

Fifth Session - Thirty-Ninth Legislature
of the
Legislative Assembly of Manitoba
Standing Committee
on
Social and Economic Development

Chairperson
Mr. Daryl Reid
Constituency of Transcona

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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Ninth Legislature

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<i>Vacant</i>	Lac du Bonnet	

LEGISLATIVE ASSEMBLY OF MANITOBA
STANDING COMMITTEE ON SOCIAL AND ECONOMIC DEVELOPMENT

Wednesday, June 8, 2011

TIME – 6 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Daryl Reid (Transcona)

VICE-CHAIRPERSON – Ms. Bonnie Korzeniowski (St. James)

ATTENDANCE – 11 QUORUM – 6

Members of the Committee present:

Hon. Messrs. Chomiak, Mackintosh

Messrs. Borotsik, Caldwell, Meses. Korzeniowski, McGifford, Mrs. Mitchelson, Messrs. Pedersen, Reid, Schuler, Wiebe

APPEARING:

Hon. Jon Gerrard, MLA for River Heights

PUBLIC PRESENTERS:

Bill 43–The Real Property Amendment Act

Ms. Wendy Rinella, Title Insurance Industry Association of Canada

Mr. Steven Offer, Title Insurance Industry Association of Canada

Bill 17–The Cooperatives Amendment Act

Ms. Vera Goussaert, Manitoba Cooperative Association

Mr. Danny Gendron, CDEM

Mr. Russ Rothney, Neechi Foods Co-op Ltd.

Bill 35–The Consumer Protection Amendment Act (Cell Phone Contracts)

Mr. Kelvin Shepherd, MTS Allstream

Ms. Gloria Desorcy, Consumers' Association of Canada, Manitoba Branch

Bill 40–The Condominium Act and Amendments Respecting Condominium Conversions (Various Acts Amended)

Mr. Mel Boisvert, Winnipeg Realtors

Mr. Peter Squire, Winnipeg Realtors

Mr. John Petrinka, private citizen

Bill 41–The Liquor Control Amendment Act

Mr. Lanny McInnes, Retail Council of Canada

Mr. Scott Jocelyn, Manitoba Restaurant and Food Services Association

Mr. Mo Razik, Independent Specialty Wine Stores of Manitoba

Mr. Dwayne Marling, Canadian Restaurant and Food Services Association

Mr. Jim Baker, Manitoba Hotel Association

Mr. Marty Gold, private citizen

Mr. Fred Curry, private citizen

WRITTEN SUBMISSIONS:

Bill 35–The Consumer Protection Amendment Act (Cell Phone Contracts)

Bernard Lord, Canadian Wireless Telecommunications Association

Vanessa Brazil, WIND Mobile

Derek Hay, Private Citizen

Kenneth G. Engelhart, Rogers Communication

MATTERS UNDER CONSIDERATION:

Bill 17–The Cooperatives Amendment Act

Bill 30–The Change of Name Amendment Act

Bill 35–The Consumer Protection Amendment Act (Cell Phone Contracts)

Bill 36–The Adult Abuse Registry Act and Amendments to The Vulnerable Persons Living with a Mental Disability Act

Bill 39–The Grieving Families Protection Act (Various Acts Amended)

Bill 40–The Condominium Act and Amendments Respecting Condominium Conversions (Various Acts Amended)

Bill 41–The Liquor Control Amendment Act

Bill 43–The Real Property Amendment Act

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Clerk Assistant (Ms. Monique Grenier): Good evening. Will the Standing Committee on Social and Economic Development please come to order.

Before the committee can proceed with the business before it, it must elect a new Chairperson. Are there any nominations for this position?

Mr. Drew Caldwell (Brandon East): I nominate the MLA for Transcona.

Clerk Assistant: Mr. Reid has been nominated. Are there any other nominations? Hearing no other nominations, Mr. Reid, can you please take the Chair.

Mr. Chairperson: Thank you, folks, good evening.

Our next item of business is the election of a Vice-Chairperson. Are there any nominations?

Mr. Caldwell: I would nominate the MLA for St. James.

Mr. Chairperson: Ms. Korzeniowski has been nominated. Are there any further nominations? Seeing none, Ms. Korzeniowski has been elected as Vice-Chairperson for this committee.

This meeting has been called to consider the following bills: Bill 17, The Cooperatives Amendment Act; Bill 30, The Change of Name Amendment Act; Bill 35, The Consumer Protection Amendment Act (Cell Phone Contracts); Bill 36, The Adult Abuse Registry Act and Amendments to The Vulnerable Persons Living with a Mental Disability Act; Bill 39, The Grieving Families Protection Act (Various Acts Amended); Bill 40, The Condominium Act and Amendments Respecting Condominium Conversions (Various Acts Amended); Bill 41, The Liquor Control Amendment Act; and Bill 43, The Real Property Amendment Act.

How late does the committee wish to sit this evening? We have—

Mr. Blaine Pedersen (Carman): For time, let's finish the business in hand.

Mr. Chairperson: Finish the complete business of the committee? Okay, thank you.

We have a number of presenters registered to speak this evening, and I have a list. Registered to speak to Bill 17, The Cooperatives Amendment Act, is Vera Goussaert—I hope I pronounced the name correctly—Danny Gendron and Russ Rothney.

We have a complete list of names before committee members. Do you wish to have the rest of the names read out on the list or will the list suffice for this committee?

An Honourable Member: Suffice.

Mr. Chairperson: Suffice, and for any members of the public who may be here with us this evening

whose names may not be on the list, please see the Clerk at the front of the hall here, and we'll add your name to the list of presenters this evening.

Before we proceed with presentations, we do have a number of other items and points of information to consider.

Also, for the information of presenters, while written versions of presentations are not required, if you are going to accompany your presentation with written materials, we ask that you provide 20 copies. And if you need assistance with photocopying, please see one of our staff in the room here with us this evening.

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

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

Written submissions from the following persons have been received and distributed to committee members, and I believe you have copies in front of you. The first one is Bernard Lord, the Canadian Wireless Telecommunications Association, on Bill 35; Vanessa Brazil, WIND Mobile, on Bill 35; Derek Hay on Bill 35; and Kenneth G. Engelhart, Rogers Communication, on Bill 35.

Does the committee agree to have these documents appear in the *Hansard* transcript of these proceedings? *[Agreed]*

On the topic of determining the order of public presentations, I will note that we do have out-of-town presenters here with us this evening and they're marked by an asterisk on your list of presenters, and I refer committee members to those names.

* (18:10)

With this considerations in mind, in what order does the committee wish to proceed to hear presentations?

Mr. Rick Borotsik (Brandon West): Yes, Mr. Chairperson, I think it would be agreeable to the

committee that we hear the out-of-town presenters first.

Mr. Chairperson: It's been recommended to committee that we hear out-of-town presenters first.

Is that agreed? *[Agreed]* Thank you.

Prior to proceeding with public presentations, I would like to advise members of the public regarding the process for speaking in this committee this evening. The proceeds of our meeting are recorded in order to provide a verbatim transcript and each time someone wishes to speak to the microphone here at the podium, whether it be a member of the public or a member of this committee, I first, as Chairperson, have to recognize the individual by name, and that's a signal for the good folks sitting behind me, for our Hansard recorder to turn the microphones on and off.

Thank you for your patience, and we will now proceed with public presentations.

Bill 39—The Grieving Families Protection Act (Various Acts Amended)

Mr. Chairperson: I will first call Joe Coffey, the Canadian College of Funeral Service, on Bill 39, The Grieving Families Protection Act (Various Acts Amended).

Joe Coffey? Seeing that Joe Coffey is not here, his name will be dropped to the bottom of the list.

Second person out of town on Bill 39 is Gary Carmichael. Is Gary Carmichael here with us this evening—Arbor Memorial Services? Gary Carmichael's name will be dropped to the bottom of the list.

Bill 43—The Real Property Amendment Act

Mr. Chairperson: Next out-of-town presenter is, I believe, on Bill 43, Wendy Rinella, the Title Insurance Industry Association of Canada, Bill 43, The Real Property Amendment Act.

Good evening, welcome. Do you have a written presentation for committee members?

Ms. Wendy Rinella (Title Insurance Industry Association of Canada): And joining me as well, Steven and I have decided that we'll do our presentation jointly, seeing you're quite busy this evening.

Mr. Chairperson: Could you introduce yourself, please, sir.

Mr. Steven Offer (Title Insurance Industry Association of Canada): Yes, Mr. Clerk, my name is Steven Offer, senior vice-president, FNF Canada, and I'm marked as the second presenter under Bill 43, and Ms. Rinella and myself have agreed to present together.

Mr. Chairperson: It is agreed by committee that we have a joint presentation from the two? *[Agreed]*

Just give us a moment while we distribute the presentations.

Please proceed when you're ready, Ms. Rinella.

Ms. Rinella: Mr. Chair, the Title Insurance Industry Association of Canada represents the federally regulated title insurers in Canada.

We're an industry of about \$200 million in premium annually. We have \$7 million in premiums in the province of Manitoba as of last year. We grow every year. We represent about 25 per cent of all documents that are registered on the Land Title Office are title insured.

And we had the opportunity to review The Real Property Amendment Act with members of both sides of the House, including Mr. Pedersen as well as Mr. Mackintosh—or Minister Mackintosh, as well as members of the bureaucracy, and as we've been advised, they were amenable to some of the changes that we recommended and are working on legislative amendments to that effect.

So we're really delighted to be able to say thank you and we're very supportive of the changes that are coming forward.

Mr. Offer: Well, thank you very much, Mr. Clerk, minister and members of the committee. As I indicated, my name is Steven Offer and I'm senior vice-president of FNF Canada, an associated title insurance company, Chicago Title Insurance Company of Canada. As a member of the TIIC, Ms. Rinella and myself have decided to make a joint presentation and, as she has indicated, we reviewed Bill 43.

We did have a concern and meeting with the minister, his officials. We're very pleased to indicate that it—we are satisfied and confident that the matter which we brought forward to the minister is going to be addressed, and we look forward to working with the government. And we would like to take this moment to thank the minister and congratulate the government on the direction, the principle and the

objectives of Bill 43, for which we now are fully supportive of. Thank you.

Mr. Chairperson: Thank you to both of you. Please hold on a moment just in case there's questions from committee members. Thank you for your presentation.

Are there questions of the presenters this evening?

Mr. Blaine Pedersen (Carman): I just want to thank Wendy and the other two gentlemen who didn't remain, unnamed, at the back of the room there right now for their information that they brought forward, and we look forward to seeing the amendment or whatever it is that the minister is presenting. I think we're all in agreement that it strengthens the bill.

Hon. Gord Mackintosh (Minister of Family Services and Consumer Affairs): Well, thanks for coming out here and sharing your insights today. It was really valuable to us, and I know the staff are working, I think, as we speak, on just ensuring that there's some flexibility with the necessary checks and balances, of course, that the infrastructure does provide.

And I just want to recognize as well, Mr. Offer is a former member of the Ontario Legislature and had a very distinguished career there, and welcome to ours.

Mr. Rick Borotsik (Brandon West): Yes, two things. Thank you for being here. First of all, it's nice to know that there's life after politics, so, Mr. Offer, you do give me some hope. Thank you so very much.

Mr. Minister, is it expected that you will bring the amendment to committee when we do clause by clause on the bill?

Mr. Mackintosh: Yes, there's an expectation, I think, that something will come later this evening, and if there are any tie-ups or anything, it certainly will be no later than report stage but our expectation is tonight.

Mr. Chairperson: Thank you, both of you, for your presentation this evening. Thanks for coming out.

Are there any other out-of-town presenters that may wish to make a presentation here this evening on any of the bills before this committee? Seeing none, then we'll proceed with the folks that are from in town.

Bill 17—The Cooperatives Amendment Act

Mr. Chairperson: From the Manitoba Cooperative Association, Vera Goussaert. I hope I pronounced your name, and if I messed it up, please correct me. My French is poor.

Ms. Vera Goussaert (Manitoba Cooperative Association): It's Vera Goussaert, so very close. I'm impressed.

So I'm Vera Goussaert with the Manitoba Cooperative Association. We are an association of co-operatives in Manitoba, the representative body of co-ops in Manitoba, and I'm here today and very pleased to be here today to speak in favour and in support of Bill 17, the amendments to the Manitoba Cooperatives Act.

We've been very pleased with the consultation that government has undertaken in making the amendments to the act. A broad base of the co-operative community has been consulted and their voices have been heard, and we're very pleased with the changes that have been made. We feel that the amendments really do respect the co-operative identity and help us maintain our co-operative identity while allowing for new innovations in the co-operative model that we've been seeing in other parts of the world. So we're very pleased with that.

And we're also pleased with some of the amendments that have been made regarding access to the member register and, in particular, the retail co-ops of Manitoba have—who were unable to be here today, have asked me to certainly speak in favour and in support of the changes that they have seen. They are very pleased with the progress that has been made on this front, and we've been very pleased working, like I said, with government on this issue.

So I want to thank the government and, in particular, Minister Mackintosh, for helping us move this forward, and, hopefully, we will see the changes to the act instituted shortly. So thank you. Questions?

Mr. Chairperson: Thank you for your presentation. Are there any questions for the presenter?

Mr. Blaine Pedersen (Carman): I just want to thank you, Ms. Goussaert, for coming out. I have talked to Barry Gosnell from Federated Co-ops, and he gave me a rundown on this bill back a month or so ago, so I am familiar with it, and it had the endorsement of Federated Co-op also. So thank you for coming out tonight.

* (18:20)

Mr. Chairperson: Any other questions or comments from committee members? Thank you for your presentation this evening.

Next presenter on Bill 17, The Cooperatives Amendment Act, is Danny Gendron, CDEM.

Floor Comment: CDEM.

Mr. Chairperson: CDEM?

Floor Comment: CDEM.

Mr. Chairperson: CDEM. Okay. Welcome, sir. Do you have a written presentation?

Mr. Danny Gendron (CDEM): Yes, I do.

Mr. Chairperson: We'll distribute for you. Please, proceed when you're ready, sir.

Mr. Gendron: Okay. So my name is Danny Gendron. I represent the CDEM, which is le Conseil de développement économique des municipalités bilingues du Manitoba. That's a mouthful in French, but in English it's the Economic Development Council of the Bilingual Municipalities of Manitoba. And it's in regards to Bill 17, and the fact that we agree with the bill and we would, obviously, would like it—to see it going forward.

I won't take too much of your time. The only thing I wanted to do is to specify why we think, as developers, because my role—sorry—I didn't say what my role was. I'm a co-operative developer.

And pretty much the bill, what it would let us do is create a new model of co-ops which is multi-stakeholder co-ops. And if we base our—if we base, let's say, the new reality of being able to do this structure, if we base it on what Québec has done in—and—in—sorry—in 1997 to 2003, well, the first five years, when they instituted that into their—in their act, it created 255 multi-stakeholder co-operatives which, that by itself, would be for us a huge increase if we could even be close to that.

Another thing, too, is that what we realized in that research that they've done is that 84 per cent of those that were incorporated were still operational after five years, and the survival rate is at 65 or 67 per cent, which—it's higher than the average. And if so, if you look in the back, and the annex that I put, you could see that the multi-stakeholder, which in Québec they call Les coopératifs de solidarité, there—at the bottom there, there's 67.5, the survival rate, which is higher than the average in Québec.

And the reason why I took Québec as an example is that they're the third biggest concentration in co-ops in the world. And so, for us, if you really wanted to, you know, make it happen, then, to really look like, I guess, an international level of co-operative movement, it's good to compare ourselves to Québec.

Another thing, too, before I finish, I guess, or two other things. Most of the multi-stakeholder co-operatives are mostly concentrated in the 'tertiary' sector—sorry, that's my French coming out—tertiary sector, so the services sector of the economy and, actually, of—in that research, the first five years, 87 per cent of them were all concentrated in services.

And so, for us, in—when we're thinking of rural Manitoba or even urban Manitoba, it'd be crucial to have more services, obviously, and the multi-stakeholder structure would definitely help our population to be more sustainable and being able to offer different services instead of relying. So pretty much we would help the people get together and create co-ops and take their matters in their own hands, and this is a really good structure to do it.

So that's about it.

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

Questions for the presenter from the committee members?

Mr. Rick Borotsik (Brandon West): Just one. It's not my deal, but could you explain just what types of tertiary services—just give me a list of maybe four or five examples of the tertiary services.

Mr. Gendron: There's, in Québec, they have, for example, rec centres. They have daycares, youth hostels or hostels in general. They'll have health science centres, well, not centres, but health science co-ops. There's 55-pluses also organized in that way. So, yes, elder care and all that stuff. So, yes.

Mr. Chairperson: Any further questions or comments for the presenter?

Seeing none, thank you very much for your presentation, Mr. Gendron.

Next presenter we have on Bill 17, The Cooperatives Amendment Act, is Russ Rothney, Neechi Foods Co-op Ltd.

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

Mr. Russ Rothney (Neechi Foods Co-op Ltd.): No, sorry.

Mr. Chairperson: Please proceed when you're ready, then.

Mr. Rothney: Okay. Yes.

I am, in addition to being the treasurer of Neechi Foods Co-op, I'm also the project manager for a major expansion that's taking place on Main Street which will be known as Neechi Commons Community Business Complex and I also have represented the Canadian Worker Co-operative Federation on the board of the Manitoba Co-op Association for the past decade.

The possibility of this Bill 17 coming into legislation, being enacted, is very timely for us at Neechi Foods Co-op because of our expansion. We've been just a small store, a little corner store, for 21 years on Dufferin, and we'll be expanding our sales and space. Space-wise, we'll be growing up about 10 times and the sales will be going up about nine times, so—and the staff will be jumping from 12 to close to 70. So it's—now, the expansion we're doing is on a part of Main Street just north of the CPR tracks which has been quite rundown for many years, and so there's enormous community interest.

