival records, and we would like to see the same sort of procedure here in Manitoba.

In British Columbia, they go a lot farther, and I know there are difficulties because they allow death records up to 20 years old are on line now. I understand there are many difficulties with that, but we would like to see a freer access. In other words, once these certificates reach a certain age, then they become archival.

We feel that the cause of death should be available on death registrations. At the present time, this is automatically inked out unless you request that it not be inked out. This does not make a lot of sense to us. Not only family historians but geneticists and medical historians and other people who are sociologists are looking for causes of death, and once a record is 70 years old, surely you can allow the cause of death to be visible. As far as I know, we are the only province in Canada that automatically inks it out, and we feel that people should be allowed to have that information on a death certificate. You can request that it be done, but most people do not know that, and that is one of the many complaints that we hear through our work and through our resource centre. Why? I cannot give them an answer, and we have never found a proper answer to that.

The most frustrating point that we wish to bring to your attention is the current practice in Manitoba of not searching for a birth's registration without the applicant providing the maiden name of the mother of the person whose certificate they are searching for. Most often that is the most difficult thing that you can have. It is the stumbling block so often in family history research. You are asking for this certificate so you can get this information. Now, particularly with the older ones, what is the harm in this? I know that you have to be very careful in releasing birth registrations to anybody. I understand that. We do not quarrel with that, but automatically to say that the mother's maiden name must be required when you might have every other piece of information there for an ancestor, why? I do not think any other province absolutely requires it. If the details you have sent

in with your application do not jibe with what they have found, they then may ask you for that in order to confirm that this is the correct certificate that they are about to release, but they do not absolutely require it. In Manitoba they do.

Twenty five dollars is not an inconsiderable amount to pay for a certificate or a registration form, and a thorough search should be done regardless. As I say, use this mother's maiden name if there are discrepancies, but if you know the person's surname, first and second names, their birth date, their birth place and their father's name, surely to goodness that is enough proof.

I offer an experience I had personally in this regard. A few years ago I was trying to get a marriage certificate in Manitoba from the 1920s for somebody. Both the people on the marriage certificate were long since dead. They had no children. This was just somebody working on their family history and needed this piece of documentation. I had to go through several hoops. I had written originally that I was acting on behalf of this person. I had to get their permission and why they wanted it.

At the very same time my own son was living in Victoria and needed his birth certificate in a hurry to get a passport. So I came down to Vital Stats, and I paid the extra money. It was $50 at the time, and they gave it to me while I waited. Now I was able to fill in, of course, all the information on my son's birth certificate because I was there at the time, so I got this without any questions being asked. Now they are worrying about a marriage certificate from 1920, and yet a birth certificate from 1963, which was much more valuable, they gave to me on my say-so that I was his mother.

* (10:10)

Now, if I am going to try to fraudulently get a birth certificate, I am going to lie, obviously. I am lying even to get it in the first place. Anything that I put down on that form they could have gotten out of the newspaper because in the birth announcement my maiden name was there as it is in most cases. So just using the mother's maiden name is not necessarily a foolproof piece of protection. As I say, it can be used in many cases if other things do not tally on the application, but it should not be an automatic rejection of a search.

At the genealogy society in our resource centre we hear many, many complaints about various things, and yet I had a woman in tears there one day because of the way she felt she had been treated by Vital Statistics. She was looking for a certificate of her mother who had been born around the turn of the century and was now dead, but they would not give it to her because she did not know her grandmother's maiden name. Now this seems a little unreasonable to me. So, while I say that safeguards need to be built in, I say that they need to be applied in a more flexible fashion than they are at the present time.

The other thing we want to know is if these birth registrations or certificates are released after 100 years, will this same thing apply with regard to mother's maiden name? Because the farther back you go, of course the more difficult it is to produce this. I think those are the concerns that we have. I thank you for your attention.

Mr. Chairperson: Thank you for your presentation. Are you willing to answer questions of committee members? Are there any questions? I do not see any questions. Thank you very much.

Bill 13–The Social Services Appeal Board and Consequential Amendments Act

Mr. Chairperson: Presenters on Bill 13. Mr. Harold Dyck, please come forward. Please proceed.

Mr. Harold Dyck (Social Planning Council of Winnipeg): Good morning. I would like to thank the committee for this opportunity to express our concerns and recommendations on the Appeal Board act, Bill 13. For sake of time, I will skip over page 1 which simply describes the role and work of the Social Planning Council in Winnipeg in general terms and get to the nub of the matter here.

Myself, my name is Harold Dyck. For the past couple of years, I have worked actively with the Social Planning Council, including the last

year, chairperson of its Poverty Advisory Committee. I have also, for the past couple of years, spent considerable time providing advocacy services and support for people on Employment and Income Assistance, and it is based on those experiences that we would wish to draw our views to your attention.

Through the work of its Poverty Advisory Committee and based on two years of experience by the presenter of this brief, both in providing advocacy and intermediary services and working with other advocates in the community around Employment and Income Assistance issues, the Social Planning Council of Winnipeg has identified, and on previous occasions raised with the appropriate bodies a number of concerns about the fairness, accessibility and effectiveness of the social services appeal process.

We are pleased to note that Bill 13 represents a considerable step forward in addressing many of these concerns, and we congratulate the Government in this effort. We take this opportunity to express our gratitude to the Minister of Family Services, Honourable Tim Sale, for inviting our participation in the review process of the Social Services Advisory Committee leading up to the presentation of Bill 13. We are of the opinion, however, that additional improvements to the bill are warranted, in order to establish a fair and more just appeals process and wish to take this opportunity to identify our additional concerns and offer constructive suggestions for your consideration.

It is important first to note some important features of the appeal process. Few appellants have any post-secondary education. Many have not even completed high school, in some cases are further hampered by disabilities or even functionally illiterate. Their condition of poverty severely restricts the opportunity to gain further education. They usually have little experience in working with government regulations and proceures, and as a result they often are not aware of their rights, responsibilities and entitlements.

Income assistance recipients often simply file appeals in desperation in response to unfair or unjust treatment by Employment and Income Assistance. A high percentage of appellants appear in front of the Appeal Board without representation. This often occurs because they are not aware of their right to representation or where to obtain competent assistance. Often, Legal Aid is not an option, because the amount being appealed is too small to warrant assignment of a lawyer, though it is of desperate need to the person appealing.

Lacking any background experience or training and legal or quasi-legal proceedings, appellants often are not able to prepare and present their cases to the Appeal Board in an effective manner. When the appellant does appear before the Appeal Board, arrayed against him or her is all the professional skill and expertise of the Employment and Income Assistance Department. Though it is possible to succeed in the appeal process, the odds are clearly stacked against the appellant.

Finally, as if to add insult to injury, the right to appeal a decision at the Appeal Board where an error has been made is, under the present rules, nearly impossible. In both appearance and fact, the appeals process has not been a fair and equitable one and that is why the legislation under consideration today is of such great importance.

After careful study of Bill 13, the Social Planning Council would like to offer the following recommendations in the hopes of further strengthening the legislation. First, we draw attention to section 4(1) Members: Bill 13 proposes that the Appeal Board be appointed by the Lieutenant-Governor-in-Council. It is our understanding this means the members are selected by the governing party and is our resulting concern that this creates the potential for politically tainting what should be an independent panel. It is our recommendation that this section be amended to ensure an independent process for selection of Appeal Board members, whether it be through the legislative subcommittee representing all parties, or some other acceptable independent process that could involve consultation with representatives of the community.

* (10:20)

It is our further recommendation that the legislation require at least one-half of the Appeal

Board appointees be persons who have had the experience of living on Employment and Income Assistance, in order to ensure the greatest possible sensitivity to individuals having to resort to the appeal process.

Section 9: Procedural Rules: The proposed clause states that the Appeal Board "may" establish rules of practice and procedure, and only then, if it does so, it "must" make them available to the public. It is the concern of appellants and advocates that there has often been a lack of consistency in the practice and procedures of the Appeal Board, creating uncertainty in preparing for appeal hearings. It is our view that this should not be an overly formalized legal process but that it is nonetheless vital to establish some consistency in the operation of the Appeal Board as a benefit to appellants in preparing themselves. We therefore recommend that the word "may" be changed to "must" establish rules of procedure and practice.

Section 12(2): Time limit for filing: The clause proposes a time limit of 30 days after the date of a decision or order. It is our concern that often there is considerable delay in a client learning of a decision or order from the Employment and Income Assistance Department. As well, far too often there is a considerable time lag before a person learns that a decision or order is open to appeal or that a benefit that he or she should have been entitled to had been improperly delayed, denied or withheld. It is our recommendation that this clause be amended to allow appeal for at least 30 days from the date that the person first reasonably learned of the decision or order or of the improperly delayed, denied or withheld benefit.

Section 13(2): Parties to be present: The clause states that the appellant must be present at the hearing and appears to conflict with section 14 that states an advocate may appear at the board on the appellant's behalf. Where an appellant has difficulty attending a hearing, they should be allowed to be represented by another person if they have clearly designated that this is their wish, and this section should be amended accordingly.

Section 14: Advocates: We welcome the formal recognition in this clause of the role of advocates in the appeal process, whether they be legal professionals, paralegals or competent laypersons. However, it is our view that an addition should be included here, enshrining in the law that an appellant has the right to representation and must be notified of that right.

Section 15(2): Designated office must forward documents: In order to ensure a fair hearing based on the assurance that all factual information is presented, we recommend that a fourth point, (d), be added to this clause requiring the designated office to forward any other documents or information specifically requested by the appellant or designated representative of the appellant that is relevant to the appeal.

Section 16(1): Hearing date: We express a concern that this clause may need some clarification, particularly in relation to Clause 19(4) Adjournment. It is not uncommon practice after the filing of an appeal for a process of negotiation to take place in order to settle the issues being appealed. Where hope of a resolution is present, an appellant or representative may request delay of commencement of the hearing. It is our recommendation that this clause be brought in line with section 19(4) and adjournments be allowed past the 30-day period specified if requested by the appellant or designated representative if the hearing is not yet commenced.

Section 17: Parties may examine evidence: In order to ensure appellants have reasonable time and opportunity to prepare their case, a specific time frame should be identified to allow for timely examination of the material submitted to the Appeal Board. We would recommend three working days as a reasonable time frame to be stated in the legislation.

Section 16(2): Notice: In order to avoid the time delays that may be caused by holiday periods, it is our recommendation that the written notice of six days to the parties for the date of a hearing be specified as working days. Further, in order to ensure receipt of the information by the appellant, we recommend that it be specified that notification be by registered mail or other means indicated as acceptable when the appellant files the appeal.

Section 22(1): Reconsideration of order: We particularly welcome the introduction of this clause, because it effectively gives an appellant the right to reappeal a decision where new information comes to light. This is vitally important to appellants attempting to obtain a fair and just hearing of their concerns under conditions as we described in our introduction. However, we are concerned about the 30-day time limit for consideration as imposed in the following clause 22(2). It is our recommendation that there should be no time limit on the discovery and presentation of new information by an appellant to the Appeal Board, as this information could come to light beyond the 30-day limit.

If I might add a quick note here, I just dealt last week with a case, we are still going through the process, where the appellant had been off the system and out of the province for a period of time and only returned recently and re-enrolled and had an overpayment imposed that dated back to 1994. It is our belief that there may have been an error in calculation of that overpayment. Our concern is with this imposed time limit.

Section 23(1): Appeal to the Court of Appeal: It has been our long-held position that appeals to the Court of Appeal of the Appeal Board's orders should not be subject to obtaining a leave to appeal from a judge of the Court of Appeal. This phrase should be stricken from the legislation.

A few additional considerations. It is our recommendation that procedures for independent or politically neutral appointment of Appeal Board members include equivalent procedures for removal of board members who fail to properly carry out their duties.

Secondly, because a high proportion of employment and income assistance recipients experience some form of disability or language barrier, it is our recommendation that it be clearly established, whether more appropriately in the legislation or accompanying regulations, guidelines that would ensure the easy accessibility of appellants to Appeal Board literature and proceedings.

Third, when there is no evidence of alternative sources of income and an appellant is placed in a condition of dire straits, including no means of obtaining adequate food or risk of eviction from the appellant's home, it should be enshrined in the legislation that employment and income assistance benefits would be maintained until the final disposition of the appeal by the Appeal Board.

Fourth, often concerns are identified about the functioning of employment and income assistance that may not impact on a recipient's benefits or be within the purview of the Appeal Board but should still be recognized as legitimate concerns that can be appealed.

It is our recommendation that such cases should lie within the jurisdiction of the provincial Ombudsman and the new legislation should include a provision identifying the Ombudsman's office as an alternative avenue of appeal in certain specified circumstances such as abusive or neglectful behaviour by government staff.

Fifth, vital to the fair and equitable treatment of all citizens, including the poorest and most deprived members of our community, is the right to competent representation where a person may not be fully capable of representing themselves. This is a cornerstone of any society that claims to treat all its members with justice and compassion. While it may not be appropriate to include the proper funding of intermediary or advocacy services within legislation, it is our strong recommendation to this committee and the Government that such services be made available as and when needed through public support as a vital step in ensuring Bill 13 achieves its intended results.

In conclusion, we thank the committee for your time and forbearance in listening to our concerns and recommendations and look forward to the final results of your deliberations. Thank you.

Mr. Chairperson: Thank you, Mr. Dyck. Do committee members have questions?

Mr. Glen Cummings (Ste. Rose): Thank you for your presentation. Did you make these recommendations to the review committee during your consultation process?

Mr. Chairperson: Mr. Dyck, I am going to have to acknowledge you each time. Go ahead.

Mr. Harold Dyck: Yes, most of those recommendations were brought up at some point during the review process.

* (10:30)

Mr. Cummings: It would seem to me that this process should always be as open as possible for those who come forward.

You make the point that some people may well need the services of an advocate or an intermediary. Are you proposing that there be an advocate attached to the Appeal Board in some way, so that they can, on request, represent somebody who comes forward and does not want to represent themselves?

I guess I have a little problem in the sense that, wherever possible, I think people should be given the opportunity to clearly and freely express themselves and therefore be adequately heard, but are you advocating that there be an advocate attached to the committee on a full-time or as-needed basis?

Mr. Harold Dyck: We are not making any specific proposal as to how that type of thing might be structured. There are a number of alternatives, and there has been experience in a number of other provinces and even past experience in Manitoba of a variety of ways that that could be handled.

In some cases, it is most appropriate to have the involvement of a lawyer, and that is properly handled through Legal Aid. In many cases, there are independent agencies or groups in the community that have been effectively performing these kinds of services on a purely voluntary basis.

It is difficult, and I will say honestly that I do this on a voluntary basis, the representation of people. I only do so when a person feels that they have a clear need of an additional spokesperson on their behalf. We do try to encourage them to, as much as possible, speak on their own behalf.

But, if you look at those kinds of agencies, there are other experiences such as an equivalent to the appeal representation process as structured under the Worker Advisor Office, which is separate and independent of any appeal board but does provide effective representation for people in need of that kind of help in going through this kind of process.

There are a number of alternatives. We would be glad to sit down with the Government or any member here to discuss those various alternatives as to what might be the most effective and workable.

Mr. Cummings: You mentioned the worker advocate concept. It would provide someone with expertise without going to a full legal responsibility in representing someone. I am wondering if that was your preference.

Mr. Harold Dyck: It is a possibility. I cannot definitely say what model might work best here, Mr. Cummings. Definitely, again, it is something that should be examined very closely, and there are a number of alternatives.

I should point out that one of my experiences where effective and competent advocates are involved in the process is the fact–and, in fact, it has been several months since I last had to file or carry through with an appeal–that it is also an effective means of helping to negotiate a satisfactory solution and settlement of the problems that the client or appellant is concerned about without ultimately having to go through a legal hearing.

So an effective representative, intermediary or advocate, whatever you call them, also very much plays that role, not just solely playing the role of a legal representative in front of a judicial or quasi-judicial hearing.

Mr. Cummings: Finally, your recommendation on the makeup of the Appeal Board, do you feel that they should have some demonstrated expertise? Obviously, you are recommending a different way of appointment, but, given your experience, do you feel that there should be people with a demonstrated expertise in the area?

The reason I ask the question is that even in a jury, we ask people of the general populace to act as jurors. I am wondering if you think that it would be better to have a different system here.

Mr. Harold Dyck: We do feel that it is important to have an appropriate mix of people. Mr. Chair, the people who would have the most demonstrated expertise in the functioning of the Employment and Income Assistance program, are people who have actually had to live for a period of time under the program and should be a vital component of any Appeal Board structure.

There may be some limitations in terms of degree of education they have acquired and so on, and definitely that should be supported by other individuals in the appeal process who have other areas of expertise where they can complement each other.

But, definitely, in order to ensure the proper sensitivity and understanding of what is happening to people on Employment and Income Assistance, we definitely feel that there needs to be a very specified proportion of representation by people with the direct experience.

Hon. Jon Gerrard (River Heights): In your brief, you talk about the way that the system has operated and the fact that on appeal the odds are clearly stacked against the appellant, and you have made a number of recommendations. I wonder if you could just comment on which of the recommendations are most critical in creating a fairer playing field in the appeal process.

Mr. Harold Dyck: The right to representation, the notification of that right, the provision of competent representation and the right, where new or additional information does come to light, to reintroduce the appeal in order to ensure that justice is properly served.

Mr. Chairperson: The time limit for questions has expired. Is it the will of the committee to extend the time to allow Mr. Gerrard and Mr. Sale to ask questions? *[Agreed]*

Mr. Gerrard: You comment that the right to appeal a decision of the Appeal Board where an error has been made under the present rules is nearly impossible. Again, which of the recommendations is most critical in trying to make this a reasonable process where an error has been made?