And, in that context, more than ever, we've been approached by peoples who are—people who are not currently eligible for membership because the current membership is restricted to the staff. So this is a classic example of why a multi-stakeholder—that is, more than one class of membership in a co-op—can be very, very useful. So the—when people ask that question, who are often consumers or just interested members of the general public, at this point we have to say, sorry, we don't have a category where you can join.

The same goes with suppliers. We have many suppliers that are, particularly, from Aboriginal communities, like the co-op that supplies our wild rice, many Aboriginal fishers, and also non-Aboriginal businesses in Manitoba which we relate to. So to allow a class of suppliers as a third category of membership offers us stability and commitment that can be very advantageous to us.

In terms of the concept of the worker membership, why we went with that in the first place, in a—particularly in an area of the city where there's a lot of transiency, is that the workers, first of all, they have a knowledge of the business that goes beyond what the consumer has in terms of the actual

running of the co-op, so the knowledge base is great. There's stability and there's a terrific incentive to productivity, because as owners of the business the staff all are—have an entrepreneurial outlook and—because they have stake in that business.

For the customers or consumers, which would be the second category of members, I've already mentioned that the—how the interest factor—of course, the obvious advantage is that it builds a commitment by the shoppers, but it also gives us a direct line, a bigger opening, to have input in terms of consumer interest in new products and services. It also brings in the possibility of significantly larger capital in the form of member shares which the workers, particularly in the area that we're talking about, cannot bring forth on their own.

And a final issue, which is in terms of the consumer category, is that although we are now a member of Federated Co-operatives, we are in a sort of a funny category that is not what they call retail. So we run a retail store, but because we are not a consumer-owned member co-op, we don't get the full range of services that the more typical consumer-owned co-ops get. So we are quite optimistic that if we become—if we have a consumer category that we'll then have the full benefit of the membership in Federated Co-op.

So, as for the suppliers, again, in terms of—I mentioned the commitment. It's a way of having higher standards. We also have a lot of smaller suppliers, including artisans who provide us with mukluks and moccasins and the like. Those people don't have group purchasing power at all, and they don't have access to group benefits in terms of health and sickness and so on. And so, by having a category that can allow artisans like that become part of the co-op, they can take advantage of these collective benefits.

* (18:30)

The only other thing I wanted to mention, sort of putting on my Worker Co-op Federation hat, is that the—one of the things that's in this—in the amendments is a cleaning up of the section on worker co-ops, and basically what's happened is that the membership category is much—has become much simplified, and the worker co-ops are treated like other co-ops in the sense of being able to define their own businesses, whereas before the wording had actually restricted the purpose of the business to being—to having workers as members, whereas for worker co-ops, particularly in Winnipeg, there are

many other—products and services, of course, is their main reason for existence, and, secondly, a lot of them are very interested in environmental issues and that sort of thing, so it—that's—those changes are also very helpful.

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

Hon. Gord Mackintosh (Minister of Family Services and Consumer Affairs): Well, just for everyone in the room, there's only one place to get blueberries, and it's not in the bush. It's at Neechi, because anyone—all of us that have been in the bush know I'll pay anything for your blueberries.

I look forward to becoming a member when we can expand the nature of co-ops and look forward to being a regular. Along with Pollock's Co-op, we're very proud of co-op development in north Winnipeg now. But, congratulations, it's tremendous to watch the transformation of the old California fruit location there. So best wishes.

Mr. Borotsik: Well, I can't let that go. Do you have Saskatoon berries? Because they're substantially better than blueberries.

Mr. Rothney: We carry them when we can get them. If you've got a particular supplier in mind, let us know.

Mr. Borotsik: Thank you for being here. Thank you for your presentation.

Mr. Chairperson: Any further comments for the presenter? Seeing none, thank you very much, Mr. Rothney, for your presentation.

Are there any additional members of the audience who wish to make a presentation on Bill 17, The Cooperatives Amendment Act? Any further presenters on Bill 17?

Bill 35—The Consumer Protection Amendment Act (Cell Phone Contracts)

Mr. Chairperson: Seeing none, we'll move on to the next bill, No. 35, The Consumer Protection Amendment Act (Cell Phone Contracts).

Kelvin Shepherd, president, MTS Business Unit, MTS Allstream.

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

Mr. Kelvin Shepherd (MTS Allstream): Good evening. No.

Mr. Chairperson: Then please proceed when you're ready.

Mr. Shepherd: Thank you. Thank you, committee members, for the chance to appear today.

My name is Kelvin Shepherd. I'm the president of MTS, the leading full-service communications provider in Manitoba. MTS is also the leading provider of cellular wireless services to Manitobans. Joining me here today is Teresa Griffin-Muir. Teresa is our vice-president for Regulatory Affairs.

We're here today because MTS believes it's important to give you our views on cellular services and contracts, since the changes, such as those you are now considering in Bill 35, will have implications for MTS customers, our employees here in Manitoba, our local business partners and, indeed, the future business success of MTS.

So today I'd like to talk briefly about three things: first, our strong commitment to Manitoba in terms of investment, employment and business development; our strong commitment to serving customers; and, of course, our specific views on Bill 35. Before I get to those points, however, I'd like to reinforce with you that delivering an excellent customer experience and having satisfied customers is very important to us. MTS is the home team here in Manitoba and Manitoba's our key market.

We've worked hard to ensure our policies and our marketing programs are fair and customer friendly, all the while operating within a very competitive industry and marketplace. For this very reason, MTS already operates in close alignment with the key provisions that Bill 35 calls for, and, by and large, MTS supports the objectives and the intended outcomes of the measures included in Bill 35.

I'd like to talk about our commitment to Manitoba. Our wireless and wire-line broadband networks reach 97 per cent and 85 per cent of Manitobans, respectively, and our next generation services, including our new 4G wireless network, benefit the majority of Manitobans across the province. Over the past 10 years, we've invested over \$2 billion on our Manitoba networks and our supporting systems. Our annual operations include, on average, \$200 million per year paid to vendors in Manitoba. We've just launched our new 4G wireless network a couple of months ago at a cost of over \$100 million, and today that network provides

high-speed wireless data access to 97 per cent of the population of Manitoba.

MTS is a key part of Manitoba's vibrant economy. MTS is the only telecommunication service provider headquartered in Manitoba, and directly we employ over 3,000 people here, equating to over \$200 million in annual employee salaries.

We've also partnered with local small business, MTS dealers who own and operate our retail MTS Connect stores provide the face to the customer for MTS sales and service. We estimate another 500 people are employed by our dealer partners, directly supporting MTS services, and a very large part of that business is directly tied to the sale of MTS wireless services and handsets.

And our company and our employees are engaged in and committed to Manitoba communities where we live and work. Whether it's a significant investment we make in local marketing programs, our sponsorship of the MTS Centre, our contributions to charitable organizations or the more than 50,000 volunteer hours that our employees and our retirees donate every year, we're absolutely committed to Manitoba and Manitobans.

With respect to our views on Bill 35, there's no question that MTS supports efforts that will further enhance the customer experience. In terms of doing the right things for our customers, in addition to subscribing to the Canadian Wireless Telecommunications Association code of conduct, MTS is constantly innovating and investing to deliver leading edge services, listening to our customers to meet their needs and anticipate their future needs and continually improving our business practices to make them more customer friendly.

Many of the items in the proposed Bill 35 legislation are already well-established MTS practices, such as we do provide customers with a clear and understandable description of the terms and conditions of their wireless plan, including the term of the contract, termination fees, the requirement they provide us with 30 days' notice of termination as well as items that may be subject to change. Primarily, these are optional features such as voice mail.

Customers have the option to drop optional features should they determine they are not required or to help them manage their monthly bill. When selling a wireless handset or plan to our customers, our dealers explain the wireless handset

manufacturer's warranties as well as their dealer-specific warranties. As part of the sales process, an MTS dealer works with each customer to ensure that they are aware of current MTS market promotions and that they pick a wireless plan and handset that best suits their needs. We've taken steps in the past to make our contracts more customer friendly based on feedback we've received from our customers and will continue to do so.

We provide a minimum 30 days' notice to customers on price changes for optional features and price features on other services that are not included in the customer's base plan. On occasion, we do implement changes to elements of our service that we have defined as being optional features, such as web browsing, call display, voice mail and similar features. These changes are often required to improve or introduce new features, to keep pace with competitive and inflationary pressures or to reflect that the services are obtained from third parties who determine the underlying service features and pricing.

From a practical standpoint, it would not be reasonable for the hundreds of optional components and services, which are evolving and rapidly changing in a competitive marketplace, to be managed independently for each customer. As stated, we do provide notice to customers of changes made to optional features along with the ability for them to change their subscription to or use of the optional feature. We believe this is a fair practice and one that needs to be supported going forward.

Our wireless services in Manitoba are an extremely important part of our business. Our wireless business is the single largest line of business in Manitoba. In fact, it's bigger than local telephone service in terms of annual revenues. Wireless is still growing. It is profitable, but it takes a lot of investment in technology and service development to meet customer demands and to compete with larger national wireless carriers.

MTS typically has to renew a customer's wireless service agreement every two to three years, basically when their contract expires or when they decide they want to obtain a new wireless device. The wireless contract is an important part of the wireless business model, allowing customers to obtain a wireless device for little or no upfront investment in return for a commitment from them to obtain a minimum level of wireless services,

commonly called a wireless plan, from the service provider for the term of the contract.

In 2010, MTS invested approximately \$50 million in subsidizing the cost of wireless handsets obtained by customers who signed up for MTS wireless plans using a contract. MTS expects that subsidy could approach \$60 million in 2011 as more customers sign up for sophisticated but more expensive smart phones. For these reasons, it's very important that there be a proper balance in terms of the equation between the consumer and the service provider.

* (18:40)

Yes, absolutely, MTS supports fair and equitable treatment for consumers, but it should be recognized that this is a very competitive, fast-changing and dynamic business. Consumers have significant choice when choosing a service provider. Consumers can change service providers on a reasonably regular basis. And service providers are making major investments in technology and in new services, and are significantly subsidizing the handsets that are acquired by their customers.

Along with other members of the CWTA, we question whether this legislation is truly required. We do think the government has largely approached Bill 35 with the right balance as it's currently written and MTS will take the opportunity to consult on the specific regulations. As I've indicated, the regulations must also carefully strike a fair balance between setting standards for carriers and not hindering carriers' ability to compete and to invest.

We have two specific comments on the bill as it stands, pending, of course, any comments we might have on the regulations. These comments deal with, first, the cancellation notice and, secondly, termination fees for cancellation of service, and they are related.

Regarding cancellation notice, in other industries it's customary to require the customer to give 30-days notice to their supplier. We think that's a fair addition to section 196. It would be to require customers to give carriers such 30-days notice. The change would not be onerous for the customer because the bill already governs the amount a carrier can charge upon cancellation. It would merely reflect a standard notice period. Alternatively, customers—or pardon me, providers could be allowed to charge customers a reasonable termination fee for customer cancellation of service without the 30-day notice.

We are pleased that the bill recognizes the carriers' need to recover the handset device cost associated with early termination of a contract. We are, however, somewhat confused by what seems to be an inconsistency in the bill; the bill allows carriers to charge a reasonable termination fee for service in the case of fixed-term contracts only where there's no hardware subsidy provided. Where there is a hardware subsidy provided, only the pro-rated hardware subsidy amount can be recovered. There's no allowance for termination fee related to the service.

In addition, a termination fee for service is not allowed in the case of indeterminate contracts. In our experience, termination of either kind of contracts, whether a hardware subsidy is provided or not, does lead to real costs for the carrier and, therefore, we're asking the bill be changed to allow carriers to recoup a reasonable termination fee in those cases.

Mr. Chairperson: Mr. Shepherd, sir, we're out of time.

Mr. Shepherd: Okay. Thank you for the opportunity to speak with you. We're finished our comments.

Mr. Chairperson: Questions from committee members to the presenter?

Mr. Rick Borotsik (Brandon West): I wonder if I could. I don't know how much time Mr. Shepherd requires. This is a fairly important point. I wonder if we could allow another five minutes to have him finish his presentation, if he so requires.

Mr. Shepherd: Mr. Borotsik, essentially, I was concluding. And I was simply going to say that we look forward to working constructively with the government on the bill and on the regulations, and to move forward with a view to ensure that Manitobans continue to require—acquire world-class service. So that was the conclusion of my comments.

Mr. Borotsik: Yes. Thank you, Mr. Shepherd.

You talk about a reasonable termination fee. Reasonable is judgmental. Can you give us some idea as to what maybe a reasonable termination fee may be, that you would consider reasonable?

Mr. Shepherd: With respect to the termination fee that might be associated with a cancellation on 30 days, typically it would be the amount of the monthly plan fee, which could range from \$25 to \$35.

I believe the bill does provide for a provision of \$50 in the case of a termination fee under some circumstances. So there's a range there that I would consider reasonable.

Mr. Blaine Pedersen (Carman): Thank you, Mr. Shepherd.

As I understand, as I look through this bill, in the regulations that are to be developed, they are supposed to come up with a cancellation fee formula. Do you have concerns about that? Or will you have any input or have you been told you'll have any input into how this fee is calculated?

Mr. Shepherd: Yes, we will have input or provide comment on the formula or the method for doing that.

Today's—our current practice today is a flat fee with a maximum amount of \$400. The way the bill is structured, we would have to change that. But we believe that there's reasonable ways to put in regulation a termination fee that's appropriate.

Mr. Ron Schuler (Springfield): Yes, just on a slightly unrelated topic, we just wanted to know when you're going to start carrying Sun News.

Mr. Shepherd: Well, on a serious note, we're in negotiations with the service provider of Sun News. And providing we can reach reasonable terms and conditions, which is not necessarily a given when you're negotiating with them, we would plan to carry them in the fall time frame.

Mr. Chairperson: Any further questions or comments for the presenters? Seeing none, thank you to both of you for coming out this evening and making a presentation.

Next presenter I have on Bill 35, The Consumer Protection Amendment Act (Cell Phone Contracts), is Gloria Desorcy, the Consumers Association of Canada, Manitoba branch.

Good evening. Welcome. Do you have a written presentation?

Ms. Gloria Desorcy (Consumers' Association of Canada, Manitoba Branch): I do.

Mr. Chairperson: Just give us a few moments to circulate to committee members. Then I'll give you the signal to proceed.

Please proceed, Ms. Desorcy.

Ms. Desorcy: On behalf of the Manitoba branch of the Consumers' Association of Canada, CAC

Manitoba, I would like to thank the committee for the opportunity to share some thoughts on Bill 35 this evening.

And I just want to begin by saying that our organization believes that this is an issue of considerable importance to consumers, and that is certainly self-evident with the recognizable number of individual consumers that participated in filling out a consultation document in the government consultation. But we also feel that that is reflected in the number of consumers that we speak to when we go out and do speaking engagements and that we hear from at our consumer info centre.

So I just—with that preface, as you are no doubt aware, cellphones are being used more frequently by a wider variety of consumers. No longer a luxury second phone, cellphones are the only phone used by many consumers, replacing their traditional land-line phone. Our contact with consumers suggest that cellphone use is growing amongst consumers from all walks of life in Manitoba, including newcomers, low-income consumers and youth.

CAC Manitoba bases much of its work with consumers on eight consumer rights, which include the right to information, the right to choice and the right to redress. Timely and accurate prepurchase information, a competitive marketplace and the resolution of disputes all help to keep consumers in balance with business, helping to maintain fairness in the marketplace.

Through the programs and services we offer, CAC Manitoba has between 10,000 and 11,000 contacts with consumers each year. Unfortunately, we hear all too often from consumers who are surprised by the size of their cellphone bill or by unexpected additional charges. Activation fees, roaming charges and long-distance data fees can make a significant difference in a consumer's total bill. Consumers are more likely to make sound decisions and choose options they can really afford if they are clearly informed about minimum monthly fees, optional service costs ahead of time and also about the tools available to them to minimize some of those costs.

Also, prepurchase or contract information is only useful to a consumer if they can read and understand it, so it becomes very important to use plain language and reasonably sized font. While this is essential for consumers with literacy, language or vision issues, all consumers and providers benefit from a clear,

readily readable and easily visible explanation of the terms and conditions of their contract.

In a competitive marketplace, consumers may have numerous reasons for early cancellation of a contract. CAC Manitoba believes that the rules and consequences of this consumer decision should not be prohibitive.

In the same way, our organization believes that our choices as consumers should not be limited by automatic renewal of our contracts without our consent. CAC Manitoba has long opposed the use of negative option for both marketing and contract renewals.

In a perfect world, all transactions between consumers and business would be profitable and satisfying to both parties. In the real world, however, that is not always the case. A written contract can be a tool that provides assurance for both consumer and provider that certain rules will be followed and obligations met by both parties.

* (18:50)

CAC Manitoba believes that Bill 35 is a positive step towards better protection for consumers signing cellphone contracts and towards a more fair and equitable marketplace in this province. We urge the Legislative Assembly of Manitoba to pass Bill 35.

Thank you, again, for the opportunity to comment.

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

Minister Mackintosh, with questions?

Hon. Gord Mackintosh (Minister of Family Services and Consumer Affairs): Well, just while I have a public forum, I want to thank you for your insights and your powerful determination representing consumers, sometimes, and not rarely, with the government in your sights, but we recognize, especially since the Let's Make a Better Deal strategy was launched, that you are a tremendous force and really represent your, you know, the people—the consumers of Manitoba very well. But, on this particular bill, I thank you for your insights and sharing your thoughts with us, and we look forward to working with you on some other legislative projects that are on the table and lie ahead.

Thank you very much, Gloria.

Mr. Chairperson: Ms. Desorcy, do you wish to comment?

Ms. Desorcy: Yes, thank you, that's all I wanted to say.

Mr. Chairperson: Any further questions for the presenter? Seeing none, thank you very much, Ms. Desorcy, for your presentation here this evening.

Are there any other members of the audience here with us this evening that wish to make a presentation to Bill 35, The Consumer Protection Amendment Act (Cell Phone Contracts)?

Seeing none, we'll move on with the next bill before us this evening.

Bill 39—The Grieving Families Protection Act (Various Acts Amended)

(Continued)

Mr. Chairperson: Bill 39, and we'll have—this is The Grieving Families Protection Act (Various Acts Amended), and we had previously called Joe Coffey, the Canadian College of Funeral Service. Calling Mr. Coffey for a second time. Mr. Coffey does not appear to be with us, so his name will be struck from the list.

Second call for Gary Carmichael, Arbor Memorial Services. Mr. Carmichael. Seeing that Mr. Carmichael is not with us, his name will also be struck from the list.

Are there any additional members of the audience who wish to make a presentation to Bill 39, The Grieving Families Protection Act (Various Acts Amended)? Seeing none, we'll move on to the next bill.

Bill 40—The Condominium Act and Amendments Respecting Condominium Conversions (Various Acts Amended)

Mr. Chairperson: We have from the Winnipeg Realtors, Mel Boisvert and Peter Squire.

Good evening, gentlemen. Welcome. Do you have a written presentation?

Floor Comment: We do, Mr. Chairman, and we haven't got copies for everyone, but we have a copy which you can take copies of.

Mr. Chairperson: Okay, give us a few moments, then, please, and then I'll give you the signal to proceed.

Floor Comment: Okay.

Floor Comment: Could we just proceed and get them?

Mr. Chairperson: Are you okay with that?

Floor Comment: Yes.

Mr. Chairperson: Is it the will of the committee to allow the presentation to proceed, and then we'll distribute the written presentations? *[Agreed]*

Okay, please proceed, sir, and introduce yourself first.

Mr. Mel Boisvert (Winnipeg Realtors): Thank you. My name is Mel Boisvert and I'm a realtor and a real estate broker in the city of Winnipeg, and I also serve as vice-chair of the Winnipeg realtors Civic and Legislative Committee. And with me tonight is Peter Squire, and Peter is our director of public affairs and the association's MLS market analyst, so he's here, as well, if there is any questions. And I want to preface our presentation with some insight for you as to why that we are going to ask the questions that we are.

I have headed up a important Winnipeg realtors' subcommittee that is determined and resolute in working towards solutions to our current rental housing shortage in the province. While our purview and sphere of interest as a 108-year-old industry in the province of Manitoba and surrounding municipalities, we are well aware the acute lack of good rental accommodations, and it's a province-wide issue. Moreover, we know other provinces and municipalities are grappling with this same problem.

You would be interested to know that we were recently in Ottawa to discuss federal issues with our counterparts across the country, and rental housing was acknowledged as an issue across the country. And we were able to share our working differences with other provinces, as well, and their experiences and meeting their challenges. We all agreed to work more closely in working together to find a solution.

We know that BC has been quite active in other groups in Saskatchewan, and, in fact, the former real estate board executive officer, Bill Madder, who runs the Association of Saskatchewan Realtors, is currently working on the possibility of bringing the four western provinces together to discuss ways to increase the number of available rental units to address concerns relating to the low vacancy rate and overcrowding and poor living conditions and the lack of housing affordability.

Some questions we need to ask are: what are the deterrents to develop more rental units; what policies and programs are working; what aren't working; what new programs and or actions should be considered; and where are there other opportunities where the four provinces can work together?

I believe our province has a lot to offer in that undertaking.

We also believe we have had some success with this initiative as it spread across the entire country and it caught the attention of the federal government. We know that the senior level of government has the unique ability to make changes through its own legislation powers and program delivery mechanisms to spur on more rental units. Earlier this year, our association presented your government a discussion paper highlighting challenges and potential solutions to Manitoba's growing rental shortage. Mr. Squire is holding up a copy of this paper, which is available online for you, and anyone who wishes copies, we will make available to you.

Besides our own MLS market data, Manitoba Bureau of Statistics and CMHC's, we were very careful to use outside relevant research material to end up with what we believe to be a balanced discussion paper. The paper took a year to research and was done with the sole purpose of focusing on solutions to a growing problem affecting the growing segment of Manitobans. We suggest, to advance this effort, that the private and public sector, along with other affected rental housing groups, sit at the table to discuss solutions so that we can adopt policies to better reflect Manitoba's growing rental needs.

Your government has embraced the idea in principle, thanks to the leadership of Housing and Community Development Minister, Kerri Irvin-Ross. We are hopeful a good working group will be brought together soon to come up with a strong term of reference and to set up a-parameters to which the group can look forward to working with to develop solutions from.

As I mentioned, our paper is available to any of you or any of your MLAs who wish to have a copy, and it's available online at winnipegrealtors.ca.

You may ask why we did such a long preamble, when we are here today to simply discuss the proposed changes to The Condominium Act and its amendments respecting condominium conversions. It is primarily to do with how the proposed changes respecting condominium conversions can and may

have an impact on the rental housing issues and the provision of affordable home ownership.

First, let me state that I fully understand and appreciate the need to do a major revision of the condo act, since it has not been done for several years. As realtors representing condo buyers, we agree that there can and should be better disclosure requirements, including provisions of a reserve fund study. If it can be avoided, no one wants a big surprise with a large special assessment after they have bought their dream condo.

Now, for our concerns. Do we really believe that we have struck a balance between giving greater protection to consumers and ensuring investors will be encouraged to engage in new construction and upgrade existing housing stock? Where there is evidence of the latter happening, I am not—and we are not in total disagreement with putting more safeguards in place when it comes to doing conversions. That is not the case.

*(19:00)

Our discussion paper, as well, speaks to condo conversions, and our research suggests that because of the rental margins that have decreased significantly during the last decade as legislative increases in rent have been consistently lower than the cost-of-living index and expenses keep rising, it then becomes of no surprise that the building investors will turn to conversions as a way to regain those lost margins. If you have to lock them into a point where converting an older apartment to a condo is not an option, what guarantee do we have of ensuring rental units will remain intact indefinitely? Is this really a long-term solution?

Just let me touch on the other side of the coin briefly, that is the fact that condo conversions are offering renters the opportunity to get into affordable home ownership as well. That's a point that we want to make.

Let me read you an excerpt from our discussion paper: It is unrealistic to expect that a tight rental market situation can be solved at the expense of home ownership. In many instances they offset each other, as someone moving into home ownership frees up a rental unit. Further to this point, in other jurisdictions it is common for the individual investors to buy up several condo units and put them up for rental, which helps mitigate some of the rental stock loss.

Finally, with respect to home ownership, if we do not think Winnipeg's 0.8, and probably 0.5 vacancy rate, the lowest in the country, is not having an impact on resale housing, we need to think again. The seventh annual demographic International Housing Affordability Survey released in January of this year shows Winnipeg's ranking, for the first time, dropped from affordable to moderately unaffordable.

Two more final points on the condo conversion legislation. What is the rationale for the number 4 in terms of years you have to wait to convert a condo after a whole-building rehabilitation? I know many hockey people, especially Canucks fans, are asking the same question: Why four games in the suspension of the Vancouver Canucks defenseman, Aaron Rome?

Finally, with respect to the proposed changes regarding a tenant-occupied condo in that prior to the owner being able to sell the condo on the open market, he or she must first offer the unit to the tenant and the tenant would have 30 days to exercise this option, this can unduly restrict the rights of the seller to be able to attempt to achieve the highest and best value in the marketplace. The protocol and process in how this right of first refusal is conducted needs to be spelled out more clearly.

In conclusion, we are cognizant of your interest and desire to protect consumers in Bill 40, but there must be recognition of the need to respect all interested parties involved, as government can only go so far with legislation and requirements.

There is definitely much more work to be done in addressing our rental shortage. Hopefully, it can happen in a collaborative way with key rental housing stakeholders, so a made-in-Manitoba solution will be the final outcome. All three levels of government have a role to play. However, the Province should take the lead as the primary level of government responsibility for housing for the citizens of Manitoba.

Thank you. That is our presentation.

Mr. Chairperson: Thank you for your presentation. Questions from committee members?

Mr. Blaine Pedersen (Carman): I just wondered—two questions. First of all, did your organization, Winnipeg Realtors Association, did you have input or consultation into developing this rather large bill?

Mr. Peter Squire (Winnipeg Realtors): I'm aware our provincial association had some input on the main condo act, but I think in terms of the other piece, the amendments on the condo conversions, I'm not aware of any of our direct members being involved in that piece.

And that's really what our focus was today. Like I said, I think we have had some consultation on the major condo act, and we certainly, like we said, agree that it needed to be revamped and updated, given all the time that had lapsed before it had had any major changes to it.

Mr. Pedersen: And so, in your opinion, because you are real estate experts, does this bill address the rental shortage issues that we have, not only in Winnipeg but in—across Manitoba?

Mr. Squire: Yes, no, I—like I said, it's just a part—I think what we're trying to say today is that we need to have a much more comprehensive, holistic approach at how we're going to deal with a long-term problem that is becoming worse.

And I'm seeing it directly almost every day—well, I do the MLS stats, that's where—I think that's partly what motivated us to bring—to work on this discussion paper. And certainly I do discuss with my colleagues across the country and I've seen different options.

And I just think that we have to be really careful that we still need to have the private sector investors. You know, we need a scale up in rental construction. And I certainly have understanding, and I've heard stories about how some renters, and I certainly have sympathy for some of them, how we have to respect their rights and treat them fairly. And I think there are protections in place. We just have to watch that balance; that's what we're concerned about.

Mr. Chairperson: Any further comments or questions?

Hon. Jon Gerrard (River Heights): Thank you for your presentation, and given the fact that you have put a lot of thought into what might be answers in terms of the low vacancy rate and the need for more rental units, maybe I can give you opportunity to expand just a little bit on that.

Mr. Squire: Without taking too much of your time, because I know you got a lot of people waiting to present on their bills, our discussion paper really, actually 15 and 16, we do have some—it's a discussion paper, but we do put forward some

solutions and certainly it is a three-level government. It's not one government, though I think the Province really has the lead role.

We've said possibly softer rent controls, not removing them, but ways to look at the system and rules to see how we can make it more palatable for landlords and renters and working together, and I think there are some attempts that way.

But one concern we pointed out in our paper was that secondary market, given the lack of new construction, the secondary market, what I mean by secondary market are those smaller lot landlords that are certainly helping provide badly needed rental accommodations in cities like Winnipeg. We can't discourage them to the point that they're just going to sell off their properties back to home ownership. We need to keep rental—I'm certainly hearing that in neighbourhoods I've been involved in, like the West End.

So that's one of the areas. And then, obviously, at the local level being fairly active at encouraging the City to adopt the—or to go forth with the new complete direction strategy as part of Our Winnipeg, because we need to identify areas that we could see more multi-family development.

The TIFs, which, again, the government's doing a lot on that area—the tax incremental financing. That's starting to happen downtown, but I think it needs to go beyond the downtown where, again, where I drive by sites, and I say, there's an ideal multi-family. What does it take to get that built?

Because we're all for growth and seeing the excitement that's happening in Winnipeg, in our province but, obviously, we have to have that concomitant with that growth. We need to have a housing plan that would help, you know, facilitate that growth.

Mr. Chairperson: Further comments? Questions?

Seeing none. Thank you, gentlemen, for your presentation this evening. Thanks for coming in.

Next presenter we have listed is John Petrinka, private citizen.

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

Mr. John Petrinka (Private Citizen): I think the clerk handed it out.

Mr. Chairperson: Okay. Just give us a moment. We'll distribute to committee members.

Please proceed when you're ready, sir.

Mr. Petrinka: I'm sorry.

Mr. Chairperson: Please proceed when you're ready, Mr. Petrinka.

*(19:10)

Mr. Petrinka: Okay. My name is John Petrinka. I've been a real estate broker since 1978. I've been a property assessment consultant since 1992. I was on the board of revision from '87 to '92 as chair of all vacant land appeals. I spent my life working for—as an activist, a lobbyist, an administrative terrorist, working for groups across Manitoba, and this Bill 40 is one that I am personally involved in with the block that I live in. We have had a situation where we had a good owner for 16 years. He was an owner that practised the philosophy of providing housing at a reasonable price. The one that has just bought five years ago doesn't participate in an inclusive philosophy towards the management and operation of her property. In fact, it's one of four properties.

The bill that we have before us today is important for two reasons. One, it—you have before you a capital cost allowance that has been improved by the minister, and I give him credit for that. It's a nice incremental change. It'll help us a bit. But the last move that she made was the replacement of a boiler, and a boiler is a component of the building that it is being put into. The recapture on the installation cost, the capital cost allowance, is limited by the Canada Revenue Agency Act, whereby it states that a CCA cannot be used to adjust a rent increase or influence a rent increase. It is to be amortized over the period and length of and at the rate of the building that it is put it into. In this particular case, it's a brick building. The amortization rate is 4 per cent a year, and it shall be, whatever you want to call it, recaptured on that basis.

So I'm here to suggest to you that part 1 of this presentation, which deals with that particular issue, be resolved by rescinding and complying with the Canadian revenue agency, the Income Tax Act, by adjusting—by removal of the CCA that you have included in your act, Mr. Minister.

The second part, I believe, is equally important because it addresses something that has been happening. And it's almost a joke on the street amongst property owners that I have talked to, that, regardless of what increase level you're looking for, when you go to the intake side of the tenancy branch, whatever it is that you're seeking in terms of an

increase, what you do is you run up the costs, real or otherwise, to be adjusted to a point where the department figures it has done its job in a Solomonesque way by cutting the whatever increase in half.

I've included a page here which addresses that, at 2(c), which shows the difference between the suggested asking percentage of increase and the actual adjusted increase, okay? And I showed the sister block across the street using the guidelines as indexed, what the amount would be after the five-year period, which would be \$533.65 versus what she's skylighted the rent to on her building at \$707, okay? There's quite a difference there. That's close to \$200 a month. She has provided absolutely no exterior or interior improvements other than carpeting in the hallways this year. That's the first improvement in five years.

I have included on the same page a friend of mine who used to work for the income tax department, who himself is a 50-suite owner. So he has a certain amount of expertise in this field. And he writes at 2(b) the review of the materials that I provided to him. This is another sore point with me. You can go and copy the material that the landlord offers, okay, in support of the increase, but you can't xerox this stuff. I'm there for three and a half days with a wicked right hand that's ready to fall off, and you can't copy the material. Tell me what the difference is, Mr. Minister. They cite privacy, The Privacy Act. I can't see the difference if you can copy versus—like, hand copy versus a xerox copy. That might be something you might want to look at.

The big issue here in the second part is unsubstantiated expenses. It's a joke. Take a look at—where is it? Is it 2b? The page before the review by that CRA retired guy.

You talk about global reporting? How is a rent increase supposed to be established from that kind of reporting? And it's almost like a fait accompli that if you go—like, I have a very inquisitive mind. I was brought up to research whatever I did in real estate. I'm in commercial real estate. You can't avoid making mistakes without doing research. I always did that.

And here, again, I went to a couple of—whatever you want to call it—tenants to let them know there was nothing to review, based on this. It's a ready-made man trap, okay? As soon as you do that, she's all of a sudden citing section 73, 74 and 75, that you're interfering with the management of her block.

And before you know it, she's got orders for possession. And I was really looking forward to this, because this was a stressful—and I thank you very kindly for improving the length, okay—because I was under the gun for—like, between the crap that we were taking from this House here on the Dauphin exemption and then this, okay, with me being threatened to be removed after living in this place for 27 years. After me and the little lady parted company in '82, I've been there since then. This is my home. And she's telling me that I am threatening her, which finally was settled at the time of the order of possession when another 84-year-old guy came forward and read her the riot act: Lady, what's wrong with you? Used to be a nice place to live, now like a pack of dogs, okay?

We haven't seen her since November of '85 when she bought the building. And yet I was ostensibly always in her face, running the block for her, intercepting her in the hallways, running her down, running her staff down. Well, anyhow, that got straightened out. I was hoping we'd go to Queen's Bench on that one, to be quite honest with you.

Anyhow, I'm here for one very simple discussion paper that I put together here in part 3. What I am suggesting is something like the Americans have, checks and balances, okay? When you have a situation where you have constantly been chasing politicians and/or administrators and there's a refusal to stop and listen, okay, then, I think that the Ombudsman—this is clearly past the Ombudsman stage. They will not deal with anything that's remotely political.

There needs to be a vehicle where somebody who has spent his life working on projects like the one that I use here in part 3—because I'm familiar with the material—there has to be something here that allows a person access to the system. Now, when you've got assessors that are continually blocking—and, in fact, I can't believe how the assessors at both levels, both the civic and the provincial, get away with the crap that they get away with. They can change the law without going through the House, and to my understanding, there can be no law changes without going through the House. Is that not right, Mrs. Mitchelson?

Anyhow, the point here is this, is that that is happening. And the last one that happened was the last one that I dealt with a year and a half ago, the leasehold title. One minute. And basically, up until then, because of the people that I was

representing—I've been representing all of the veterans' associations in Manitoba, 86.5 per cent of them, okay, a number of cultural clubs, a number of curling clubs, et cetera, et cetera. And when you have a situation where these people, who—they want nothing to do with notoriety, so basically my approach was limited, okay? There was nothing I could do other than now. It's all over and now I can maybe do a few things that I was hoping that I could have done a few years ago, being as how there's an election year coming up.

* (19:20)

I just want to read you the last paragraph to get this into *Hansard*. It talks here about—in today's paper, it talks about the DePape girl that got the notoriety that she got by a wordless, gestureless effort by holding up a simple sign condemning Mr. Harper, the Prime Minister, and I—right in part 3, the overleaf page, the bottom two paragraphs: So what can we do, these people who avoid notoriety? That's the veterans I'm talking about. Possibly we could talk to the people in charge, that is, to Mayor Murray, Premier Doer, Mayor Katz.