Mr. Harold Dyck: Again, it is that provision that allows reintroduction of the appeal to the Appeal Board, where new or relevant information does come to light. What tends to happen far too often is people who have no experience and appear by themselves in front of the Appeal Board do not know what to do, do not know how to prepare themselves and so on.

They go through the process. When it is over and when they get the written decision, it is at that point that they realize, after it is all concluded, that, gee, I did not know that that is the way it was supposed to be done; I did not know that that was the kind of information they needed.

It does give them a second opportunity to go and get that relevant specific information or evidence and bring it back to the board and say, you know, this is something else you should have considered; please reconsider this matter.

In that case, I think it would be very rare that you would see a need for people to resort to the Court of Appeal.

Mr. Gerrard: On page 4, you comment on the recommendations for procedures to have an independent or politically neutral appointment of Appeal Board members, and then you go on to talk about having an equivalent procedure for removal of board members who fail to properly carry out their duties.

I wonder if you could comment on how you would see a reasonable process or an equivalent procedure, as you put it, for removal of board members who do not carry out their duties.

Mr. Harold Dyck: I would think that where there have been repeated concerns or complaints raised by appellants who appear before an Appeal Board–I do not have any specific evidence that this has actually happened. It is just a point that we felt should be important to include there.

But where there have been repeated complaints about the behaviour or actions of a particular member of the Appeal Board, there should be a process by which that Appeal Board member's continued membership could be reviewed and, if necessary, suspended or removed.

* (10:40)

Hon. Tim Sale (Minister of Family Services and Housing): First, Mr. Dyck, I want to thank you for a very thoughtful and well-researched presentation that speaks highly of the organizations that are represented. I am particularly interested in your views on persons with disability who wind up needing to appeal a decision. You will be aware that we just put out a white paper on disability issues. This particular issue of the Social Services Appeal Board is not in that white paper in any substantive way. Do you have any comments to make in regard to persons with disability and appeals?

Mr. Harold Dyck: Most of my experience as an intermediary/advocate in dealing with people with disability has been to try and take them through the process where they have been improperly denied disability. I have had cases, one that stands out in my mind in particular, for example, was a young man who was functionally illiterate, was asked to sign documents in order to establish what his criteria were to qualify for social assistance that he could not read and then was subsequently cut off social assistance. When he came to me he did not admit to it, but I eventually discovered that this kid cannot read, and he has to sign documents. It was through our intervention in the process, and in this case it was quite a good worker who had a very overburdening workload that we were able to catch the process and say, hold on a minute here, let us pay proper attention to the needs of this client. This worker in this case did bend over backwards to assist the client.

I am sorry to say that has not always been my experience with all the workers at employment and income assistance. There is a wide variety. Most of it has been how they get to the point where they do qualify for disability status. Once on disability status, I have had very few experiences in representing people who experience major difficulties and what if any additional recommendations could or should be made in that regard. I do note that following my presentation is a representative from the Manitoba League of Persons with Disabilities who may be better equipped to give a clearer answer on that.

Mr. Chairperson: Thank you. The next presenter is Marlene Vieno of the Manitoba League of Persons with Disabilities. Do you have copies of your presentation?

Ms. Marlene Vieno (Manitoba League of Persons with Disabilities): Unfortunately, the Manitoba League of Persons with Disabilities received a very short notice. I believe I did not hear about this until Thursday afternoon or Friday morning. We were in the process of our annual general meeting being held Saturday. I had another assignment again on Friday. I apologize, but we will have a report and a response in writing. I just do have a few comments that I would like to make here. I want to thank you for giving me this opportunity on behalf of the Manitoba League of Persons with Disabilities.

Mr. Chairperson: That is fine. Please proceed.

Ms. Vieno: What I have reviewed so far is that material be made available to the appellant in a format which the person can read, for example, large print, audio and Braille. That has not been mentioned. I recommend that that be included and that that change be made. It is also important that the community be able to initiate and advise and make recommendations to the minister. This change opens the door of direct, experiential knowledge for possible changes to benefit the appellant, their families, their partners, spouse, the community at large.

Another improved amendment is on posting information. This is a step forward in the right direction. Again I would like to thank the minister for proposing this change. A designated officer, also again, or a delegate of the designated officer must be present at the hearing. Here is what the presenter before me, Mr. Harold Dyck, did say, that people in the community who receive EI, employment and income assistance, but come into a problem they

do not understand, they do not know the system, they have not had the opportunity that I have had and persons like Mr. Dyck and others. This brings pressure onto them. It just puts them in emotional, mental turmoil. By making this change and having someone to be there, whether it be support or to advocate on their behalf, again, is a step in the right direction. I really thank you, because that is something that the disability community, we have been pushing for for many years. Again, I am grateful of it, and every little thing I appreciate. I give credit where credit is due. Thank you.

In relation to, now for an appellant to attend a hearing, there is no mention of transportation. In fact, it is stated that transportation will not be provided by social services. I recommend that that be an alternative change. Again, many of these people, where the location of their homes, their premises, and where the appeal is being held, together with the financial problem that they are in at that time, will jeopardize their ability to be present. Another way I see it is it violates accessibility, and that is something that was in the white paper. So I recommend that you put those two together and that transportation become included as a necessity.

Also, in relation to an appeal and that being reconsidered and that we recommend that another panel should be heard, not the same.

Those are just a few amendments that I have to present this morning. Like I said, I apologize for the inconvenience, but you will receive a written response from us shortly. Thank you very much.

Mr. Chairperson: Thank you for your presentation. The Minister of Family Services has a question for you.

Mr. Sale: Thank you very much. I appreciate the advice. I guess one of the challenges we have, and I will ask for your comments on this, is to navigate between overformalizing and allowing for the flexibility that I think most people in the review process wanted to maintain. So I think that, for example, the attendance of someone at a hearing, generally, it is preferable to have the person who is appealing present, but you are making the case that, for a number of people, that itself might not just be a financial hardship. It might be a health hardship.

So there is a provision about teleconferencing, the use of telephones. We do that regularly now, but I am wondering whether you feel that the use of a teleconference for persons with disability would lessen the stress, or whether it would be an acceptable means of dealing with that question of how do you have someone present in a way that does not put them under undue stress or pressure.

Ms. Vieno: You want my honest-to-God's answer to that. From cases who I have helped and from my own personal experience, what I can tell you is the person being there, and that telecommunication is good, but it is best to being there and to see that way, because communication is not just by speech and by hearing. It is also by seeing. I listen with my eyes, and I believe this is what most people, most of us have that knowledge, that awareness, that communication skill. It is natural within us. Other people, for example, if the appellant has a communication difficulty or a learning disorder, that could jeopardize their ability to really comprehend what is being told to them.

* (10:50)

Mr. Gerrard: Just a question for you in terms of the people with disabilities, because we are dealing with quite a wide range of different disabilities, and clearly there needs to be some flexibility in the system being able to recognize and adapt and allow people with different types of disabilities to participate fully and be well represented, the question for you is: How do you provide for the best possible range when you are dealing with very different disabilities, somebody with certain types of mental disabilities, on the one hand, to physical handicaps on another? How does one ensure in this system that everybody in fact is adequately served and represented and treated fairly?

Ms. Vieno: With cases that have been brought to my attention, if I see it beyond my authority in relation to, for example, mental health, and, if that person has a mental or emotional health problem, then I refer them to the Canadian Mental Health Association, Winnipeg region,

where there are two advocates there to provide peer support and also accompany them, if necessary, to the Appeal Board.

In relation to hearing impairment and speech impediment, there again, is the deaf community. We have the sign language interpreters. A sign language interpreter requires payment. If the individual is receiving assistance, where are they going to acquire that funding to pay for that sign language interpreter? Telecommunication, there again would be more costly than just providing that individual with bus tickets, or, if they have a cross disability, more than one, a taxi.

If you are thinking about cost, I am determined, I stand by it, I put people before profit. When you really think it over, Mr. Gerrard, by allowing the person to be there and allowing them that opportunity to have that support or advocate is less costly to our taxpayers' dollars and to our Government too. What I foresee is that those people are going to be left in limbo. There is going to be that uncertainly on what the final outcome is. When they receive their letter of statement, it is not going to be pleasing. It could be very upsetting. It could be all the more confusing to them. That, in certain cases, can also lead to depression. That only adds on additional expenses to our health care system that are ongoing. This is what really concerns me, because then what happens is the person becomes emotionally upset. Depression can set in, and then psychiatric counselling in a hospital is required.

We can limit that. We can eliminate that by meeting that person's needs, seeing the person, not just their disability, but respecting them as a human being.

Mr. Cummings: In part you have already answered my question. You are adamant and would support every opportunity to have the appellant present. My only question then really is: Does that mean that you would eliminate any other method of communication such as telecommunicating in favour of better opportunity for appellants to appear?