Since Murray through Katz, 1998 to now, I have had not one private licence—I mean, private audience. The last private audience that I had with a minister was July 10th, 2000. For somebody who—

Mr. Chairperson: Could you conclude your remarks, please, sir. We're two minutes past your time already.

Mr. Petrinka: Okay, maybe somebody will ask the question, and I can finish this off.

But I represented close to 50,000 people. I've seen people who represent 12 people with some union get a one-hour meeting with the Premier in no time at all. I represented 50,000 people; not one meeting with the Premier or Mayor Katz or Mayor Murray.

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

Are there any questions or comments from committee members. Mrs. Mitchelson? No?

Seeing none, thank you for your presentation here this evening, Mr. Petrinka.

Mr. Petrinka: All you people can read? I don't have to read those last two paragraphs for you?

Mr. Chairperson: Yes, sir.

Mr. Petrinka: That's nice to know. It's comforting. Let me just say—

Mr. Chairperson: Mr. Petrinka, your time has expired, sir. We have other presenters—a long list of names that I need to proceed with. Thank you for coming out this evening, sir.

Are there any other presenters on Bill 40, The Condominium Act and Amendments Respecting Condominium Conversions (Various Acts Amended)?

Seeing none, we'll proceed with the next bill.

Bill 41—The Liquor Control Amendment Act

Mr. Chairperson: And the next—first name we have on our list is Lanny McInnes, Retail Council of Canada.

Good evening, Mr. McInnes.

Mr. Lanny McInnes (Retail Council of Canada): Good evening.

Mr. Chairperson: Welcome. Do you have a written presentation, sir?

Mr. McInnes: No, I don't.

Mr. Chairperson: Please proceed when you're ready.

Mr. McInnes: Thank you to the committee for the opportunity to speak to this important piece of legislation. My name is Lanny McInnes. I'm director of government relations and member services for Retail Council of Canada.

Retail Council of Canada has been the voice of retail in Canada since 1963. We speak for an industry that touches the daily lives of Canadians in every corner of the country by providing jobs, career opportunities and by investing in the communities that we serve. RCC is a not-for-profit, industry-funded association representing more than 45,000 storefronts of all retail formats across Canada, including department, specialty, grocery, discount and independent stores and online merchants.

As you know, the retail sector is a vital contributor to Manitoba's economy. Retail sales in Manitoba topped \$15.7 billion in 2010, an increase of 5.6 per cent from the previous year. There are approximately 6,800 retail establishments in Manitoba directly employing over 73,000 Manitobans. This represents over 11 per cent of the province's total employment, making the retail

industry Manitoba's second largest employer. In addition, our industry is also a significant economic and employment driver for other sectors like transportation, construction, professional trades and professional services. The contributions made by Manitoba's retail sector are felt in every corner of the province and affect the lives of all of our residents.

As part of the government of Manitoba's new four-pillar strategy to promote new hospitality opportunities within the province, the government is making significant changes to Manitoba's Liquor Control Act. With the exciting new initiatives, such as the Canadian Museum for Human Rights, a new home for our Winnipeg Blue Bombers, and now the NHL returning to Winnipeg, Manitoba will increasingly become a destination for visitors. Manitoba retailers support promoting greater hospitality opportunities for visitors and Manitobans alike. In fact, retailers have an important role to play in providing greater opportunities and convenience for customers in Manitoba.

RCC, on behalf of our members operating in Manitoba, is pleased to provide context and feedback from Manitoba's retail sector on the proposed changes to Manitoba's Liquor Control Act contained in Bill 41.

Specifically, our attention will focus on the two clauses that will directly impact Manitoba retailers by allowing the Manitoba Liquor Control Commission to introduce new, boutique liquor stores into the Manitoba marketplace and to expand the items that they will be allowed to sell in their Liquor Marts across the province.

We must begin by stating that, given the nature of the dynamic and evolving retail landscape and a blurring of the lines between traditional grocery and general merchandise retailers, RCC, as the voice of this sector, is uniquely positioned to provide comment and context to both the Manitoba government and MLCC on this issue. These proposed changes will have a direct and, in some cases, significant impact on Manitoba retailers, and it would have undoubtedly been helpful for consultation to have happened with the industry prior to the introduction of Bill 41. As such, we feel that MLCC and the minister responsible should work closely with the industry on the specific areas that will impact retail businesses before implementing this bill. RCC is happy to work closely with both MLCC and the government throughout that process.

Bill 41 will allow the MLCC to establish, maintain and operate boutique liquor stores within grocery store premises or at other locations that the commission considers appropriate. Boutique liquor stores will sell a limited selection of liquor in accordance with this act.

When announcing these changes, the minister responsible for MLCC indicated that the commission would be launching a pilot project that would introduce up to five locations to be situated within urban grocery stores. While RCC has been assured that the process and selection criteria for implementing this pilot project has not yet been determined, we must stress the need for an open and transparent process, based on fair and balanced criteria. To do otherwise would see MLCC begin to pick winners and losers within Manitoba's highly competitive retail environment, creating an unfair competitive advantage for some retailers, while excluding others.

While we also recognize that MLCC has identified the synergy between selling food and drink and the added convenience that this pilot project may create for consumers, the selection criteria used by MLCC must recognize the dynamic nature of the retail sector. Neither the current Liquor Control Act nor Bill 41 provides clarity or a definition of what would be classified as a grocery store.

It is our strong recommendation that any definition of grocery store used by the MLCC reflects the realities of the Manitoba marketplace and recognizes that a wide variety of retailers, both in terms of size and format, sell groceries. Therefore, our members would strongly oppose criteria that are overly prescriptive or that fail to recognize the variety of different retail formats selling groceries. RCC would be happy to continue to work closely with MLCC and provide the sector's input on developing an open and transparent process, based on fair and balanced criteria that will benefit MLCC, Manitoba retailers and Manitoba consumers.

Bill 41 will also allow MLCC Liquor Marts across the province to sell products such as liquor-related products such as stoppers; openers and glassware; books; magazines dealing with liquor; and gift bags and boxes for products sold at the store; alcoholic beverages containing 1 per cent or less alcohol by volume, such as low-alcohol beer; wine coolers and premixed cocktails; beer; wine and premixed cocktails that do not contain alcohol; tickets; souvenirs and clothing for community-based

events; and items that promote the responsible consumption of liquor, such as gift cards and gift certificates for taxis. This is a significant increase to the type of items MLCC will be allowed to sell in their Liquor Marts, and represents entrance into a market that is traditionally the sole domain of retailers in Manitoba.

While RCC and Manitoba retailers support the corporate social responsibility initiatives outlined in this section, such as taxi certificates and gift cards and supporting community-based events, some retailers do have legitimate concerns regarding MLCC expanding the lines of goods they'll be able to sell in Liquor Marts.

Specifically, there are concerns about the impact Liquor Marts selling glassware will have on some Manitoba retailers. Gift and tableware stores in Manitoba, which the vast majority are independently and locally owned and operated, will very likely be negatively impacted by MLCC being allowed to sell these items in their stores. Perhaps a practical approach to address these concerns and measure the impact that these changes may have on Manitoba retailers is for MLCC to implement a pilot project much like the boutique liquor store concept, in up to five urban Liquor Marts, to experiment with the introduction of liquor-related products and low non-alcohol beverages into MLCC's business model. This way, MLCC will be able to gauge the impact that these changes are having on their own business model, as well as on impacted Manitoba retailers before making a final decision whether to move forward.

* (19:30)

In conclusion, Manitoba retailers support promoting greater hospitality opportunities for visitors to our province and Manitobans alike. Retailers have indicated this position to the government in the past by asking for the removal of restrictions regarding Sunday shopping, to ensure people visiting our province will have a full range of hospitality and retail opportunities seven days a week. Bill 41 reflects a move to modernize Manitoba's hospitality opportunities, and we feel that our industry has an important role to play in achieving that goal.

Manitoba retailers have identified the need for MLCC to take a fair and balanced approach in implementing the proposed changes that will impact Manitoba's highly competitive retail environment. By developing a clear and transparent process, based

on fair and balanced criteria, MLCC will be able to engage Manitoba retailers in a dialogue on how to best proceed with these changes for the benefit of Manitoba consumers and Manitoba retailers.

And thank you very much for your consideration.

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

Questions or comments for the presenter?

Mr. Rick Borotsik (Brandon West): Thank you for the presentation, Mr. McInnes.

A couple of questions. You had talked about the fair opportunity of looking at these boutique stores. I'm told that there would be a request for proposals. Would that suit the purposes of your retailers that you represent?

Mr. McInnes: Mr. Chairperson, I think in allowing retailers that would be interested in this possibility to engage MLCC is certainly—approach that we would support. We want to ensure that retailers that are interested and that fit into the dynamic that MLCC is looking at, and that synergy between food and drink are able to engage MLCC in the dialogue, to see if this is a possibility, but we don't want that retailers from the outset are excluded, if they feel this is a fit for them.

Mr. Borotsik: Yes, as I understand it, it wouldn't exclude anyone at this point in time. It would mean, simply, a request for proposals, and at that time, your retailers, if they felt it was a fit and, certainly, it's groceries and liquor, so that shouldn't exclude any of your retail members.

One of the things, though, Mr. McInnes, and I have to admit, I've been talking about this particular opportunity in Manitoba right now, and it seems there's a bit of a misunderstanding out there in the public; most of the people I talked to seem to think that this is going to be an operation not unlike what you would find in the United States, for example, where you do have alcohol on the shelves in grocery stores. You would then be able to purchase it and go through the checkout counter.

Do you see this as being the same kind of operation here, albeit that the boutique liquor stores, in the legislation, does say that the commission may establish, maintain and operate boutique liquor stores. What's your understanding of that particular clause?

Mr. McInnes: In discussion with MLCC staff and officials, it's my understanding that it's their plan to have their own boutiques where they're operating those boutique kiosks within a store premises. So it would not be a—it would not be the case where a customer would be, you know, going down to the aisles of a retailer and simply put a bottle of wine in their cart and then go to the checkout.

What this would be is essentially a store-within-a-store concept where they would go into a separate kiosk within that premises, make a separate purchase besides what they're buying on the food shelves.

Mr. Borotsik: Yes, actually, Mr. McInnes, that's exactly what the intention is, but are you feeling that the public out there sees it in that fashion, or are they seeing it in a different fashion? Have you had any feedback at all from the public, or, for that matter, for your clientele or your members?

Mr. McInnes: We have and, certainly, on a personal basis I've had, you know, feedback with people, with the understanding that the format that you've suggested, where you can just, you know, pick up a bottle of wine and go through the checkout, is what they thought was being announced. But I think, you know, the communication's been fairly clear by MLCC and by the government that that's not the case.

Mr. Borotsik: Last question, Mr. McInnes: What would your organization's best-case scenario be for the type of operation that's being proposed? What would you see as being a—the best type of operation for servicing the consumers in Manitoba?

Mr. McInnes: Well, I think the consensus from our members on this is their preference would be that the kiosk would be operated by their staff. They would go through training and certification, or whatever requirements that MLCC would need, in assurance that those staff are well trained, but their preference would be that their staff would be the ones, you know, at the—in the kiosk, not dissimilar to the operations that most Manitobans are used to when they go into a variety of grocery and mass-merchandise stores where there is different kiosks within, you know, those store locations. That would be the preference, but, certainly, the industry supports this move.

Mr. Chairperson: Any further comments or question from the committee members for the presenter? Seeing none, thank you very much, Mr. McInnes, for your presentation.

The next presenter I have on the list for Bill 41, The Liquor Control Amendment Act, is Scott Jocelyn, the Manitoba Restaurant and Food Services Association.

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

Mr. Scott Jocelyn (Manitoba Restaurant and Food Services Association): No, I do not.

Mr. Chairperson: Then please proceed when you're ready.

Mr. Jocelyn: I've got to get a water, though.

Mr. Chairperson: Sure, that's fine.

Mr. Jocelyn: Good evening, I'm Scott Jocelyn, executive director of the Manitoba Restaurant and Food Services Association. I'm honoured to appear before the committee tonight and provide feedback from our membership on the items found in Bill 41.

Before I review our thoughts, I would like to thank Minister Gord Mackintosh, special assistant to the minister, Pratik Modha, and Ken Hildahl, president and CEO of the Manitoba Liquor Control Commission for the meetings that were arranged as the bill was being formulated. These meetings allowed us to ask many questions, and we appreciated the opportunity to provide feedback.

From these discussions, it was evident that the government was going to try and drastically reduce some of the red tape issues that the operators encounter in running their establishments. We certainly appreciate their efforts and look forward to these changes. We would also like to applaud the government for their increasing concern on items involving social responsibility. Our industry has always embraced the opportunity to partner with the government on these issues, and we look forward to seeing what the future holds.

However, there are five issues addressed in 41 that are concerning for food service operators, and I'd just like to touch on those. The first area of concern, amendment 67.1(1) where licensees may allow patrons to bring in their own bottle of wine to a dining room. We are pleased that the government has given us their assurance that the industry participation on allowing customers to bring in their own wine will be on a voluntary basis and operators would have the ability to set their own service charges. Without these two concessions, the industry

would have strongly opposed this amendment. Even with these concessions, some of our operators are still concerned about the impact this may have to our industry.

Two reasons for their concerns are—one, the loss of a revenue stream. Most restaurants operate on razor-thin margins, and are very protective of all their revenue streams. To combat rising costs, operators explore every revenue opportunity available to them. Every time an operator adjusts his pricing, he struggles with whether or not it will be accepted by his customers. A miscalculation can produce drastic results. The ability to sell wine to our customers is definitely a revenue opportunity. There are some who think they can't afford to lose this option. We need restaurants to be profitable, and the fact there are fewer restaurants in the province than at any time over the last 10 years is definitely a concern.

Second reason, who is responsible for overservice and what does it look like? Every time one of our employees serves someone a drink, we are responsible. I've worked for over 25 years in the food service industry selling alcohol. During that time, I refused or stopped service to hundreds of people. Sometimes it went well and other times, not so well. I've often joked that I've heard every possible reason that someone should not be cut off and have dealt with every possible situation involving someone who had been served enough. I just can't imagine what it will look like if someone has purchased the wine from somewhere else and now I was telling them they couldn't drink it.

We would hope that government and the MLCC would recognize the new challenges that would follow with this initiative. We recommend that the government take a proactive approach and remind customers that responsible drinking is everyone's responsibility. We would look for the government to remind the general public that, whether it's purchased at a restaurant or brought in by the customer, the final word always goes to the operator.

* (19:40)

We are thankful to have trained professionals serving alcohol, and we realize they will have to be even more skilful in handling these situations in the future. We are very pleased that the government didn't follow the lead of some other provinces by allowing customers to bring wine into nonlicensed facilities. This, of course, is an issue that our association would never be in favour of.

The second issue of concern is 96.3, the emergency closure order; 96.3 deals with increased closure powers for police and liquor inspectors re: closing an establishment for up to a period of 12 hours. We have one major concern with respect to 96.3: Is there a need for this power? We wonder, is there a danger? Is it a danger to allow an inspector or constable this amount of power?

Public safety is very important to our operators and, if we play a role, we are happy to do it. We would ask the question: Is the current system not working and what are we going to benefit by increasing these powers? Have there been instances in the past where these—where not having these powers has hindered the required actions from the police and/or the MLCC inspectors? If these powers are deemed necessary, we would stress these powers should only be used in the most extreme circumstances and based on clearly defined criteria. We are confident that all involved would want to make sure anyone who decides to use this power can justify this decision to do so.

Our third issue of concern is clause 18 in the changes in 96(1)(a.2) and (b). This involves operators being responsible for their properties and the vicinity of their properties. We are very concerned about the vagueness of the term "vicinity" in reference to areas around our property. If we allow our employees to leave our buildings—properties, we are uncomfortable with what vicinity of property actually means. Currently our employees operate in a controlled environment. Many operators have spent a great deal of money ensuring that their property is safe for both their staff and customers. Once your staff leaves our controlled environment, we are concerned about what risk we may be exposing them to. Many of our operators have expressed concern over this issue and we are hoping for some clarity on this definition and how it impacts their responsibility.

The fourth issue of concern involves the brew pub licence. When our operators heard about their—this initiative, there was a lot of concern. We are appreciative that when the wording of the bill was released that 78.1(2) makes reference to the fact that to obtain a brew pub licence a person must have one of the following classes of licence: dining room, cocktail lounge, beverage room or cabaret licence. Our operators don't want their concern of brew pubs to be mistaken for a fear of new competition. Competition is a reality that we face on a daily basis. Their concern involves making sure the requirements

placed on the operator of a brew pub don't give them an unfair advantage over other classes of licences. Some of our members have made significant investments to their properties based on their licence requirements set by the Liquor Commission. We've heard in other provinces where brew pubs are not held to the same requirements as other licence holders, and as a result an unfair advantage has been created.

The fifth issue of concern, my last issue, 16(1.1), the boutique liquor stores. One of the realities for us is that our membership has grown where we have a lot of hotels that have restaurants that are also members—members of the Hotel Association that are also members of the Restaurant Association. I realize that Jim Baker from the Manitoba Hotel Association is here tonight and he'll probably speak on the impact this initiative will have on his membership.

I did want to express our concern of 16(1.1) and state how disappointed we were upon seeing that it was included as part of Bill 41. For hotels to be successful, they can't afford to place all their eggs in one basket. Most hotels need all facets of their properties contributing positively to their bottom line. This would include strong liquor and food service and, in many cases, off-sale. We would hope the government would review the ramification 16(1.1) would have on the industry.

Thank you for your time this evening.

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

Questions for the presenter?

Mr. Borotsik: Yes, thank you, Mr. Jocelyn, for making the presentation on behalf of the Manitoba Restaurant and Food Services.