Ms. Vieno: I think those options need to be available. I think it is a choice that should be left up to the appellant.

Mr. Chairperson: Thank you for your presentation.

Ms. Vieno: Thank you.

Bill 15–The Mortgage Amendment Act

Mr. Chairperson: The next bill we have presenters on is Bill 15, The Mortgage Amendment Act. The first presenter is Mr. McGoey from the Canadian Home Income Program.

Mr. John McGoey (Canadian Home Income Plan): My name is John McGoey. I am with Pitblado Buchwald Asper. I have just a brief letter from my client. Our office represents Canadian Home Income Plan. Being distributed to you are copies of a letter I received this morning by e-mail from Mr. Jim Hayhurst, who is senior vice-president of Canadian Home Income Plan in Toronto.

Addressed to the Legislative Assembly of Manitoba. Attention: Honourable Mr. Smith.

"Dear Sir,

"Canadian Home Income Plan is a Reverse Mortgage Lending Company. We are a Canadian-based private Company that is focussed specifically on the financial needs of Senior homeowners since 1986. We provide this product primarily through Canada's major Banks and are the only National provider of Reverse Mortgages in Canada. We were selected by these Banks because of the service we can offer our Canadian Seniors and because of the integrity and professionalism in which we offer it. We are consummate specialists in the needs of Seniors.

"We are in receipt of a copy of the Second Session Thirty-seventh Legislature and have some serious concerns that you are about to pass legislation that is not in the best interest of the Manitoba's Senior's Community. I do believe that regulation is important and it should protect consumers from disreputable offerings, but it must also balance the needs of the business environment to be able to provide those offerings. This legislation has the potential to limit the opportunity for reasonable competition or even completely remove this type of product offering from the financial options of Manitoba Seniors.

"At a minimum I am respectfully requesting an extension to prepare an adequate response to this draft legislation. We have not had enough time to review this draft with our legal council.

"We did appreciate the opportunity to discuss the possibility that legislation would be passed to regulate this product. However, as an industry leader I am distressed that none of our input had an impact on areas of concern.

We are governed by regulation in virtually every province and practice processes that exceed our regulatory requirements. Thus, we have the industry experience and are uniquely qualified to provide input. Without proper time to assess the impact of this legislation, here are some preliminary concerns:

- "Consumer remedies in sections 33, 34, 35 and 36 are singularly focussed and discriminatory to this product. As an amendment to The Mortgage Act the remedies are inconsistent with that Act. I do not believe there are any such remedies for other products within this Act.
- "33(1) 'cooling off period' of seven days is excessive compared to the rest of the regulatory environment in Canada. We provided several industry benchmarks for consideration in setting the cooling off period. In all of the regulated provinces in Canada, the maximum 'cooling off period' in effect is 72 hours. I believe the Condominium Act applied in Manitoba is 48 hours. Seven days is excessive given these industry benchmarks. A well-informed Senior will not be satisfied that the Government is excessively delaying a financial transaction with their own money.
- "34(2) places the burden of proof on the lender. This would allow any borrower or estate to challenge the disclosure process in hopes that the filing system is broken," meaning the filing system of the lender.
- "33(4)(c) and (d) could put a lender at undue risk to disreputable consumers or the estate of original consumers.

"Again, I would ask you to consider extending this process so that we can improve our involvement prior to this legislation being passed. Regulation is not our concern. Protecting the Seniors community from disreputable offerings is also in our best interest. However, I am very concerned with such a singularly focussed piece of legislation, which will one day be tested in a manner we cannot see.

"Respectfully yours, Jim Hayhurst, Senior Vice President."

Mr. Chairperson: Thank you for your presentation. We have questions. First, the Minister of Consumer and Corporate Affairs.

* (11:00)

Hon. Scott Smith (Minister of Consumer and Corporate Affairs): Thank you, Mr. McGoey, for a considerable thought-out presentation.

I guess one of my initial questions would be: Would you suggest, just by the document you have presented, that most of these reverse mortgages are specifically targeted at the seniors community? My understanding is anyone can assume one of these reverse mortgages, but you have highlighted and specifically identified that it seems to be specifically targeted at seniors.

Mr. Chairperson: Excuse me. I need to acknowledge you every time.

Mr. McGoey: Only homeowners over the age of 62 are eligible for the plan.

Mr. Smith: Just in your consideration the 33(1), you have identified a condominium cooling-off period of 48 hours. I believe the legislation now is as proposed seven days as we have proposed within this agreement. It is something I will look at for consideration, but thank you very much for that piece of information you have provided.

Hon. Jon Gerrard (River Heights): The reverse mortgages which seem to be quite popular and provide a very useful option for seniors, I wonder if to begin with you could provide us just a little bit more information on how long reverse mortgages have been around, what kind of useful service do they provide for

seniors, just to put into context why it is so important that we have this option in Manitoba.

Mr. McGoey: As the letter states, the plan has been around since 1986. The plan has been in operation in Manitoba for the last two years. The fundamentals of the plan are that it allows a senior to take advantage of the equity in his or her or their home I guess at basically a minimum risk. Although the initial loan is a fraction of the appraised value of the house, certainly under the Canadian Home Income Plan the debt can never exceed the value of the house at the time of disposition. So no one can ever find oneself in the position where you have lived longer than you expected, you have beat the amortization tables, and, as a result of that, with the compounding of interest on the money that you received now some many years ago, you owe far more than you could ever afford to pay back.

That program does allow people who need a supplemental income. A lot of the money that is generated by these mortgages does go into an annuity program where people do get a monthly cheque rather than a lump sum, but they have the option of either.

Mr. Gerrard: Just maybe you could expand a little bit more if the legislation is passed without the changes, is that going to make it impossible to have reverse mortgages in Manitoba, or would it make it much more difficult to have them in the way they are being delivered at the moment.

Mr. McGoey: It would certainly make it more difficult. There is not stringent legislation like this in any other province. Certainly one area of concern for my client is the addition of criminal or quasi-criminal offences in the act, and, secondly, the reverse onus. The fear there is it appears that there will be statutory prescribed forms of disclosure that must be completed. It will be incumbent on the lender under the current legislation to retain those forms for the duration of the mortgage. It would behoove an estate in circumstances after that to challenge the lender just to see if they still have the form. If for some reason the filing system has broken down, there has been a fire, there has been accidental destruction of records, the lender could never produce the prescribed forms, and the estate would have a hands-down winner of a case in a situation where they did not deserve to have one.

Mr. Gerrard: Could you expand a little bit on that last point just to illustrate a little bit better what the implications are in terms of how this might discriminate in terms of the estate versus other parties, and why this would be a particular problem? Clearly, it would be an advantage to have the forms there, but with this specific illustration, perhaps, what kind of a disadvantageous circumstance would then result which would make it much more difficult to have the reverse mortgages?

Mr. McGoey: I had a little trouble following your question, but I think that you were asking–just to expound on that last statement, which is that I think any estate–why would you not take a run at the mortgage if the onus is totally on the lender to prove that the appropriate disclosure was made at the time? If production of the form is a case in point and one does not have the form, one does not have a case, and yet, the circumstances could well have been that proper disclosure was made, and yet someone has taken advantage of the system, a loophole one might call it, and received the benefit, or the estate would receive the benefit of that loan having been received many years ago, but interest free now.

Mr. Gerrard: I think we are getting closer, but in terms of the problem with the lender, I mean, most lenders would presumably take good care to have things recorded and adequate records, I presume, back-up copies, what have you, where necessary.

In terms of the ability then to carry on reverse mortgages, the concern would be that somewhere a document is lost and then, all of a sudden, the reverse mortgage would be totally nullified. Is that what you are suggesting what would happen?

Mr. McGoey: The legislation does not provide that the mortgage be nullified, but it does provide that there be no interest payable, that the only debt owing would be the original principal advanced against the mortgage. In the preliminary discussions with the department, the proposal was that in those circumstances, the

mortgage rate dropped to The Judgments Act rate, but by the time the draft legislation was seen, the interest rate had dropped to zero.

Mr. Jim Rondeau (Assiniboia): As a person who has been involved in the investment industry and a person who has had a fire and had my records destroyed, I have actually had triple copies of all my documents, including disclosures for mutual fund sales, et cetera, because that is good business. One does not just keep one record. I would assume a company, a bank, et cetera, does not just keep one piece of paper. I did not and I thought that was prudent.

My question would be: If we had regulations where the registrar of the mortgage would also have to have the disclosure document accompany it, would that not solve that whole issue of duplicate records and losing one piece of paper?

Mr. McGoey: You are suggesting that the prescribed forms of disclosure form part of the mortgage and be registered at the Land Titles Office?

Mr. Rondeau: Yes, that, and also, maybe the company, I would assume, would keep paper records and back-ups. I do and I would assume that most people did. In fact, after my house fire, I think I had to go and have two pieces of paper redone.

Mr. McGoey: I cannot speak to the exact nature of my client's record keeping. I am assuming that they would keep duplicate copies of important papers in separate locations. Certainly, having prescribed disclosure forms–could make one's case attached to and forming part of the mortgage and registry in the Land Titles Office–would certainly go a long way to solve the record issue.

Mr. Jim Penner (Steinbach): Thank you. Mr. McGoey. You suggest the remedies in sections 33, 34, 35 and 36 may not be necessary. What do other provinces do? Are they self-regulating?

Mr. McGoey: For the provinces that I have discussed this issue with other lawyers. This plan has been regulated under The Securities Act. The Canadian Home Income Plan has had to register under The Securities Act, and it has all been governed by that legislation.

* (11:10)

Mr. Jim Penner: Mr. McGoey, are you suggesting then that the consumer remedies in sections 33, 34, 35 and 36 are too stringent?

Mr. McGoey: As stated in the letter, firstly, we felt that the cooling-off period was excessive; secondly, that the burden of proof–which you have already discussed–was onerous, and the fact that there was quasi-criminal offence sections in here we found onerous.

Mr. Chairperson: My apologies to Mr. Rondeau, who was not finished.

Mr. Rondeau: Mr. McGoey, I am just wondering, you say that the seven days is too long. What would you as a businessman see as an appropriate cooling-off period for someone to consider a major financial transaction?

Mr. McGoey: Certainly one should not need more than two or three days, and there are two sides to that issue. One, of course, is that the applicant borrower may have an urgent need for the money. The other side being that the mortgage business is one where interest rates are quite sensitive. Sophisticated mortgage programs in the United States, there is a lender in Los Angeles called Country West. They spend $20 million a year on their lending software. They can change their mortgage rate up to seven times a minute in a national market. So, when you commit to somebody for a mortgage today at a given rate and then have to wait seven days, that may well have a prejudicial impact against either side.

Mr. Rondeau: Could that be solved by sealing in the interest rate for seven days and saying, hey, this is the way it is by both, so that it accommodates the needs of your industry and the consumer, because Canada is not as flexible as some countries? The States have been moving a lot, Canada has been rather static as far as interest rates. I know in mortgages in banks, you are guaranteed 60 days, 90 days, on certain mortgage rates.

I was just wondering whether that seven days, whether we could sit there and have a guarantee and a penalty for getting out if the interest rate dropped or went up.

Mr. McGoey: Well, there has never been a penalty under the Canadian Home Income Plan for anybody wanting to get out for any reason. We have had some mortgages, maybe 10 out of 115 mortgages, where when the people have sought independent legal advice, decided not to proceed with the transaction and that has been that.

In terms of a fixed rate of interest, there is a fixed rate of interest on the transaction at the moment, but in a volatile market that may be prejudicial to one side or the other.

Mr. Chairperson: Thank you, Mr. McGoey.

The next presenter is Gerri Hewitt of the Manitoba Society of Seniors. Please proceed.

Ms. Gerri Hewitt (Manitoba Society of Seniors): Mr. Chairman, honourable members, the Manitoba Society of Seniors is before you today to support Bill 15 to amend The Mortgage Act to include reverse mortgages.

For the past number of years, MSOS has been concerned with the growing promotion and interest in reverse mortgages. While it is recognized that reverse mortgages are provided by legitimate companies, it is often difficult to understand all the implications such a loan means. This bill will allow for greater information being given to individuals when they investigate such a move. An understanding of all costs associated with the mortgage, including the growing interest rate costs, all fees associated with the loan, and all the financial ramifications of such a loan, are paramount to the consumer making an informed decision. As already heard, the majority of these consumers are seniors.

The seven-day waiting period is also very important. It allows for time to consult and determine if this is exactly the type of contract the consumer wishes to enter into. Often today, family members of such seniors are not in the same city, and this gives time to consult, not only with legal consultants, but also with family.

To be able to pay off the loan at any time is also an improvement from existing contracts that can limit the repayment up to three years. We believe the legislation should protect both lender and borrower, and we have now heard that perhaps this is not accepted by the lender. MSOS also endorses the responsibility of the Consumers' Bureau for the investigating and mediating of complaints involving the reverse mortgages. We would encourage the Government to develop education materials for public awareness so that all Manitobans will have access to complete information if they wish to go forth with a reverse mortgage.

Thank you for giving the Manitoba Society of Seniors the opportunity to present to the committee, and I will be pleased to answer any questions.

Mr. Chairperson: Thank you for your presentation. The Minister of Consumer and Corporate Affairs.

Mr. Smith: Thank you very much, Ms. Hewitt. I would like to thank you, first, for some of the advice we have received and appreciate your presentation. Specifically, Ms. Hewitt, this is dealing with an alternative type of lending. Do you feel–and I believe that you have stated–that seven days is a long enough period?

Ms. Hewitt: We had thought, actually, at the beginning, that 10 days was a better period of time. However, recognizing that there were implications as far as interest rates and such, we agreed to the seven days being what we felt was adequate.

Mr. Gerrard: Clearly, for reverse mortgages to work well, there needs to be a good operating framework for seniors and for lenders, and I think you have put that there. I just wondered if you had any comments on the presentation which preceded yours, from the lenders' position. From the seniors' perspective, what is critical in terms of optimizing the use of reverse mortgages to the advantages of seniors?

Ms. Hewitt: Certainly, we feel the time period is important because of those implications stated beforehand. This has also had a major impact, frequently, because of understanding that it is

different than a regular mortgage, in that instead of the mortgage going down, the mortgage increases over the life of the mortgage. At the end, there could be a zero impact on an estate, or what is available when the house is sold, which may be either the family or for the senior at the time. We feel that just the education and the information should be there so that all implications are known beforehand.

As far as the legal part of the legislation, we do endorse that because we feel it gives a fair playing field for both the borrower and the lender. We do not feel it restricts the lender.

* (11:20)

Mr. Jack Reimer (Southdale): Good morning, Gerri. My question is: MSOS has been used as a venting point a lot of times for seniors because of your vast amount of membership and the people that you contact when you are in the seniors community. Do you have any indication or statistics as to inquiries in regard to reverse mortgages over the last while as to the growing concern on it? Do you have any information as to what kind of contact has been made by the seniors community through MSOS to you on the reverse mortgages?

Ms. Hewitt: Certainly, when it first came to Manitoba, there were a lot of requests and interests for clarification with regard to reverse mortgages. We have tried to educate the public through our journal a number of times and have had articles with regard to it. It seems to peak depending on the amount of promotion that is given to the public, whether it be through the papers or through TV, at which time we do get possibly two or three calls a week with regard to it. Usually it is asking more information and recommendations, whether they should go ahead.

We do not take one side or the other, but rather we recommend that they seek legal advice, as far as this type of thing, and discussion with their family.

Mr. Chairperson: Thank you for your presentation.

An Honourable Member: Thanks, Gerri.

Mr. Chairperson: Is it the will of the committee to proceed numerically, or is there a suggestion to alter the sequence? Sorry, is there anyone else in the audience that would like to make a presentation at this time? Seeing none, Mr. Sale.

Bill 13–The Social Services Appeal Board and Consequential Amendments Act

Hon. Tim Sale (Minister of Family Services and Housing): I wonder if the committee would agree to hearing the Bill 13 first and then moving on to the remainder of the bills, which I believe are the minister from Brandon West.

Mr. Chairperson: Is that agreed? It is agreed that we will proceed with Bill 13 first, The Social Services Appeal Board and Consequential Amendments.

Does the Minister of Family Services and Housing wish to make an opening statement?

Mr. Sale: Mr. Chairperson, very briefly, this act brings up to date, or at least close to up to date, the provisions for appeal under the six different statutes that are subsumed. I believe that we have consulted broadly with the community, legal community and the social welfare community to try and remedy some of the deficiencies in the current act.

I appreciated the thoughtful presentations this morning from both presenters. I think quite a number of the things that they suggest can be accomplished through either regulation or through the rules of procedure which the Social Services currently advisory committee intends to create. So I look forward to the views of members on this legislation and commend it to them for passage.

Mr. Chairperson: Does the critic from the Official Opposition have an opening statement?

Mr. Glen Cummings (Ste. Rose): Mr. Chairman, it would appear that there are some aspects of this bill that advocates in the area would seek some strengthening, somewhat limited, I suppose, in terms of amendments that I can make because of cost-implication factors, but I would indicate to the minister that the cost to provide and the freedom to access expert and/or knowledgeable or at least knowledgeable

advice for those who are appealing is paramount to making a committee operate in a fair and open manner, nevertheless, the fact that he has indicated they will be introducing some amendments which I believe will in part help accessibility.

I know the questions that we discussed when the presenters were here regarding appearance in person, as opposed to representative and additional communication. I support the concept for those who choose it, to have some way of communicating with the board without having necessarily to appear in person, which, I believe, is the subject of the amendments that the minister is bringing forward. So I would like to proceed to the clause-by-clause discussion of the bill.