The brew pubs, you say that you don't—would not like to see any disadvantage or any unfair advantages going to the brew pub, and you said in other jurisdictions this may well have happened. Can you give me some—a better understanding as to what kind of unfair advantages they may have been giving—given in other jurisdictions?

Mr. Jocelyn: I just think the investment in the game where—you know, the capital cost of coming in, the food requirement that an established operator would have to be operating under.

We had heard of cases in other provinces where those rules were not the same, and though we would not be opposed to brew pubs, we would just be

concerned that they would come in and they would be—they would have an advantage.

Mr. Borotsik: The other one that has a great amount of validity is the concerns that your operators have with respect to customer control to the vicinity of the property. In talking to your members, is there any kind of a definition of that control from vicinity that they've given you? I recognize that you give a protected environment inside the premise, but is there—have you had any discussion as to how far that vicinity could, in fact, be expanded?

Mr. Jocelyn: I'd think we'd like to make sure that the line was clear, that the responsibility was clear, that operators knew how far they would—how far they have to go to make sure they're responsible. I don't think anyone is—anyone wants to—the days of putting somebody out on the sidewalk and you're on your own, I think, are long gone. Thankfully, people realize that their customers are in their care and there is a responsibility to make sure—they do whatever they can to make sure they arrive safely. But we're just kind of concerned that when you start moving them off your property, where is vicinity? You lose sight of them. You know, where is that line? And by losing that control, we're concerned about that.

Mr. Chairperson: Any further questions, comments for the presenter? Seeing none, thank you very much for your presentation, Mr. Jocelyn.

Mr. Jocelyn: Thank you very much.

Mr. Chairperson: Next presenter on Bill 41, The Liquor Control Amendment Act, is Mo Razik, the Independent Specialty Wine Stores of Manitoba.

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

Mr. Mo Razik (Independent Specialty Wine Stores of Manitoba): Yes, I do.

Mr. Chairperson: Give us a moment to circulate to committee members, then I'll give you a signal.

Mr. Razik: Sure.

Mr. Chairperson: Please proceed when you're ready, Mr. Razik.

Mr. Razik: Mr. Chair, committee members, my name is Mo Razik. I'm the chairman of the Independent Specialty Wine Stores of Manitoba.

I'm focusing tonight on subsection 16(1.1) of Bill 41, which is to—a new subsection to be added after 16(1). It reads:

Boutique liquor stores

The commission may establish, maintain and operate boutique liquor stores within the premises of grocery stores or at other locations that the commission considers appropriate. Boutique liquor stores sell a limited selection of liquor, in accordance with this Act.

Under the current provisions of The Liquor Control Act, subsections 8(1), 10(1), 17.1(1) and 18(2), the MLCC is the supplier, competitor and regulator of the specialty wine stores. If the MLCC does a good job in each of these roles and is successful, it must ultimately put the specialty wine stores out of business as it pursues its mandate as a competitor. The MLCC can employ its role as a supplier and regulator to maximize its competitive advantage in an unfair way to the specialty wine stores.

Basically, it has resource—resources we don't have, plus it knows everything about our businesses. It knows our suppliers, it knows our brands. Our prices, our profit margins are controlled also by MLCC.

And we are not alone. We're not the only ones who have been critical of this relationship. Justice Glenn Joyal, in concluding his findings in a judicial procedure as recent as last year, said: The time has come to revisit the relationship between the private wine stores and the MLCC.

This same sentiment was also expressed a year earlier by Mr. Justice Peter Morse, Madam Justice Ruth Krindle and Mr. Gavin Wood, who jointly stated: It is, we believe, time to reconsider this relationship.

* (19:50)

When judges send clear messages about this conflict of interest and dysfunctional relationship, it is clear that they are directing their messages to you, the lawmakers.

The proposed new subsection 16(1.1) aggravates MLCC's intrinsic conflict of interest. For example, for all indications in the recent press releases and comments of various officials, the intended initial pilot project would be for 10 boutique stores, of which seven would be located in the city of Winnipeg. This represents 26.92 per cent increase in

MLCC stores in Winnipeg, which amounts to an overnight increase of 26.92 per cent in MLCC's competitive advantage over the specialty wine stores.

What are we proposing? A prudent modification to the proposed amendment would be to add a new proposed subsection, 16(1.2), which would state that for each boutique store established by MLCC, it will close an existing MLCC store. Such a measure will not only protect our communities from MLCC's intrinsic conflict, but it will also lead to 26.92 per cent less social problems associated with alcohol than is the case with the government proposal.

Of course, as lawmakers, you can always take the advice of the judges and fix this relationship by legislating MLCC right out of retail business. But I don't think that's what you want to do. If you're not going to do that, then at least legislate this. Thank you.

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

Mr. Borotsik: Yes, thank you, Mr. Razik.

My first question is: Have you and your organization, the Independent Specialty Wine Stores of Manitoba, had an opportunity to sit down with MLCC and discuss their objective with respect to the boutique stores? Have you talked to MLCC?

Mr. Razik: Yes, we have.

Mr. Borotsik: And have you been given any kind of assurances that it's not meant to compete with the independent wine stores?

Mr. Razik: Assurances compared to a law. I'm looking at a new law that says it doesn't even talk about the 10-store pilot project. It says they can add boutique stores in grocery stores, which could be 200 of them, or any other place MLCC sees appropriate.

There is no limit. And then even the limited selection of liquor in accordance to this act is not defined. What is a limited selection? So assurances—you know, once you have a law, under this law there can be a lot of powers that we can't as private operators sustain.

Mr. Borotsik: Thank you. There are currently eight independent wine stores in the city of Winnipeg. Would your organization look at the possibility of expanding those independent operations, having more independent operations not only in Winnipeg or other places in the province of Manitoba?

Mr. Razik: Absolutely. That would be the right direction if, indeed, the specialty liquor stores that are introduced in Bill 41 are intended to serve the people of Manitoba. The right approach would have been to come to us to expand our operations, which we're prohibited from doing.

Mr. Borotsik: It's not necessarily just expand the existing eight that are there, but allowing other independent operators into the marketplace as well. Would your organization be okay with that?

Mr. Razik: This is—this would—this is not up to us. It's a legislator's—

Mr. Borotsik: I appreciate that. Not very much is up to you. It's all legislated what you can do.

I'm asking, if your Independent Specialty Wine Stores of Manitoba would be receptive to having other independent wine stores, not within your own purview, but other operators, then, have other opportunities at developing private wine stores?

Mr. Razik: Sir, we're the beginning of free enterprises and we're all for free enterprises. We want it all to be free enterprises.

Mr. Chairperson: Further comments, questions for the presenter? Seeing none, thank you very much, Mr. Razik, for your presentation this evening.

Mr. Razik: Thank you.

Mr. Chairperson: Next presenter I have on my list for Bill 41, The Liquor Control Amendment Act, is Dwayne Marling, the Canadian Restaurant and Food Services Association. Good evening, sir.

Mr. Dwayne Marling (Canadian Restaurant and Food Services Association): Good evening.

Mr. Chairperson: Welcome. Do you have a written presentation?

Mr. Marling: I do.

Mr. Chairperson: Give us a moment to circulate and then I'll give you the signal to proceed.

Please proceed when you're ready, Mr. Marling.

Mr. Marling: Good evening. My name is Dwayne Marling. I am the Winnipeg-based Manitoba-Saskatchewan vice-president for the Canadian Restaurant and Food Services Association.

We appreciate this opportunity to be able to formally provide our comments on behalf of Manitoba's licensed restaurant industry, along with our colleagues from the Manitoba food

and—Restaurant and Food Services Association, with regards to Bill 41, The Liquor Control Amendment Act.

A little bit of context. Manitoba's restaurant industry contributes \$1.7 billion in sales to the province's GDP and 41,000 jobs to its workforce. However, Manitoba's restaurant sales are not keeping pace with the rest of Canada. Adjusted for menu inflation, real commercial food service sales in Manitoba were flat in 2010, while the rest of Canada saw a 4.1 per cent increase.

The restaurant industry provides a wide range of full- and part-time job opportunities for the people of Manitoba and, in particular, supports important entry-level job opportunities for a wide variety of Canadians.

Today's diverse hospitality sector is become increasingly complex, where restaurant and bar concepts have become more and more intertwined, combining food service, liquor service and entertainment all in one establishment. And it's becoming increasingly difficult to determine whether licensees are primarily engaged in the service of food or beverage alcohol.

CRFA supports a progressive, flexible equitable liquor-licensing system that responds to consumer needs. And Manitoba's restaurant industry believes that the present liquor-licensing system contains elements that could have been updated to allow licensees more flexibility to meet the needs of their consumers. And, while a number of the regulatory and policy changes announced at the same time as this legislation do address the industry's concerns, the story of this legislation is one of missed opportunities.

There are three primaries of concern for liquor-licensed restaurant operators in Manitoba, and they are: red tape, operational issues and the complex liquor-licensing process.

As one of the largest sectors of the provincial economy with that \$1.7 billion in sales, the restaurant industry includes a wide range of businesses: licensed, full-service restaurants, quick-service operations, hotel food service, takeout, institutional feeders, et cetera. It is dominated by independent, locally owned companies, with a high proportion operated by families. There are nearly 22,000—pardon me—2,200—two thousand, two hundred—commercial food service establishments,

which can be found in virtually every community across the province.

As I said, unfortunately, Manitoba's restaurant industry is underperforming compared to the rest of the country. There are 400 fewer food service establishments in Manitoba today than existed just 10 years ago, in 2001.

Manitoba also has the lowest per capita food service sales in the country at \$1,114, considerably less than the Canadian average of \$1,434.

Now, to the meat of the issues, red-tape reduction. While much remains to be done in streamlining the red tape involved in the creation and operation of a licensed establishment here in Manitoba, much of those issues are regulatory and policy based. CRFA acknowledges the positive change that the proposed move to three-year licensing represents from a legislative front.

* (20:00)

Operationally, in principle, CRFA believes that all operators should be able to determine their own hours of operation within a set range. All licensees, regardless of whether they are beverage rooms or restaurants, should have the flexibility to maintain the same hours of operation as their competitors. No operator should be given a competitive advantage over another as a result of different hours of operation listed on a liquor permit, and standardized hours will also decrease consumer confusion and provide operators with flexibility to manage their opening hours as their business requires. So we appreciate the move in this proposed legislation to standardize operating hours across all classes of licence.

CRFA believes that the nature of the bring-your-own-wine provisions introduced in the bill on—balance the needs of both restaurant operators and consumers, specifically by making the BYOW voluntary for licensees and allowing them to determine their own corkage rates. However, CRFA has some concerns regarding the bill's provisions regarding disorderly conduct outside licensed establishment. While we share the government's concerns about the issue, we worry about unintended consequences. We're most concerned that these changes can impose what are properly law enforcement matters dealt with by policing on our licensed members. While we received reassurances that regulation and policy directives will ensure that this is not the case, we feel that it's important to

express our concerns in the public record on this matter.

We're also concerned about the inherent conflict between following the act's requirements to refuse service and requiring a customer to leave the premise because of intoxication and having to worry about their potential conduct outside the premise.

With regard to simplifying the liquor licensing system, hospitality operators are above all in the business to serve their customers. In recent years, consumer trends in the way the public utilizes the food service industry has changed. Long gone are the days that restaurants are places only for celebrating special occasions. Busy families depend on many sectors of the restaurant industry to help them keep up with hectic schedules and lifestyles, and as a result, the restaurant and bar concepts have become intertwined, combining food service, liquor service and entertainment. It's becoming difficult to determine where a licensee fits.

The current beverage room versus cabaret versus dining room liquor permit system creates competitive inequities between like businesses. The current licensing system also forces new liquor permit applications to tailor their business to fit within certain liquor permit—a certain liquor permit category rather than the MLCC granting a liquor permit that fits the applicant's business plans.

Other Canadian jurisdictions have responded to these changing trends by amending their liquor regulations to streamline liquor licences in order to allow hospitality industry establishments more flexible service options, and that is where this legislation misses an enormous opportunity. Licensees in Ontario and Alberta are now able to operate as both food primary and liquor primary establishments under the same liquor licence. They operate as primarily food service operations during mealtimes and convert to minors-prohibited primarily liquor service at night. CRFA believes that this legislation should have simplified Manitoba's licensing system rather than adding yet another class of licence. The examples in BC, Alberta, and Ontario could have been used for guidance. This type of change would have been a real change to accommodate the trends towards multifaceted hospitality industry operations rather than adding yet another band-aid to the act. It would also have enabled the elimination of unnecessary regulations that result in this discrimination between like hospitality operations.

Simply put, with its 11 and soon to be 12 separate licences, Manitoba's liquor licensing system is burdensome and frustrating for licensees. Simplifying this complex system would save time, effort, and resources for licensees and the MLCC alike.

We're not suggesting a carbon copy of any one model in another province, and we recognize that considerable detail goes into the design of a liquor licensing system, but surely a made-in-Manitoba solution that takes the best of what has already been proven successful in other Canadian jurisdictions could have been developed as part of this package of amendments.

On the subject of brew pubs, CRFA wishes to explicitly state that it does support the brew pub concept but believes that it could have been better accommodated under a move to a simplified liquor licensing system, moving to a single class of licence rather than adding a 12th class to this unnecessarily complex system.

In addition, by not simplifying the system and by making brew pubs subject to both a brew pub licence and one of the four base licences, that my colleague from the Manitoba restaurant association already cited, this legislation opens the door for competing brew pubs to be subject to different regulations regarding matters like food-to-liquor ratios, depending on whether they fall under a dining room licence or a cabaret licence or a beverage room licence, and that has not been addressed as far as I can see in this legislation.

In conclusion, today the diverse hospitality industry has become progressively more complex where restaurant and bar concepts are becoming more and more intertwined. That is why, while supporting a number of the changes proposed in Bill 41, CRFA can't help but feel that the opportunity to undertake a positive and comprehensive simplification in Manitoba's liquor licensing system that would be flexible and equitable has been missed. Thank you.

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

Questions for the presenter?

Mr. Borotsik: Yes, thank you, for your presentation, and certainly we do recognize that there are perhaps a plethora of regulations and licences that they have in Manitoba, as do other jurisdictions. In fact, I do recall saying that it's much easier to get licences in

other jurisdictions, particularly Alberta and Ontario, that I'm familiar with, and I'm sure you would agree with me.

The one of the comments that you made and, as was echoed by Mr.—I think it was, Jocelyn—was the permit—to permit disorderly persons to be in licensed premises or in the immediate vicinity outside of the licensed premises—premise. That definition of the immediate vicinity, can—is there other jurisdictions in Canada that have a similar clause to that where the licensee is responsible for the patrons in an immediate vicinity, and if there is, can you give me the definition of immediate vicinity?

Mr. Marling: Mr. Borotsik, that's a very good question, and I'm afraid I'm going to have to play my new guy card one time and since I've been on the job for—it's a little over two months now. I'm been trying to get up to speed with the regulations as they exist in Manitoba and Saskatchewan primarily. So I can't comment with any authority as to what exists in other jurisdictions at this time.

Mr. Borotsik: Back to brew pubs, and, again, there are brew pubs in other jurisdictions. Without putting you on the spot, in your experience, your limited experience, do you know how brew pubs are operated in those other jurisdictions regulatorily? What kind of licensings is required, and is there less control in the brew pubs in those jurisdictions than there is in this legislation?

Mr. Marling: I can say with regard to Saskatchewan that there have been significant challenges with the way in which brew pubs have been licensed in that problem, which to be fair to the government, they have addressed in this in the legislation insofar as it's been put into place.

And, as I understand, through my meetings with both the minister and Mr. Hildahl from MLCC, that will be in place here in Manitoba.

The issue around that primarily concerns the ability of brew pubs in that jurisdiction to off-sell other beer than their own production, and it has led to challenges in those jurisdictions where they are brew pubs in name only, where they've run one batch of beer through their facility at one time and which was promptly poured down the drain to simply allow them the opportunity to sell major brands of beer.

So I would say that that is a positive element of the change to this. Again, as I said, we support the concept of brew pubs. We just think that it could have been dealt with under the broader umbrella of

dramatically reducing the number of licences rather than adding yet another class of licence.

Mr. Borotsik: Last question.

The bring your own wine to restaurants particularly. Again, there are other jurisdictions across the country that allow that to happen. We've heard that there are some very narrow margins in the restaurant business. However, the other jurisdictions seem to still be operating quite well with bring your own wine.

Do you have any suggestions how that could be accomplished in Manitoba under this particular legislation?

Mr. Marling: Based on my conversations with my colleagues from across the country and the lessons that they've learned on that front, I would say, again, to be entirely fair that these have been dealt with, I think, effectively in the legislation, as currently proposed, in that it is restricted to licensed restaurant operations, in that there—and it is voluntary. A restaurant can choose to make that available to their patrons or not as fits their business model.

* (20:10)

I've spoken to some of our members who hold—who operate more than one premise who indicate that, while they may offer it in some locations in the city, other locations they may choose not to offer it.

And finally, and the most important part to us is that the—and I hope that it remains that way—in that the corkage rate, the charge for opening and serving and being responsible for that bottle of wine is being left entirely to the free market to determine what it should be.

And those are the three critical factors that we saw in regard to BYOW operations in the country. So I'm glad that those have been addressed in this legislation as it stands.

Hon. Jon Gerrard (River Heights): Just two points, and maybe you could comment. I note that you point out that there are 400 fewer food service operations now than in 2001. Is red tape a significant factor in that? And the second point is, in terms of your suggesting that the number of licences, types of licences be reduced down from 12 to—how big a reduction should we try to aim for? Thank you.

Mr. Marling: Thank you, Mr. Gerrard. I will address your last question first. With regard to the

number of classes of licence, the Ontario example is that they've moved to a single class of licence with two endorsements: a liquor primary endorsement and a food primary endorsement. It seems to be working quite well for them. The same premise can hold both endorsements, again, separated temporally. The example would be operating 11 till 7:30, 8 o'clock, on a food primary licence, switching to liquor primary after that time to allow them flexibility.

I had the opportunity at the press conference announcing these changes and the other elements with regards to regulation and policy with the CEO of MADD Canada. And I asked him what their experience was with the Ontario model and whether they would oppose the move in Manitoba to a single class of licence. Well, he's not here and I urge you to speak to him directly to confirm what I am telling you. What he informed me at that time was that MADD Canada has saw no negative impact from the move to a single class of licence in the province of Ontario and, in fact, would not oppose a similar move here in Manitoba.

With regards to the reduction in the number of restaurant operations in the province since 2001, a decline of about 400, I think that it's more complex than just red tape. Red tape is always an issue when you're operating any business. The burden of filling that requirement, again, it's a positive change with regards to moving to three-year licencing as opposed to a single-year licencing. And some other regulatory changes, I understand, will be introduced as well with regards to reports that would no longer have to be filed, but simply records kept in the place. Those are positive changes, and that is certainly one element of it as well.

We can't, obviously, ignore the impact of both the local and the broader economy on those items. The cost of doing business, whether that is wages, whether that's inputs like beverage, alcohol, food, utilities, et cetera, when you're operating on razor-thin margins, any one of those items can be that—can be the tipping point that could cause a business to go under.

Mr. Chairperson: Any further questions for the presenter?

Seeing none, thank you very much, Mr. Marling, for your presentation this evening.

Next presenter I have on the list for Bill 41, The Liquor Control Amendment Act, is Mr. Jim Baker, Manitoba Hotel Association.

Good evening, sir.

Mr. Jim Baker (Manitoba Hotel Association): Good evening.

Mr. Chairperson: Nice to see you again. Do you have a written presentation, Mr. Baker?

Mr. Baker: No, I do not.

Mr. Chairperson: Please proceed when you're ready, sir.

Mr. Baker: Yes, I'm Jim Baker. I'm the president and CEO of the Manitoba Hotel Association, and I very much appreciate the opportunity to address the committee today. Behind me is our chair, Reid Kelner, the chair of the MHA, and the owner and operator of the Beach Hotel in Winnipeg. Also with us are a number of other owner-operators of hotels throughout the province. Maybe they can stick their hands up.

We—since this proposed legislation came in, we had a meeting, emergency meeting because of the shortness of time, and that meeting had 50 members representing about 75 hotels attend, and I mentioned that just to confirm the seriousness of some of my comments. And it must be noted that all these members are retailers.

I also respect and acknowledge the representatives of other interested parties in this act and their support of some of the points that we might have.

Together, these owner-operated businesses provide Manitobans some 500 retail liquor and beer outlets, a ratio of access that is one of the highest per capita in western Canada, virtually all of which are open seven days a week. These stores are almost exclusively owned and operated by Manitobans, making the industry one of the highest percentage of locally owned businesses in any sector of industry. Scott Jocelyn, from the MRFA, has dealt with some of our common concerns, and I thank him for meeting with them very appropriately. I'm going to limit my comments so as not to cover similar points.

Bill 41 is the most far-reaching amendment to The Liquor Control Act in over a decade and is based on four pillars, all of which the members of the MHA support. The MHA is very pleased that many of the changes come from our recommendations brought forward to the MLCC over the past years, indeed, over the last 10 years. Although some of these changes are long overdue, they are much appreciated today.

Change does not just come at the times of act amendments. Indeed, the MHA and the MLCC have worked together on many initiatives not requiring act changes that have been consistent with the minister's four pillars and which are incorporated in how this industry works with government. We are encouraged by a pledge by the MLCC to work with our industry to address any barriers impacting negatively on the manner in which the industry interacts with the MLCC. This is a process that has just begun, and we look forward to being a key element in the balancing of modernized liquor laws.

Balance is a key word in today's discussion. Since 1927, and under a different name prior to 1927, the Manitoba Hotel Association has been the leader in proposing changes to adapt to changing consumer preference in terms of the distribution of beverage alcohol. The industry has grown to employ over 8,000 employees, accounting for approximately 35 per cent of all liquor products and 85 per cent of all beer sold in the province, as well as being the only locations for the recycling of beer containers, being over 90 per cent of beer bottles and 70 per cent of beer cans.

The members of the Manitoba Hotel Association were given the first licences to sell beverage alcohol in Manitoba way back over 80 years ago. From that time forward, consumer demand, product development and changing social norms saw the addition of nine more classes of licences, all under the control of the Manitoba Liquor Control Commission—I guess that's why control is in there. That's why balance is the key word. The MLC and government have the difficult, perhaps impossible, job of being fair to all classes of licences, some of which have begun to compete with each other and, in the last couple of decades, more and more with the MLCC retail system.

In Manitoba, as in elsewhere, the popularity of spirits and domestic beer has been significantly challenged by wine and specialty flavoured spirits and other trendy products. Trying to be fair and to continue to provide government with increasing revenues has had the MLCC saying yes to some and no to others in relation to similar products and services, while aggressively increasing marketing products that they themselves sell in competition with those private enterprises. Balance is like a teeter-totter, a slight imbalance and the other side can come crashing down.

Indeed, in 2006, an arbitration panel dealing with a balancing situation involving the MLCC and licences said in part, and Mr. Razik mentioned it, and I'll just say it briefly, the fact that the MLCC is regulator as well as the competitor has given—risen to some problems. It is time, we believe, time to reconsider this relationship.

Some of the changes in this bill, Bill 41, are a beginning. For example, changes in how licensees can advertise. But the MHA believes and has serious reservations about the kiosk pilot project and its impact on the distribution system as we know it. Opening the door to liquor and wine and beer stores in grocery stores is the beginning of a profound change in the precarious balance that currently exists. We see the private beer vendor business experiencing continual erosion of its business to the MLC until the teeter-totter crashes.

A significant change that has serious concerns to so many small businesses, the planning, purpose and goals of which did not involve anything resembling transparency, has to be put on hold until questions are answered.

It is therefore recommended that the pilot project be removed from the bill until the industry can meet with the MLCC in order to better understand what happens when the pilot takes off. That's my presentation.

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

Questions for our presenter?

Mr. Borotsik: You suggested last—thank you, Mr. Baker, first of all, for your presentation. I do understand the concerns that your organization has with respect to the competition that's being proposed in this legislation.

You're saying, withhold the clause with respect to the boutique stores until your industry has had a chance to meet with the MLCC. Have you not met with MLCC? Have you not had any consultations prior to this legislation coming forward?

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Mr. Baker: Yes. We haven't had any contact on that specific section until we were notified that that is a proposal, which was very—just a few weeks ago. And we immediately registered our reservation, copied to the minister's office and to Mr. Hildahl, from the Manitoba Liquor Commission that we had these

serious reservations. From that point forward, we've had no discussions.

Mr. Borotsik: Had you had any discussions prior to that, excluding the boutique liquor stores? Had you talked about some of the changes in the legislation, proposed changes in the legislation? Had you ever had the opportunity to sit down and consult with Mr. Hildahl or the government on these proposed changes?

Mr. Baker: As I briefly mentioned in my presentation, I've been in this position for 11 years, and we've met with the liquor commission on a quite regular basis, sometimes formally, by way of committee with senior management, and sometimes just one-on-one with various people in the various departments. And so there has been a lot of discussion on many of the items contained in this bill, many of which—for example, there's a recommendation—or, not a recommendation—the allowing of beer vendors to sell spirit-based coolers is something that we've proposed to the liquor commission and have discussed probably three times a year with the Manitoba liquor commission for quite some time.

So, you know, we've made a lot of progress. The doors are open at the liquor commission, but sometimes something catches you by surprise and that section about the kiosk was a surprise.

Mr. Borotsik: I find that strange that you wouldn't have some sort of a heads-up on that, because it's a very major issue, obviously, with your members. And it's a very major impact, and I find it, well, difficult to believe that the MLCC wouldn't have given you a heads-up on that particular area before.

You did say also in your presentation that the MLCC is your competitor as well as your regulator. There's no question; we've heard that in a couple of presentations tonight, particularly from the independent wine stores. You also indicate that it's time to look at perhaps changing that relationship. Can you expand on that a little bit, and just tell me what kind of a change is for that relationship your organization would be proposing?

Mr. Baker: Well, Mr. Hildahl, a year or so ago, made a wonderful opening to get us involved in removing barriers to doing business with the liquor commission, and we began to do some work, trying to determine what specific barriers we needed removing. And certainly there are problematic situations, sometimes with inspections, sometimes

with changes in training, what have you. But the conclusion I came to that the major barrier is one of attitude, and I think the other presenters have expressed this in different ways, but what it is, is the fact that they're competitors and that's their concern.

In my presentation, I said that we sell 85 per cent of the beer products. Well, when I started, we sold 90 per cent of the beer products, and it's clear they're doing a wonderful job. They are. I mean, we have the fanciest, nicest stores in all of Canada. I've covered Canada and I do investigate those for professional reasons.

And our distribution system is probably one of the best in Canada as well. You know, you just have to travel to some of our major cities and try to find someplace downtown or close to where you're staying to get something for the evening, and we have a good system in that regard.

But, you know, there is demands for revenue. We've—we also are very much involved, as you know, with the VLT program which we work very closely with government and the Manitoba Lotteries. But, the liquor commission has done a wonderful job of every year increasing their profits sizeably, while our margins remain the same. And that is—that's the name of the game. That's what's happened. That's what people came into the business. But, you know, if we added up the investment of the people behind me, it's probably larger than the investment—capital investment of the Manitoba liquor commission in a livelihood that, for most purposes, is a mom-and-pop type business.

Mr. Borotsik: Yes, I kind of smile when you mention the VLTs. Don't give the liquor—Manitoba Liquor Control Commission any ideas. They may want to look at another revenue source as well, and I don't think that that's one of them they should be looking at, so please don't tell them it's that successful.

As I understand your presentation, the thrust of the presentation is certainly the boutique liquor stores, the operation of additional, or proposed additional 10. Five are, as mentioned earlier, proposed to go into grocery stores under an RFP, a request for proposal. The other five are other, and I'd asked Mr. Hildahl at that time what other were being considered. The one that obviously comes to mind and it's obvious, in my opinion, is the airport. Do you have any thoughts on an airport location with an MLCC, which, by the way, I don't think is required legislation? I think they could have opened a liquor

store in the airport if they wished to at any point in time.

Do you have—have you or your organization considered or thought about where the other liquor outlets may well be anticipated by MLCC?

Mr. Baker: Well, I do know they've already had—those sites are selected or preferred sites are selected, so I can guess somewhat. I'm a frequent visitor to the Manitoba Liquor Control Commission on many things, and they're very good at following up when there's something like this, trying to explain. So I'm here fudging, saying, yes, I do know some sites, but it's only because I—when I get into their building, I look around and sometimes there's maps on the wall with the little yellow stickers, right? And I hope Al Roney's not in the crowd there because—

But, anyhow, you know, the airport, specifically—how I found out about that was attending the annual meeting of the airport's authority and they were talking about their campus. And I don't know if anyone in here attended that. But lo and behold, then, there's going to be a liquor store in the airport. And Al Roney, who's responsible for the retail end of it, was there and he explained 600 square feet, very small, servicing the licensed restaurants there. And I'm going, in my mind, if I'm getting off an airplane, I'm not going to grab 12 beer and carry it home. But, if—and I have to go to Ottawa—if, well, that's not a good example.

If you're going to Toronto and you're heading down and it's eleven o'clock and maybe you want a cold Killkenny beer, it might be handy to have one at the, you know, vendor somewhere right in the airport. And maybe we should change the laws so that a beer vendor can get in there too. But I don't think it—I think it's a convenience rather than a business opportunity there. And I think that's what's behind this is convenience, not necessarily a business, other than as we explained there, enlarging it 26 per cent. I don't have the decimal down, but the question, really, was—is about the airport thing and if that was a stand-alone because, as you said, they can open stores wherever they want. We have no—nothing to say about that.

And, if that was the only one, but pilot projects are started with a lot of research. And, when it comes out, there's 10 of them. You know, that's a pretty significant pilots—you know, is that 10 per cent of what they want to do? And, once they proved that the convenience is expected by the consumers, because

you brought that question earlier, what is the perception? And the perception of the public isn't what's intended by the self contained and that, because I think that's very, very awkward that you have to go to two cash outs and that type of thing. You know, I shudder on that.

But the consumers think this is going to be the so-called American model, which it isn't. An American model is totally different when it comes down to profit and loss—pricing.

Mr. Gerrard: Just to follow up on a couple of issues that were raised by Dwayne Marling. One, what's your view on, you know, whether there should be a reduction in the number of types of licences from 12 down to one and, the second, your view on this loss of 400 food service establishments because you're, of course, knowledgeable about the broad industry?

Mr. Baker: It should be noted that there's approximately 350 hotels and they all have restaurants, so we are very much co-members with the MRFA and the CRFA. The loss of restaurants is reflective of a number of things, Doctor. It's a tough business; a lot of work; long hours; steamy, hot place to work—you have to really love it. And, when you have those factors, there's not a longevity—lot of longevity in the industry. Basically, it doesn't produce a lot of money—and a lot of hard work.

So I think the competitive nature, too, is the consumer, the family restaurant, that, you know, I hate to say it, but I'm old enough to remember before there was A&Ws, right? You know, there was very few places where people could go out to eat, and now it's evolved that they're everywhere, right?

And the model now is if you and I wanted to go into business and part of it was to include the sale of beverage alcohol, we'd be opening an Earl's or something like that. We're not going to open a little—sell pork chops at the corner of the street, so a lot of those mom and pops are the casualties of this.

The other part of your question, Doctor, was it was about reducing the number of licences. As I said, it was very easy. When our business started, there was one licence. And, probably, we wouldn't be here if that was the only licence, right? And we can control our own destiny in that regard. But, you know, it's come about, of course, because of consumer demand. But, by doing it, as I said in my presentation, is the government and the MLC have this—we got to be fair, so we give to some, not to others, and then you get the inequities when you try

to do that. That's like raising a family with seven kids trying to share six popsicles, right?

* (20:30)

And you get these discrepancies. Why—I'll refer to a change that happened without having to come to hearings and presentation was, at one time, in recent memory, you could only have one drink at a time, right? And so—but people, you know, you're coming in after your baseball and you want to have two beers and then leave, you have to have actually had a sip out of your first one before you can be served the second. And, whereas, you could go to the Bomber game or the Goldeye game and you go get two. And I think the only limitation to two is most of us only have two hands. I think if we had four hands, they'd sell you four.

So I think there's a need to review the licences. They've been making a lot of changes in terms—some of them more—very recently, that were very good for our industry is the requirement for a dining room and the hours of operation and what it was to top rate a beverage room, where we're able to work with the liquor commission to get a reasonable compromise and that facilitated the opening of beverage rooms with food service within them.

Well, you know, we almost made a beverage room B licence out of that. So I think that should be part of looking at the broad picture of the regulator, the policy maker, the enforcer, the retailer, competition. It's a big puzzle.

Hon. Gord Mackintosh (Minister charged with the administration of The Liquor Control Act): Thanks, Mr. Baker, for your strong leadership and partnerships with MLCC and, indeed, the government. The period of time that I've known you, you've really represented your members well.

We know that in the weeks and months ahead we have a lot of work to do, rolling up our sleeves and getting down to work with the regulations, and so we look forward to continuing and solidifying that work as we go ahead. I know you'll represent the interests, again, of your membership well.

In terms of the interests of hotel—the hotel sector in Manitoba, I think it's a proud attribute of Manitoba's liquor control regime, that the support of hotels has been one of the fundamentals. I don't think you see that kind of support for hotels through the liquor control regime in other jurisdictions in this country. But we've got to continue to build on that.

They are great entrepreneurs, and they provide great local service and in many ways.

As we proceed with the boutique pilot, the interest, I can assure you, is customer convenience. That will be the key test in terms of location of that one. So we'll fine-tune the criteria and make sure, then, that that remains paramount and that we not unfairly prejudice any of the stakeholders that are so important to the hospitality sector.

Mr. Chairperson: Mr. Baker, did you wish to comment?

Mr. Baker: Yes, and briefly. And I thank you for your comments and want to indicate that you're certainly ready to work with whoever to make this balance work very well. We're very concerned about customer service. That's the business we're in, as are the other liquor licensee operators, and I think the involvement of all of the variety of liquor licence operators in an attempt to provide better customer service or increase customer service or convenience to the public can be achieved with work, both the public and private sector.

Mr. Chairperson: Thank you very much for your presentation, Mr. Baker, and for answering the questions.

Mr. Baker: Thank you.

Mr. Chairperson: Next presenter I have on the list for Bill 41, The Liquor Control Amendment Act, is Marty Gold, private citizen.

Good evening, sir, do you have a written presentation?

Mr. Marty Gold (Private Citizen): No, I do not.

Mr. Chairperson: Please proceed when you're ready.

Mr. Gold: I'd like to first say hello there, Mr. Chairman. It's like the only time I ever get to see you anymore after 20 years of knowing you is when I appear every five years at a committee hearing. But you look well, and I recognize, of course, a number of the other faces here at committee and spoken about many of you and had the opportunity to meet some of you in the past.

I speak here tonight based on my experience, not only in four years of open-line radio with The Great Canadian Talk Show, but also previous to that when I've worked for many years in the Winnipeg taxicab industry, including as a labour representative and dispatcher at Duffy's Taxi, as well as my experience

in the bar industry under the late Chuck Green and Dave Green and Coleman Green at the Osborne Village Inn, which I've had the opportunity off and on, and now, again, having been called out of retirement after the passing of Chuck Green to function as a manager's assistant. In the past, I've worked as a deejay in the bars, in the vendors, spent one lovely summer of '97, I think it was, in the vendor as well as the front desk. So I'm very familiar with the operations of hotels and of the off-sales, as well as in the transportation end of things.