Mr. Chairperson: We thank the minister and the critic. During the consideration of a bill, the enacting clause, the table of contents and the title are postponed until all other clauses have been considered in their proper order.

If there is agreement from the committee, the Chair will call the 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–pass; Clauses 2 to 4(2)–pass; Clauses 4(3) to 8–pass; Clauses 9 to 11(5)–pass. Shall Clauses 11(6) to 14 pass?

Mr. Minister has an amendment.

Mr. Sale: I move

THAT subsection 13(2) be amended by adding "or, if subsection 19(2) applies, must be able to communicate with each other and the appeal board simultaneously" *at the end.*

Sorry, you need to put it on the record first, I guess.

Mr. Chairperson: Prior to dealing with the amendment, I would like to ask the committee if it is agreeable that we pass all the sections up to section 13(2). Is that agreed? *[Agreed]*

We will ask the minister and then the critic to speak on the amendment.

Mr. Sale: The point of this small amendment is to enable situations where an appellant is not able to attend an appeal hearing, for example, someone who is bedridden due to illness or, in a recent case which we had, a person who was under house arrest and therefore could not leave the House to appeal their social services, their ruling.

The board has indicated that the presence of the appellant is necessary to ensure that all of the board's questions regarding the appeal can be answered. The provision in section 19(2), which we are coming to, enables appellants to participate at their hearings via teleconference or other means. If the appellant does not have access to a telephone, the Appeal Board can conduct a hearing at different locations within the community, which we do, including at the appellant's home or even in a hospital room if that is required.

So this adds some flexibility ensuring that, if the person is not physically present, they can communicate simultaneously to the hearing process. The members of the committee will understand a little later in the bill that the appellant may have an advocate present at the board hearing representing him or her while the appellant is on the other end of a telephone or teleconferencing. That is the point of the amendment, Mr. Chairperson.

Mr. Chairperson: I thank the minister. I am sorry to interrupt the critic, but we have two procedural things we need to do. First, the amendment has been ruled in order, and, secondly, I need to read into the record the previous clauses by clause.

Clauses 11(6), 12(1), 12(2), 12(3), 12(4), 13(1)–pass.

Mr. Cummings, on the amendment.

Mr. Cummings: I believe the minister has answered my concerns, although I would like clarification as this relates to 19(2). Does the board have the freedom to decide if or whether it will hold a hearing at a different location if a

person is unable to attend? I am talking procedurally as much as I am the definition of the clause or anything here that impedes or directs the board, or is it at their choice?

* (11:30)

Mr. Sale: That is a very, very important question, Mr. Chairperson. The overall act gives the board certain duties, and the overall intent of the act clearly is to direct the board to make sure that it accommodates the different needs of different appellants. If you read a number of different sections, it is clear that that is the intent of the legislation. The board has the administrative ability to make decisions about whether to travel itself or to use a teleconferencing approach, and I think it needs that kind of flexibility to be able to make that determination based on the different circumstances, but I think that the overall reading of the legislation is clearly to enable attendance or attendance at the end of a telephone. I think the board would be, in effect, running against the intent of the act if it frustrated pretty clearly the intention that is set forth here of ensuring that the appellant is present either in person or by phone. So you need some administrative flexibility to make sensible decisions, and I believe the board and the staff use that responsibility appropriately.

Mr. Cummings: I think I agree with what the minister said. My question was whether or not the board has the flexibility to, on its own volition, decide yea or nay in terms of holding a hearing elsewhere, and if the answer is positive, that is what I am looking for.

Mr. Sale: The answer is yes, and it does so now as well as will continue to do so in the new act.

Mr. Chairperson: Amendment–pass; Clause as amended–pass.

Shall Clause 14 pass?

Mr. Sale: Mr. Chairperson, I move,

THAT section 14 be amended by striking out everything after "communicate with" *and substituting* "the appeal board at any time on the appellant's behalf, and may be present with the appellant at the hearing."

Mr. Chairperson: The amendment is in order.

Mr. Sale: The modification that we are seeking here, Mr. Chairperson, will ensure that every appellant may use the services of an advocate up to and during the hearing. The amendment will clarify that an advocate's presence does not, however, substitute for the presence of the appellant. That is that the appellant has to be there or at the end of a phone. I think I would not want to say that there are no circumstances in which a board might not waive this situation, but in 99.44 percent of the cases the intent is to allow for appellants to have advocates through the whole process but also to reinforce our expectation that the appellant will be available to answer questions either in person or by phone.

Mr. Chairperson: Amendment–pass; Clause 14 as amended–pass. Shall Clauses 19(1) to 23 pass?

An Honourable Member: What happened to Clause 15?

Mr. Chairperson: Sorry, wrong page. Shall Clauses 15(1) to 18 pass?

Mr. Frank Pitura (Morris): I just wanted to ask the minister in Clause 16(2) that it says at least six days before the hearing the Appeal Board must give the parties written notice of date, time and place of the hearing as to whether the minister would consider bringing in an amendment, I guess, at third reading to six working days.

Mr. Sale: Mr. Chairperson, just procedurally, we have an amendment for 16(1), and then we could get to 16(2). So can we hold that question until we get to 16(2)? *[interjection]* He did, but we did not get a chance to say I have an amendment for 16(1).

Mr. Chairperson: Clauses 15(1) and 15(2)–pass. Clause 16(1), we have an amendment.

Mr. Sale: Mr. Chairperson, I move,

THAT subsection 16(1) be amended by striking out the second sentence and substituting "The hearing must not be commenced more than 30 days after the board receives the notice of

appeal, unless the board at the request of the appellant, grants an extension."

Mr. Chairperson: The amendment is in order.

Mr. Sale: Thank you, Mr. Chairperson. This amendment addresses, in part, one of the issues raised by Mr. Dyck in his presentation as well as concerns that have been raised during our consultations in reaction to the draft bill.

Many people noted that often the resolution of the problem that is being subject of an appeal can take longer than 30 days and that the board ought to have the ability to let that process go without violating the act in terms of the hearing dates of 30 days. This is an attempt to accommodate that process of resolving issues without having to bring them to the formal appeal.

Mr. Cummings: Mr. Chairman, are there any limitations–actually I am suggesting there should be some limitations, so that this does not become a totally open-ended process. Are there any other clauses in this act or any procedures that the board will have at its disposal to bring it to closure in the face of constant application for deferral?

Mr. Sale: I think that is an important issue, but I guess I would ask the member to consider the dynamics of any appeal.

Most of the time an appellant has a problem that they want to have resolved, so it is not usually in their interest to postpone the resolution indefinitely. I think the board has the power here under this to not grant an extension. The point here is that if the appellant requests an extension, it is almost always because there is a process of resolution underway, and the board may–obviously, this is permissive legislation–the board, at the request of the appellant grants an extension. This does not say the board shall grant it, but it is permissive, although the word "may" is not in here. Nevertheless, I would understand it to be not a mandatory requirement.

We do not experience appellants wanting to delay the resolution of problems, and so I think that is the natural pressure that is in here. I do not think it is to the disadvantage of the public or the department to allow for a process of resolution to take place at the request of the appellant. That is kind of the check and balance here.

Mr. Cummings: In part, I agree. Perhaps it is too hypothetical, but it seems to me there are situations where an appellant may wish to pick up an appeal, a request for an appeal that could postpone it into the future, particularly if it were–and let me be cynical about this. If there were representation on behalf of the appellant where it became to their benefit to keep the file open, it could become pretty open-ended. Obviously, it is the minister and the department's problem, so if they want to leave it this way, I will not be proposing an amendment.

Mr. Sale: Mr. Chairperson, I think that is not entirely a hypothetical. I think one could conceive of that situation, although I do not think it happens very frequently. I do not know of it ever happening, but I will not say that it never would.

* (11:40)

There is nothing in this legislation that relieves the department of the obligation to administer social assistance in conformity with the rules, so if there is a prima facie case of fraud, or if there is a case of somebody breaking some other rule in a persistent kind of way, there is nothing in this legislation that relieves the department of the obligation of administering the system in a prudent manner.

So I do not think it would be possible under the current rules of the social services side, for an appellant to string out the department using an appeal as a mechanism for keeping their assistance in place. Whether the community likes it or not–and I am sure they do not like it–there is nothing in this legislation that says you have a right to continue receipt of assistance while your appeal is in process.

So if we have a clear case where we need to cut off assistance because of whatever, we are not relieved of that obligation by this legislation.

Mr. Chairperson: Amendment–pass; Clause 16(1) as amended–pass.

Mr. Sale: For 16(2), I have an amendment, Mr. Chairperson.

Mr. Chairperson: We have an amendment to 16(2).

Mr. Sale: Mr. Chairperson, I move

THAT subsection 16(2) be amended by striking out "At least six days before the hearing," *and substituting* "Unless the parties agree to a shorter period of notice, at least six days before the hearing".

Mr. Chairperson: The amendment is in order.