I want to compliment some of the previous presenters, Mr. Jocelyn and Mo Razik and Mr. Marling and Mr. Baker, because I think they've raised some very important points that have not necessarily come out in the course of mainstream media coverage or some of the other discussions that I know that you members of the Legislature will take to heart and take very seriously.

I'm surprised at the number of observations that have been made with regards to this increasing problem of the Liquor Commission being both regulator and competitor to private industry, and I think that this is something that, perhaps, has been building for some time over a number of years, but it is clearly becoming a pressure point. I'm not going to focus on that in my presentation, but it's very clear that members from all parties are going to have to think clearly and concisely about how to ensure that there is a balance between the dependence of government on these kinds of revenues and the need to ensure that private industry is not put out of business by the natural tendency of the Liquor Commission to want to please government.

When I heard the announcement of the modernization of these liquor laws last month, I, of course, noted that the mainstream media focused on the easy stuff, you know, streeters asking people, won't it be great to bring wine to a restaurant, and don't you think it's good to buy a case of beer at the supermarket, and the what-to what Mr. Mackintosh's remarks about wanting to make things more convenient for the average consumer—and I want to make clear, I am not known as a drinker, so I have no skin in this game. It's understandable, and there has been much criticism levelled at this province through a variety of governmental regimes over the decades that this province has lagged, perhaps, behind other places when it comes to ease of access to alcohol, et cetera, and availability and such. And I well remember when Sundays were dry here as well.

Now, some of the issues that have been brought forward to me and that I have identified, I wanted to share with you now, some of which have been touched on by other presenters, and one, in particular, has not been; it seems to have gone under everybody's radar, but it is a very serious aspect that touches on public safety. There is, of course, the concern that I've heard voiced from hoteliers that I know that the pilot project with regards to new initiatives by the Liquor Commission to establish grocery store kiosks, et cetera, that this will cut into the sales at vendors. And, ultimately, what a lot of people look at in the hotel industry, that from the worker end is and from the management end is, that for every job that might be getting created in a Liquor Commission environment, there is the potential for a job to be lost in the private sector.

In other words, if those sales at the vendor go down because sales are going up somewhere else, ultimately, one of the managers of the hotel has got to look at the schedule and look across the counter at some kid trying to put himself through university or somebody working part-time to feed their family, and figure out who's about to lose hours or who's going to lose their job. And this is a consideration that should not be easily dismissed by members of this House, that every job in a vendor—nobody schedules extra hours in a vendor because they just want to have extra people working; it's there for a reason, and it's there because the volume and the demand—the customers lined up out the door late at night on a Saturday or whatever—justifies that job being there. And it should be carefully considered that there is a balancing act where there could be the unintended consequence of costing jobs of people that are making, you know, basically, \$10 an hour and tips, and who need that job and who count on those extra hours on a Thursday night, a Friday night, a Saturday night.

The question of this get-tough expectation on licensed premises has also been raised with me. The provision in the revisions of the act that a licensee shall not permit disorderly persons to be in the licensed premises or in the immediate vicinity outside the licensed premises. Let me give you a real life example so you can grasp the kind of problem that could occur, and perhaps figure out how this should be addressed by legislators or by bureaucrats. Somebody stumbles down Osborne going from Roslyn up to Confusion Corner. They stumble past the front door of the Osborne Village Inn. Now, in between the front door and where they're stumbling

is a fence, but they're right on the sidewalk in front of the hotel. And, immediately, when this provision was raised in discussions around the hotel a couple of weeks ago, the question was asked—this was reflected by one of the earlier speakers—what is the vicinity? And there is genuine concern, and I'm sure that outside of the operators of the Osborne Village Inn that there are other hoteliers that share the concern—not just hoteliers, but owners of licensed premises—that in an area where you have a number of licensed premises, you can have somebody who maybe hasn't even had a drink in one of them, who might be bombed from being from, you know, drinking at home or pill popping—and there is a lot of pill popping going on out there, which is exacerbated by alcohol—and if they wander past your front door, even if they're on the sidewalk, there is a concern that you're going to get fingered as somehow having a responsibility for this inebriate walking past your front door and starting an incident or relieving himself on the sidewalk or whatever.

*(20:40)

Now, the other concern, which was also voiced earlier, is—and it's a very, very deep concern in the hotel industry, I assure you, because I know many, many individuals from different walks of life—students, professional wrestlers and everybody in-between who work as so-called bouncers, security personnel at a variety of clubs around town, including the Exchange District. They are safest when they're inside the building. And, although I understand very well from doing talk radio and hearing from people about noise from, you know, be living in a neighbourhood where there's bars and licensees and disturbances at three and four in the morning in back lanes—and I understand that.

However, there has to be some very carefully thought-out parameters and liabilities here because, when you send one person out your door to go see what's going on at the back end of your parking lot or behind your vendor, that security guard, who may be full of vim and vigour and in his 20s and have no fear, that is a risk that they are taking. And the minute you say, well, you can't be a single worker working alone going behind the vendor to check out what the hooting and hollering and the firecrackers are, and you send a second security guard with them, you now have two less security personnel inside the building to tend to the customers who may or may not become unruly or be unruly. And there's a limit to how many security personnel you as legislators or the liquor commission can expect a licensee to

employ, and there's a limit to how much responsibility can be put on licensees for this amorphous-vicinity concept around their facility.

Certainly, I can accept that you have customers. They're a little unruly. Time to go home. They go to the parking lot. They start raising a ruckus, and it's on your property in your parking lot. I can understand the concept of responsibility for that and of wanting to get people—well, if they can be behind the wheel, you know, I grant you that.

But the question was raised earlier this evening that I had not thought of in these terms, about line of sight is very important. And I am concerned about the liability of people that I supervise, of people that are my friends at other bars, about their risk in putting this responsibility on the licensees about the so-called vicinity. There is a point at which it's the job of the police, or maybe cadets, and not the job of 10- or 12-dollar-an-hour security guards, or of the licensees.

I'm not saying that I know the solution. But you have to carefully consider that problem because nobody wants to see a tragedy occur when, in the belief that they're enforcing the requirements of the legislation, somebody who works in security leaves the premises, does not have the protection of line of sight with, you know, four or five other staff members or a bartender who could, if need be, you know, wield an emergency device at a moment's notice. And somebody's going to get clobbered and end up in the hospital, and nobody wants to see that happen.

The most troubling reform that I wanted to address was this extension of social hours to match that of licensed premises. This is fraught with peril and needs to be reconsidered. Anyone who's tried to call a taxi in Winnipeg in the last, I'd say, four months—and I'm one of them—will tell you that at closing time on a Saturday, it is taking up to 90 minutes to get a cab. Some cab companies don't have any cars booked in the area. In this area here, if you took a compass and went about a two-mile radius from this Legislature, good luck getting a cab from a party over on Langside or up here on Assiniboine or over on Roslyn, or even south of Confusion Corner.

If this legislation passes as is and the closing time for socials is the same as bars, you are now taking the load of the taxis usually take between one and two, and you are lumping it in in the same time period where the demand is for service from the established liquor outlets, from the established

licensees, rather. Now, you're going to have a situation where, in the dead of January, people are going to be at social halls 'til four in the morning waiting for a cab.

But, unlike waiting for a cab at the Osborne Village Inn, where you can wait in the lobby and be inside and safe, at a social hall the caretaker puts the pickles in the jar, puts the empties in the corner, locks the door. Are people going to drive home—choose to drive home when intoxicated because they know they won't be able to get a cab—and, remember, there is no bus service in Winnipeg after 2 a.m.—or, even worse, are they going to decide to walk home? And this is a very real consideration, I think, has escaped the attention of people that were preparing this. The deli platters at socials go out at 11:30 or midnight for a reason. It's to help people to sober up so they leave at 1.

Now, I bumped into Andrew Swan—to conclude—I bumped into Andrew Swan at the Ellice Street Festival last Saturday. I think he was a little surprised to see me with my grandchildren, but, nonetheless, I asked him, you know, what about this thing with socials? I'm a little concerned. And I have a good relationship with Mr. Swan. And to my shock, he said, oh, this idea came from the police. They want it standardized because people were going from socials to bars. Well, that's the whole point. Now, you're going to have people drinking for an extra hour at socials, where there's no security, as opposed to sobering up a bit, deciding to go to the bar for a nightcap to round out their evening where there is security.

Now, what involvement the police did or didn't have in this proposal, I don't know. But, deejays at socials do not want to wait until 4 a.m. to get home. Bartenders at socials do not want to wait until 4 a.m. to get home. And cab companies cannot handle the extra workload that will be put upon them between 2 and 3, because they're already having difficulty serving the existing customers that are calling in those hours.

So I would ask you members of the Legislature to carefully reconsider that and think about speaking with the members in the community, the workers at the socials, the workers at the bars who may be adversely affected by what are well-intentioned revisions to the act. But, ultimately, in particular, this matter of extending the hours of socials is fraught with peril because there is no bus service and there are not enough cabs to get people home. And given a

choice between looking for trips where the bars are close together, and going to some remote social hall where the person may have popped another cab or got a ride after waiting for half an hour, cab drivers are not going to respond very well to that. And nobody wants to see any tragedies occur because of the extension of service hours at socials to 2 a.m., however well intentioned it is.

My conclusion is, there's no lobby for the social industry, and I don't know where the demand for this came from. And I think that that in particular should be reconsidered.

I thank the committee for allowing me to address them.

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

Questions for the presenter?

Mr. Borotsik: Thank you for a very lively presentation, Mr. Gold. I appreciate it.

The two points that you brought up, I think, are very important. One is the immediate vicinity, and I tried to get a definition as to what one would consider to be immediate vicinity. You have experience, obviously, in a licensed premise. If the—okay, first of all, you talked about a parking lot. Do you consider that to be the immediate vicinity of the premise itself? Would that be the immediate vicinity?

Mr. Gold: In the case of the Osborne Village Inn, where you open the back door to the beverage room and you have a direct line of sight of the parking lot, it's across the back lane. I'm not sure legally who owns the back lane. I think the hotel does. You know, it's obvious, if it's our parking lot, that should be our responsibility. I'm not speaking on behalf of the hotel, but, you understand what I'm saying. I can understand that.

But, if you take the example of some of the other places that have licenses within Osborne Village, for instance, what's it called now, Pure, across from—at crazy corners there, right on McMillan across from the Dollarama. Well, if somebody's parked in the Dollarama across the street, I'm not sure Pure should be going across the street onto Dollarama's lot to worry about a fight that breaks out there, even if it's started by people who've been having a couple at that nightspot.

Clearly, you know, like the sidewalk in front of the hotel in front of the Zoo, it's—we have a front

driveway and then there's a sidewalk, like right in front. But if somebody's on that sidewalk, and they didn't start out in our bar, why should we have any—even be seen as having any responsibility towards them?

And it is a valid concern because the police are going to walk up, or the liquor inspector, they're not going to know the difference. Some clown walks in front and says something to a girl who's, you know, who's in our driveway waiting for a taxi and an altercation can break out. It happens. We've all seen it. We've been out in social, you know, social settings. But the notion that there could be a penalty or a closure enforced against the hotel owners when the hotel has no involvement, and how could a hotel be responsible for what goes on on a city sidewalk just because it's in front of their place?

Mr. Borotsik: And that's the point I'm trying to make. If the immediate vicinity is off premise, and you talk about the sidewalk; you talk about the curb; you talk about the roadway. If it's off premise in your opinion and your experience, is there a liability to the licensee if, in fact, they try to control that off premise that's not under their jurisdiction?

Mr. Gold: As I've often said, I'm not a lawyer, but I know a few. Mr. Mackintosh would do it—and other members who'd know better than myself about the specific definition of the liability, but I can tell you that I would have a concern about the liability of any licensee for injuries sustained by their employees leaving the premises.

* (20:50)

And I don't know where that falls under workplace safety law. My instinct as a cab driver, from my experience as a labour rep in the cab industry, is that this—it creates a problem, and I'm not sure how Workers Comp would come down on sending someone off your—unless it's like a life and death emergency, okay? I'm not sure how Workers Comp would view whether a licensee, an employer would be covered, even, if something—if there would be traumatic brain injury or something, a broken arm, I mean, that's a little simpler and still horrific. I'm not sure where that liability would stand, and I don't think it's fair to ask licensees to experiment with their liability and wait till they get, you know, sued or charged or something.

Mr. Borotsik: One last question. The hours of operation with socials and bars has not been brought up earlier this evening with either the restaurant

association or the hotel association. Whether they consider that an issue or a problem, I'll find out later because I'm sure they'll have some opinions.

Your concern, more so, is with transportation. If you allow both of them to come out at the same time, you now have a large congestion of individuals who are trying to get away from the premise at the same time. It's also another issue, I think, with the hotel association, that it used to be that when the social shut down, those people would then move over to the bars and the hotels. But is it not the same number of people? I mean, is—would you not still have the same number if, in fact, they moved from the social to the bar? One and one equals two. Or a lot of the people from the socials would then go home at 1 o'clock. Would that normally happen?

Mr. Gold: My own experience, both in the transportation industry and as somebody who's been dragged to the odd social, is that a lot of people, you know, it's 1 o'clock and they don't bother going to the bar after. They might go home to a house party or something. But now they're going to be, in essence, encouraged to hang around with their friends and family for that extra hour and keep knocking them back. I just—I, you know, the only beneficiary of that kind of a change in policy would be the purported bride and groom, let's say. You know, so they pocket a few more dollars, but I don't see that there's a bride and groom association that said, we need to make money out of an extra hour of booze sales at our socials. And I think that this, in fact, encourages—it encourages additional alcohol consumption. I can tell you, having been a deejay, and been a—I've bartended too, you know, socials are generally lighter hearted than bar environments. You don't really have, you know, the kinds of—the sense of danger, attentions or whatever, but stuff can still break out; we've seen it.

And I can tell you, you know, as a deejay, it's no fun dealing with people from 1 to 2 when they're more liquored up and you don't—you can't play that Alan Jackson song because country music doesn't fit. And I just think that there's the potential of stuff that goes on. I think there is the potential for more conflict at socials the longer you have people there drinking, and I don't think I'm being unfair in that suggestion.

Mr. Gerrard: Just to cover this ground and the concern about the social. I mean, you mentioned that there's no demand for longer social hours. We haven't seen any presenter yet who's come forward

wanting this. I mean, is there any good reason to extend the social hours to 2 o'clock?

Floor Comment: You know, I've thought about—

Mr. Chairperson: Mr. Borotsik—or, Mr. Gold, sir.

Mr. Gold: Whoever you want me to be, Mr. Reid.

Mr. Chairperson: Sorry. Yes, I mixed you up.

Mr. Gold: I'll be moving to Brandon next week. *[interjection]* No problem.

I've thought about this, Dr. Gerrard, from a number of different angles when I first heard it announced. I mean, that was actually the first thing that I caught was extending the standardized hours and extending the hours of socials, because I see all these young, green reporters out there yacking about this like this is a good idea, and I immediately thought they don't know what they're talking about because it's not that good of an idea.

I can understand the logic that a bureaucrat would see at, oh, well, we should have the same opening times, the same closing times, cut red tape, make it standardized. I can understand how somebody out there with no real life experience would think this is a brilliant idea. But anybody who's worked in the service industry or who's worked in the—whether it's in the liquor side of things or the entertainment side of things, the event management side of things or in the taxi industry, cannot look at that like it's a good idea. You, as I said, you end up with increased liquor consumption at the socials with a—unmanageable increased demand on taxis and no bus service that can even begin to alleviate it. And, at the very least, at the very least, not that I think it would happen, I would have hoped that somebody would have thought we should talk with the City of Winnipeg about extending bus service on Fridays and Saturdays till 3 a.m. Never mind, you know, dealing with the union and everything else, but, like, it's like this hasn't even dawned on anybody. How are these people supposed to get home? And, if they're more liquored up, if they're more riled up, the frustration—I know from driving cab for 15 years, and my father drove before me for many years before his death—you know, the more—longer people wait, especially if they've been drinking, the more riled up they get, and it creates a difficult situation for the drivers who pick somebody up. They're frustrated. They've waited 90 minutes. The babysitter's late and, then, you know, the cab driver ends up in a very difficult situation.

The other thing is, most cabs change shift between three and 4 a.m. They get that bar rush, a couple of last trips and they fuel up. They go and get the other driver, and when you increase the number of trips out there, it becomes less predictable where the driver's going to end up. And it's just creating more demand when, in fact, if it's stretched out to get those services calls out 'til 4 a.m., you actually have fewer and fewer cars available, fewer and fewer cabs available to serve those trips. And adding more taxis will not solve the problem because you need drivers behind the wheel of the taxis, and there's already a shortage of drivers for taxis in Winnipeg, so that won't solve it. So I don't see any rationale to increasing the social times. I wish I did; I just don't see it.

Mr. Chairperson: Thank you, Mr. Gold, for your presentation here this evening and for answering the questions.

Mr. Ron Schuler (Springfield): One quick question?

Mr. Chairperson: Is it the will of the committee to allow—we're considerably passing on of time. Is there will?

An Honourable Member: One question.

An Honourable Member: One very quick question, Mr. Gold.

Mr. Chairperson: Mr. Schuler, you have to wait for the Chair to recognize you first, sir.

Mr. Schuler, with your question, please.

Mr. Schuler: One quick question. When are we going to get you back on the radio?

Mr. Gold: Thank you for permitting to answer the question. There will be some surprises coming out in the next couple of weeks with regards to some documentation that's been filed that reveals that there's some very different stories going on about what was behind it. The removal—I would hope that, at some point, a commercial station would recognize the value that the kind of work that we have done brings to the community and, in fact, a political dialogue for members of all parties. And Mr. Mackintosh appeared on my program in the past, as a number of people to my left, but if the nature of the marketplace—*[interjection]* Pardon me?