Mr. Sale: The point here is to introduce some flexibility so that where you have a situation that requires very rapid hearing, that the parties can agree mutually to hear it more quickly than the six-day notice would require. Obviously, it has to be by mutual consent so the interests of both parties are protected here.

I know that the member may be asking questions about working days. The effect of that would be, in many circumstances, to push the hearing out to a minimum of eight or nine days after the notice. That is already allowed for in the legislation. It allows it to be further than six days. It just says it cannot be any faster than that. The purpose of this amendment is to allow it to be even shorter by consent.

So I am interested in the member's views as to whether he would want to force it to be longer before it could be heard by virtue of adding "working days" in here. I do not believe the community would want that, but I would be interested in the member's comments.

Mr. Pitura: I thank the minister for that comment. The only reason I was bringing the aspect of working days forward was really from the department's standpoint as to what day a notice for a hearing is mailed. If it is mailed on a Friday and not received until the following Monday, which could be the case in the rural area, you are, in effect, reducing the notice of meeting down to three days, in which case it might be difficult for the appellant to make arrangements to be ready for the hearing.

So that was my only comment and the fact that working days would eliminate the long weekends where mail delivery is interrupted.

Mr. Sale: I am just asking staff to clarify this question, so could we have a two-minute recess, because I think it is an important issue the member raises?

Mr. Chairperson: Is it agreed to recess for a few minutes? *[Agreed]*

The committee recessed at 11:43 a.m.

The committee resumed at 11:48 a.m.

Mr. Sale: The clarification I have received from Leg counsel is that the interpretation of receiving notice requires the sender to take into account the amount of time that reasonably could be expected to be involved in the delivery. So six days means, in common interpretation in court, six days after I got it, not six days after it was sent, so that is what I am told is the understanding. The current legislation is three days, by the way, so this is an extension of that.

Mr. Chairperson: Amendment–pass; Clause 16(2) as amended–pass; Clause 17–pass; Clause 18–pass. Shall Clauses 19(1) to 23 pass?

Mr. Sale: Could we go back to 22(1)? You could pass up to 22(1) anyway.

Mr. Chairperson: Clauses 19(1) to 20(3)–pass; Clause 20(4)–pass; Clause 20(5)–pass; Clause 21–pass; Clause 22(1)–pass. We have an amendment on Clause 22(2).

Mr. Sale: Mr. Chairperson, I move,

THAT subsection 22(2) be amended by adding ", stating the reasons for the request," *after* "reconsideration".

Mr. Chairperson: The clause is in order.

Mr. Sale: Mr. Chairperson, this amendment was requested by the current Appeal Board, or advisory committee as it is now, to put an onus on the appellant to say why reconsideration was being requested rather than simply procedural reconsideration without a reason.

* (11:50)

Mr. Chairperson: I should have said the amendment is in order.

Amendment–pass; Clause 22(2) as amended–pass; Clause 22(3)–pass; Clause 22(4)–pass; Clause 23(1)–pass; Clauses 23(2) to 26–pass; Clauses 27 to 29(1)–pass; Clauses 29(2) to 30(2)–pass; Clauses 30(3) to 31(1)–pass; Clauses 31(2) to 31(6)–pass; Clauses 31(7) to 32(4)–pass; Clauses 32(5) to 33(2)–pass; Clauses 33(3) to 34(4)–pass; Clauses 34(5) to 34(8)–pass; Clauses 34(9) to 36(2)–pass; enacting clause–pass; table of contents–pass; title–pass. Bill as amended be reported.

Bill 9–The Vital Statistics Amendment and Consequential Amendments Act

Mr. Chairperson: The next bill is Bill 9, The Vital Statistics Amendment and Consequential Amendments Act.

Does the minister for Bill 9 have an opening statement?

Hon. Scott Smith (Minister of Consumer and Corporate Affairs): Bill 9, The Vital Statistics Amendment Act, is certainly a bill that proposes some positive amendments. The elimination of the restriction of choosing a child's name, the current act restricts the choices of the parents with surnames or a combination of the parents' surnames. This restriction does not allow parents with other cultural or traditional naming traditions to follow their cultural traditions.

The bill will allow unrestricted access to birth records over 100 years old, marriage records of over 80 years old, and death records of over 70 years old. These records are an historical treasure, and many researchers are interested in doing research on immigration patterns and family histories, and this will assist positively in doing that.

The bill creates a new certificate to be used for court cases involving paternity rights, and the bill modernizes the language and makes language gender-neutral. So this bill, I believe, is a positive step forward, Mr. Chair, in allowing this to happen.

Mr. Chairperson: We thank the Minister of Consumer and Corporate Affairs.

Does the critic from the Official Opposition have an opening statement?

Mr. Jim Penner (Steinbach): I, too, have studied this bill and appreciate the attempt to modernize the language in this legislation, thereby making the legislation easier to understand and more responsive to the needs of Manitobans. As was discussed by the presenter, we probably still have opportunity to increase the ease with which registrations can be searched.

I am just wondering if the minister is expecting to make any revisions concerning the use of a mother's maiden name when doing a search.

Mr. Smith: I thank the critic for those comments, and certainly it has been raised previously by the person who made the presentation. However, it is standard practice throughout Canada right now as a fraud deterrent measure; and, although some of the comments have been taken under consideration, there is an issue of privacy that also needs to be taken into consideration.

Consideration and a balance of doing that certainly is not to make the statement that changes would never be made, but, prior, making certain that privacy is maintained and that fraudulent deterrents are in place certainly needs to be taken into consideration. But the point was well taken and will be taken under consideration.

Mr. Jim Penner: Since there are substantial changes resulting from Bill 9, is there an opportunity to have this bill reviewed at a given time?

* (12:00)

Mr. Smith: Bills, obviously, are continually reviewed over periods of times as issues are brought to the forefront. Consideration will be given to any presentation, anybody that brings things forth on a bill.

Some of the comments that were brought forward today were good comments, in terms of the one issue that included in the records, that the applicants need to state the wish to have death shown. Certainly, that can be made upon application, but as well, with the issues of privacy, consideration needs to be given to that information.

Mr. Chairperson: We thank the minister and the critic. 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. How does the committee wish to deal with the clause-by-clause consideration? Should the bill be considered in blocks of clauses that conform to the pages? *[Agreed]*

Clauses 1 and 2–pass; Clauses 3(1) to 3(3)–pass; Clause 3(3) carries over to page 4. Clauses 3(4) to 4–pass; Clauses 5 to 9(2)–pass; Clauses 9(3) to 10(3)–pass; Clauses 10(4) to 10(7)–pass; Clauses 11 to 14(2)–pass; Clauses 14(3) to 18(1)–pass; Clauses 18(2) to 21–pass; Clauses 22 to 24(5)–pass; Clauses 24(6) and 25–pass; Clause 26–pass; Clauses 27 to 32–pass; Clauses 31 to 34(4)–pass; Clauses 34(5) to 36–pass; enacting clause–pass; title–pass. Bill be reported.

Bill 12–The Real Property Amendment Act

Mr. Chairperson: The next bill is No. 12, The Real Property Amendment Act. Does the minister responsible for Bill 12 have an opening statement?

Hon. Scott Smith (Minister of Consumer and Corporate Affairs): Mr. Chair, just a short comment, Bill 12 is intended to eliminate the requirements for the Land Titles Office to issue a duplicate title. The proposal will permit the district registrar to destroy existing duplicate titles currently on file at the Land Titles Office. The elimination of the duplicate will streamline the process to convert paper titles of electronic titles and facilitate electronic submission of the documents in the future.

This is not to say, Mr. Chair, that people cannot in the future receive status of title or records of title from the office.

Mr. Chairperson: Does the critic from the Official Opposition have an opening statement?

Mr. Jim Penner (Steinbach): Mr. Chairman, I believe this bill will bring us in line with that which exists in Saskatchewan, Alberta and Ontario, where duplicate certificates are no long required, so I wish to see it passed.

Mr. Chairperson: We thank the Minister of Consumer and Corporate Affairs and the Opposition critic. 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. 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]*

Clauses 1 to 3(1)–pass; Clauses 3(2) to 8–pass; Clause 9–pass; enacting clause–pass; title–pass. Bill be reported.

Bill 14–The Consumer Protection Amendment Act

Mr. Chairperson: The next bill is No. 14, The Consumer Protection Amendment Act. Does the minister have an opening statement?

Hon. Scott Smith (Minister of Consumer and Corporate Affairs): Mr. Chair, just quickly, Bill 14, that amends Part 16 of The Consumer Protection Act, this part of the act provides protection to consumers conducting on-line transactions for goods or services. The primary reason for amending provisions in this act is to recognize that certain Internet purchases made by consumers are time sensitive.

The 30-day grace period for delivery of the Internet purchase provides, Part 16 would be very appropriate. Items such as travel and entertainment, perishable goods and purchases by consumers, can be taken into account.

Some of the other changes that were made, Mr. Chair, to Bill 14 are of a minor nature, and they include a number of corrections basically in the French translation.

Mr. Chairperson: We thank the Minister of Consumer and Corporate Affairs. Does the critic from the Official Opposition have an opening statement?

Mr. Jim Penner (Steinbach): I appreciate the effort of the Government in making an update on the legislation, as we discussed in some of the other legislation that we were looking at today.

It will be necessary to continue to look at what is happening out there. So often the bills that we are passing are just putting approval on what is already happening. So I think that there is already concern about receiving services on time when purchased on the Internet or by e-mail. This bill addresses that, and we would like to see if it is enforceable.

Mr. Chairperson: We thank the critic from the Official Opposition.

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. If there is agreement from the committee, the Chair will call clauses in blocks that conform to pages with the understanding that we shall stop at any particular clause or clauses where members may have comments, questions or amendments to propose. Is that agreed? *[Agreed]*

Clauses 1 to 4(1)–pass; Clauses 4(2) to 5(2)–pass; Clauses 6(1) to 6(4)–pass; Clause 7–pass; enacting clause–pass; title–pass. Bill be reported.

Bill 15–The Mortgage Amendment Act

Mr. Chairperson: The next bill is Bill 15, The Mortgage Amendment Act. Does the minister have an opening statement?

Hon. Scott Smith (Minister of Consumer and Corporate Affairs): Mr. Chair, this bill is about protection for the consumer and certainly as we have seen that this type of lending has been around for awhile, although it is fairly new to Manitoba.

What this bill is about, in essence, really, is just the disclosure rights and having people provided with information to make a choice. I know all of us here would agree that the more information people are provided, the better choice they can make.

Certainly it is not something people want to make in a hasty way. It is a different form of lending. The process is a little different than your normal mortgage, and this allows people, certainly, to have the ability, if, in fact, they would like to access this service, to ask a few questions prior to signing and getting into the agreement.

It is the type of loan where consideration should be given by people who understand it a little better than the normal consumer does, and certainly with the disclosure it gives the ability for the consumer to ask questions, to be fully informed and aware of what they are signing, with a seven-day period to ask those questions.

So with those few comments, thank you, Mr. Chair.

Mr. Chairperson: We thank the Minister of Consumer and Corporate Affairs. Does the critic from the Official Opposition have an opening statement?

* (12:10)

Mr. Jim Penner (Steinbach): I thank the minister for his remarks. There is always a concern that we are overregulating, and then it becomes a disadvantage to the consumer instead of an advantage. I guess if we try this bill out, we will soon know if we have overregulated and stymied the ability of people to acquire a reverse mortgage.

Another thing that is of interest to me is that it is only available to people over the age of 62. Well, with people living life expectancies going into the 80s right now, a person triggering a reverse mortgage on his residence at 63 years of age probably will have a difficult time retaining their sustenance to be able to live in the style that they are accustomed to. It seems to me that it needs to be made very clear to them that they are endangering the income for their last years, but it is an advantage insofar that people are able to stay home longer, stay in their own homes

longer. Still, there are a lot of concerns that the choice would have been a haphazard one.

I was impressed with the presentation by the Manitoba Society of Seniors, and given that they wish this bill to go forward, I will also approve that this bill go to committee.

Mr. Chairperson: We thank the critic for the Official Opposition. 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.

Clause 1–pass; Clause 2–pass; Clause 3–pass; Clause 4–pass; enacting clause–pass; title–pass. Bill be reported.

Bill 29–The Residential Tenancies Amendment Act.

Mr. Chairperson: The next bill is No. 29, The Residential Tenancies Amendment Act. Does the minister have an opening statement?

Hon. Scott Smith (Minister of Consumer and Corporate Affairs): Bill 29, The Residential Tenancies Amendment Act, is a bill that has brought forward some initiatives for Manitoba in terms of allowing investors to fully consider and have the ability to have investments here in Manitoba in a sustained way, a longer sustained way.

Canada Mortgage and Housing had identified that some long-term investing requires 10 to 12 years for investors to make considerations of this choice. They have seen, over a number of years, the investment in other areas where condominiums is a faster or greater return on their investment. They have seen in other areas where, certainly in the stock market, there have been great rates of return and would like to have the ability to know that, if they have to put a long-term plan in place with their investments of a rate of return, this certainly opens up and allows that.

We have seen across Canada very little reinvestment in residential properties over the past decade because of mainly some of the reasons that I have mentioned, and, certainly, we did not want it to be an impediment here in the province of Manitoba by having that five years as a stumbling block or holdback.

We believe that this certainly identifies the need that was brought forward by many of the investors to the office, that we had heard the professional property managers identify this as increasing the possibility for Manitoba investors and in fact investors from outside the province to look at Manitoba for the increased investment in some housing starts here in Manitoba.

We know that, out of the 146 000-somewhat housing starts in Canada in '99, only 5000 throughout the entire Canada was done in private rental housing. So we want this to identify that Manitoba certainly would like to see the investment. We know the need is going to be there over the next period of years as baby boomers, for lack of a better term, start to consider this type of option, and we would like certainly to have investment here in Manitoba in this area for affordable housing for Manitobans.

Mr. Chairperson: Does the critic for the Official Opposition have an opening statement?

Mr. Jim Penner (Steinbach): I, too, feel that we need to stimulate the development of adequate housing. I think that brings the price down, when you build more product. The market is not quite as tight.

I still think that there are very strong arguments both for and against the elimination of rent controls. I think rent controls now exist in Canada only in Manitoba, and if we wanted to really stimulate the economy and stimulate housing, we would follow the move that was made in BC last week and offer a 25% tax reduction. Then we would have lots. Having put that on the record, I would like to pass this bill.

Mr. Chairperson: We thank the minister and the Official Opposition critic.

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.

Clause 1–pass; Clause 2–pass; Clause 3–pass; enacting clause–pass; title–pass. Bill be reported.

Bill 30–The Securities Amendment Act

Mr. Chairperson: The next bill is Bill 30, The Securities Amendment Act.

Does the minister have an opening statement?

Hon. Scott Smith (Minister of Consumer and Corporate Affairs): Just briefly, the amendments to The Securities Act proposed in this bill fall into basically two broad categories. First, the amendments that will harmonize our securities legislation with that of other provinces, including changes changing time requirements to file insider trading reports, increasing the notice period for takeover bids, allowing the concept of reporting issuer and providing the Manitoba Securities Commission with authority to recognize self-regulating organizations.

The other proposed amendments in this bill relate to hearing remedies and include providing the Manitoba Securities Commission with the ability to level financial administrative penalties and costs at a hearing.

Mr. Chair, this bill, in essence, will certainly modify and modernize the wording of the legislation. It certainly has public interest protection in consideration and to provide the security for the investors.

Mr. Chairperson: We thank the Minister of Consumer and Corporate Affairs.

Does the critic from the Official Opposition have an opening statement?

Mr. Jim Penner (Steinbach): You know, decisions of investment are best left to the individual, but it is important that investors have all the information they need in order to make informed choices. By clarifying certain provisions of the act and increasing penalties for noncompliance, I believe this bill will ensure that issuers who are regulated under the act will take their obligations very seriously.

So I recommend that we accept this bill.

Mr. Chairperson: We thank the Official Opposition critic.

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. If there is agreement from the committee, the Chair will call clauses in blocks conforming to pages with the understanding that we will–*[interjection]* Agreed? *[Agreed]*

Clauses 1 and 2(1)–pass; Clauses 2(2) through 4(1)–pass; Clauses 4(2) through 6(1)–pass; Clauses 6(2) through 6(7)–pass; Clauses 6(8) through 7(2)–pass; Clauses 8 through 11(2)–pass; Clause 12(1)–pass; Clauses 12(2) and 12(3)–pass; Clauses 12(4) through 13(2)–pass; Clauses 14 through 16–pass; Clause 17–pass; Clauses 18 and 19(1)–pass; Clauses 19(2) through 25–pass; Clauses 26 and 27–pass; Clauses 28 and 29–pass; Clause 30–pass; Clauses 31(1) through 32(1)–pass; Clauses 32(2) through 34–pass; Clauses 35 through 36(2)–pass; Clauses 36(3) and 37(1)–pass; Clause 37(2)–pass; Clauses 38 through 40(1)–pass; Clauses 40(2) and 41–pass; Clause 42–pass; Clauses 43 and 44–pass; Clauses 45(1) through 46(1)–pass; Clauses 46(2) through 47(1)–pass; Clauses 47(2) through 48–pass; Clause 49(1)–pass; Clauses 49(2) through 52(1)–pass; Clauses 52(2) and 53–pass; Clause 54–pass; Clauses 55 through 57(1)–pass; Clauses 57(2) and 58(1)–pass; Clauses 58(2) through 59(2)–pass; Clauses 59(3) through 63–pass; Clauses 64 through 66(1)–pass; Clauses 66(2) through 67–pass; enactment clause–pass; title–pass. Bill be reported.

That concludes the business of the committee. Committee rise.

COMMITTEE ROSE AT: 12:19 p.m.