An Honourable Member: To your right.

Mr. Gold: To my—well, yes, to my right. I'm moving to Brandon.

But you know what, it could—it's entirely possible that I might be in for a career change one way or the other, but if called, I will serve in the radio industry in any way I can in terms of ensuring there is dialogue in this community, including appearing at committee here at the Legislature.

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

Mr. Gold: Thank you very much.

Mr. Chairperson: Next presenter I have for Bill 41, The Liquor Control Amendment Act, is Fred Curry, private citizen.

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

Mr. Fred Curry (Private Citizen): I do, Mr. Chair.

Mr. Chairperson: Just give us a moment and we'll circulate.

Please proceed when you're ready, Mr. Curry.

Mr. Curry: Thank you, Mr. Chairman. The presentation is only two pages. There's six pages of supplementary material with links. What drew my attention to this—the series of amendments was the—what you're calling boutiques, which I'm going to refer to as premises which permit or sell liquor to permit consumption off-site. I have a particular concern about those, but a general concern about—and mostly about location, so I want to be clear. I'm not saying I'm trying to eliminate or reduce sale or consumption of liquor in public places. I just have concern about where it's done and so, of the two pages, I'll cut it down and just target the high points, take a few minutes.

So the key words are neighbourhood safety, child protection, crime reduction. And, reading the literature on this, you could add public health as well. As many as 80 per cent of persons convicted of criminal offences in jurisdictions in North America were under the influence of alcohol at the time of—they committed their crime.

In Canada, according to the parliamentary committee that discussed this, the figure is over 50 per cent. If you talk to the police here, they think that number is low, but what everybody agrees on, that high percentages of violent crime, whether it's sexual or non-sexual, the perpetrator has been drinking at the time they committed their offence. Given that, it shouldn't surprise us if places that sell liquor for public consumption and the areas around

them are at higher risk of crimes of violent aggression.

* (21:00)

Now, the risk is higher for people who are drinking, but it's increased for people who just live in the neighbourhoods around. The data show this. The data on violence include what we call lounges, cabarets, beverage rooms, vendors, sites permitting sale of liquor for consumption off-site. They don't include dining room licences. What we call dining licences—licensed restaurants—not included in this data.

Now, in addition to if you're living in the neighbourhood around one of these premises, in addition to being at a risk of violence, you also have to put up with public urination, defecation, sex, theft, vandalism, and there's just a risk of what's called common assault. This is also documented.

In addition, what are called sexually oriented businesses on their own increase the risk of violent crime and especially of violent sexual crime. So a bar that has a sexually oriented business in it is a doubly increased risk of violent sexual and violent non-sexual crime. The risk of sexual corruption and sexual harassment that's peculiar to sexually oriented businesses extends into the neighbourhoods around these businesses and includes children, that that particular problem was documented in the *Free Press* this summer just down Broadway here. It happens around other SOBs too. If you talk to people living in the neighbourhood or talk to the police, they get complaints about this, so it's a problem.

Now, in US, sexually oriented businesses that also serve alcohol are doubly regulated, both as sexually oriented businesses and as bars, and I've included a couple of the bylaws on pages 5 to 7 of the document, Tampa Bay and Los Angeles. And the last time I did extended research on this, the only state—Oregon was the only state in the Union that didn't have many municipalities regulating sexually oriented businesses. The Supreme Court of Oregon found that the attempt to regulate was unconstitutional for the Oregon constitution.

The City of Winnipeg has used the mention of adult entertainment that occurs in licensing regulation 177/94, section 15.1, as a reason to exempt any premise licensed by the Manitoba Liquor Control Commission from regulation by their watered-down version of the adult use bylaw, which means, if you have a liquor licence, you can have a

sexually oriented business in your premises without having to be licensed by the City or regulated by the City in any way.

Mr. Chairperson, having children in surrounding neighbourhoods—if you're familiar with the locations of sexually oriented businesses in Winnipeg, it looks like having kids in the neighbourhood surrounding your business is good for business because that's where most of them locate.

Now, so when you license off-site liquor sales, what you're calling boutiques, you will be extending the exemption that the City has granted sexually oriented businesses to those new premises. Now why would anybody want to have a sexually oriented business in their place of business? There's a lot of money in this, right. It's legal and there's a ton of money involved in it. That's why you would have it.

So what to do? Well, the first thing is stop looking just at what goes on inside the premises. We do this in Manitoba. We do it in Winnipeg. The City does this and the Province does it too. We look at—just one of the regulations that people have been talking about in this new amendment actually is going beyond the doors of the premises, probably in an unreasonable way, but look outside in the surrounding neighbourhood. The data supports that there are problems in the neighbourhood created both by bars and by sexually oriented businesses. No more cabarets, lounges, beverage rooms, vendors, or sites permitting off-sale consumption of liquor within a thousand feet of residential buildings, churches, community centres, day cares, schools, hospitals, et cetera. Just don't grant licences, liquor licences for places in those areas.

Amend the liquor licensing regulation 177/94, which I include on the bottom of page 8 of my presentation. Amend that to include the definition of both specified anatomical areas and specified sexual activities as they appear in those US exemplars, and virtually every jurisdiction in United States, hundreds and hundreds and hundreds of municipalities use these definitions because they've been to the Supreme Court in the US a couple of times. *[interjection]*

I'm not here. And, at the moment, the City's bylaw and your regulation only mention the anatomical areas, so there's an open door here. It's not even good music.

Mr. Chair, swingers' clubs are now legal in Canada, and if the various legal challenges to the

laws regulating—criminal laws regulating prostitution aren't overturned, you're going to have legal prostitution. You're going to have sexually oriented businesses all over the place, and you're not going to be able to regulate them.

So change your regulations; you'll be covered. Amend the liquor licensing regulation 177/94 so that no licence shall be issued to premises, and I'm talking about if they have an existing licence with an adult business. You pull it; no licence to premises that sponsor adult uses, as redefined, that are located within 1,000 feet of churches, schools, community centres, daycares, residential hospitals. I'm including cemeteries in this too. If you talk to people who manage cemeteries that are close to bars, it's a problem. And, if you don't want to shut down existing problem bars that are too close to the list of protected uses that I'm mentioning, you might consider capping their hours and the amount of liquor that's sold in those premises in order to protect the neighbourhood.

Now, I have to mention, usually, when I make these sorts of presentations, my friend, Harry, is with me. He can't come; as you know, he's dead. But that last No. 4, that was his idea. So that's his contribution to this sitting.

So now, in addition to this—I'm done my presentation—I have three CDs; one for each of the parties, if you're interested, that has this presentation with the links on it that are active. If you notice, some of those links are a little long. If you're interested in researching and you sure don't try typing them, you can just click on them here. I have two of the best studies that were done in the United States on sexually oriented businesses, the one in Austin and the one in Indianapolis, burned on here, and I have seven papers examining the geo-spatial aspects of violence and liquor premises of the kind mentioned here.

Thank you, Mr. Chairman.

Mr. Chairperson: Thank you, Mr. Curry, for your presentation. If you will just hand over the CDs to folks, and then we'll circulate to committee members.

The floor is open for questions for the presenter. Any questions, comments?

Mr. Gerrard: Yes, thank you for your presentation. And, you know, it's good to see a presentation which uses a lot of carefully done research. And, in terms of what you're recommending is that an addition to this bill that would look at or make some regulations

with regard to the geographic location of liquor locations that dispensed or that had liquor that was sold for off-site uses would be a central part of what you would suggest would be in the law. Is that what you're saying?

Mr. Curry: Yes. You want to have regulations that protect neighbourhoods that are at risk. I mean, I'm not suggesting that you can eliminate the risk, right? People—when you have places where people drink or buy liquor to drink, there's going to be violence. I'm saying, make sure that you don't locate the places that are central to this violence close to areas where you have civilians and people who aren't involved in the drinking or the purchasing of the drinking, subject to violence.

Mr. Gerrard: Thank you.

Mr. Chairperson: Any further comments or questions from committee members? Seeing none, thank you, Mr. Curry, for your presentation. Thank you for coming out this evening, sir.

That concludes the list of names I have for presenting on these public bills.

Are there any members of the public with us here this evening that wish to make a presentation on bills 17, 35, 39, 40, 41 or 43?

Seeing none, that will close public presentations on these bills and we'll now proceed to clause-by-clause consideration of the bills. And, if it's agreement of the committee, we'll proceed in numerical order, starting with Bill 17. Is that agreed? *[Agreed]* Thank you.

Bill 17—The Cooperatives Amendment Act

Mr. Chairperson: Does the minister responsible for Bill 17 have an opening statement?

Hon. Gord Mackintosh (Minister of Family Services and Consumer Affairs): No.

Mr. Chairperson: Does the critic for the official opposition have an opening statement? Mr. Pedersen.

Mr. Blaine Pedersen (Carman): No.

Mr. Chairperson: No? Then we'll proceed with clause by clause, Bill 17.

* (21:10)

Clauses 1 and 2—pass; clauses 3 and 4—pass; clauses 5 through 9—pass; clauses 10 and 11—pass; clause 12—pass; clauses 13 and 14—pass; clauses 15 through 17—pass; clause 18—pass; clause 19 through

21—pass; clause 22—pass; enacting clause—pass; title—pass. Bill be reported.

Thank you to members for your work on Bill 17.

Bill 30—The Change of Name Amendment Act

Mr. Chairperson: We'll now proceed with Bill 35–30, pardon me.

Does the minister responsible for Bill 30 have an opening statement?

Hon. Gord Mackintosh (Minister of Family Services and Consumer Affairs): No.

Mr. Chairperson: No. Does the critic for the official opposition have an opening statement?

Mr. Pedersen? No?

We'll proceed with clause by clause on Bill 30.

Clauses 1 through 3—pass; clause 4—pass; clauses 5 through 8—pass; clause 9—pass; enacting clause—pass; title—pass. Bill be reported.

Thank you to members of the committee for your work on Bill 30.

Bill 35—The Consumer Protection Amendment Act (Cell Phone Contracts)

Mr. Chairperson: We'll now proceed with clause-by-clause consideration of Bill 35.

Does the minister responsible for Bill 35 have an opening statement? No.

Does the critic for the official opposition have an opening statement?

Mr. Blaine Pedersen (Carman): Yes, just very briefly, Mr. Chair.

I hope that when the—assuming this bill passes third reading and you get into writing regulations, that the government takes into account the concerns brought up by both the MTS representative here tonight and also the Canadian Wireless Telecommunications Association. They did have some concerns, and just hope that the government takes those into account when they're writing the regulations. Thank you.

Mr. Chairperson: Thank the honourable member for the opening statement. We'll now proceed with clause-by-clause consideration of Bill 35.

Clauses 1 and 2—pass; clause 3—pass; enacting clause—pass; title—pass. Bill be reported.

Thank you to members of the committee for Bill 35.

Bill 36—The Adult Abuse Registry Act and Amendments to The Vulnerable Persons Living with a Mental Disability Act

Mr. Chairperson: And we'll now proceed with Bill 36, clause-by-clause consideration.

Does the minister responsible for Bill 36 have an opening statement?

Hon. Gord Mackintosh (Minister of Family Services and Consumer Affairs): No.

Mr. Chairperson: No.

Does the critic for the official opposition have an opening statement?

Mrs. Bonnie Mitchelson (River East): No.

Mr. Chairperson: We'll proceed with clause by clause.

Clause 1—pass; clause 2—pass; clauses 3 through 8—pass; clauses 9 through 16—pass; clauses 17 through 21—pass; clauses 22 and 23—pass; clauses 24 through 26—pass; clauses 27 through 30—pass; clause 31—pass; clauses 32 through 35—pass; clauses 36 through 38—pass; clauses 39 and 40—pass; clause 41—pass; clauses 42 and 43—pass; clauses 44 and 45—pass; clause 46—pass; clause 47—pass; clauses 48 and 49—pass; table of contents—pass; enacting clause—pass; title—pass. Bill be reported.

Thank you to members of the committee for Bill 36.

Bill 39—The Grieving Families Protection Act (Various Acts Amended)

Mr. Chairperson: Now proceed with Bill 39, clause-by-clause consideration.

Does the minister responsible for Bill 39 have an opening statement?

Hon. Gord Mackintosh (Minister of Family Services and Consumer Affairs): No.

Mr. Chairperson: Does the critic for the official opposition have an opening statement?

Mr. Ron Schuler (Springfield): Yes. Thank you very much, Mr. Chairman. And years ago I was officiating at a funeral here in the city, and one of the attendants came up and said that they've had vandalism when it came to tombstones to their cemetery and that the act had not been amended for

over 100 years. So I brought forward a private members' bill and, certainly, started the whole debate. Wasn't one of the minister's finer moments in the House. His reaction was less than becoming of a minister. But that, I guess, defines a lot that goes on in the Manitoba Legislature.

I think, in the end, we do have a piece of legislation that does recognize there had to be an update on the kinds of things that were in legislation. Hundred years is probably a long time to not have changed legislation. Minister certainly took some of the items out of the bill that I put forward and improved on them when he added restitution in, and I think that's also important.

And, although you will find a lot of this in other areas of law, I think it's very important to recognize that we should honour those who've gone before us, and desecration of funerals is a despicable act. And the fact that the legislation is now going to be updated is a good thing.

And, of course, the legislation does more than that and deals with other things as well. And, in the briefing, I had an opportunity to speak to the minister and his—to his department, and I think all the changes are warranted. From what I can see, the various associations were consulted with and all had ample opportunity to come forward, and I guess they were busy and couldn't make it.

But this is legislation that has been a long time in coming. I think a hundred years is about as long as you should have to wait to have the act renewed. So, with that, let's see this bill go on to third reading.

Mr. Chairperson: I thank the honourable member for the opening statement.

We'll now proceed with clause by clause of Bill 39.

Clauses 1 and 2—pass; clause 3—pass; clauses 4 through 9—pass; clauses 10 through 12—pass; clauses 13 through 15—pass; clauses 16 through 18—pass; clauses 19 and 20—pass; clause 21—pass; clauses 22 and 23—pass; clauses 24 through 26—pass; clauses 27 and 28—pass; clause 29—pass; clause 30—pass; clauses 31 and 32—pass; clauses 33 and 34—pass; clause 35—pass; clause 36—pass; enacting clause—pass; title—pass. Bill be reported.

Thank you to members of the committee for Bill 39.

* (21:20)

**Bill 40—The Condominium Act and Amendments
Respecting Condominium Conversions
(Various Acts Amended)**

Mr. Chairperson: We'll now proceed with clause-by-clause consideration of Bill 40.

Does the minister responsible for Bill 40 have an opening statement?

Hon. Gord Mackintosh (Minister of Family Services and Consumer Affairs): We do have one amendment here, just to ensure some better flexibility. It's at 185(3).

Mr. Chairperson: Does the critic for the official opposition have an opening statement?

Mr. Blaine Pedersen (Carman): Again, I just want to register a bit of a protest on this one. When you bring forward a bill of this size, there's always the concern that there are unknown quantities in it. At this late hour of the session, I think that this is—a government that's been in power as long as they have should have known what they were doing. This bill could've been brought in a long time ago, earlier in the session, so that we would've had adequate time to look at all parts of this bill.

Mr. Chairperson: Thank the critic of the official opposition for the opening statements.

We'll now proceed with clause-by-clause consideration of Bill 40, and, due to the structure of this bill, the Chairperson would like to propose the following order of consideration for the committee's consideration.

With the understanding that we will stop at any particular clause or clauses where members may have comments, questions or amendments to propose, and, therefore, I propose that we call the bill in the following order: schedule A, pages 3 to 200—209. It's a big bill. Called in blocks conforming to 21 parts of schedule A.

Schedule B, pages 210 to 215, called in blocks conforming to pages; schedule C, pages 216 to 223, called in blocks conforming to pages; schedule D, pages 224 and 225, called in blocks conforming to pages; and schedule E, pages 226 and 227, called in blocks conforming to pages.

Clauses 1 through 6 of this bill, pages 1 and 2, called in blocks conforming to pages; the table of contents of schedule A; the enacting clause and the bill title.

Is agreed—is this agreed as an appropriate order in which to call? *[Agreed]* Thank you.

We will then begin with the 21 parts of schedule A, pages 3 through 209. Parts 1, pages 3 to 10. Clause 1 of schedule A—pass; clauses 2 and 3 of schedule A—pass.

Part 2, pages 11 to 31. Clauses 4 and 5 of schedule A—pass; clauses 6 and 7 of schedule A—pass; clauses 8 through 10 of schedule A—pass; clause 11 of schedule A—pass; clause 12 of schedule A—pass; clause 13 of schedule A—pass; clauses 14 and 15 of schedule A—pass; clause 16 of schedule A—pass; clause 17 through 20 of schedule A—pass; clause 21 through 24 of schedule A—pass; clauses 25 and 26 of schedule A—pass; clauses 27 and 28 of schedule A—pass; clauses 29 and 30 of schedule A—pass; clause 31 of schedule A—pass.

Part 3, pages 32 to 35. Clauses 32 through 37 of schedule A—pass; clauses 38 through 41 of schedule A—pass; clauses 42 through 44 of schedule A—pass.

Part 4, pages 36 to 51. Clauses 45 and 46 of schedule A—pass; clauses 47 and 48 of schedule A—pass; clause 49 of schedule A—pass; clause 50 of schedule A—pass; clause 51 of schedule A—pass; clauses 52 and 53 of schedule A—pass; clause 54 of schedule A—pass; clause 55 of schedule A—pass; clauses 56 and 57 of schedule A—pass; clause 58 of schedule A—pass; clause 59 of schedule A—pass; clause 60 of schedule A—pass; clause 61 of schedule A—pass.

Part 5, pages 52 to 63. Clauses 62 through 64 of schedule A—pass; clause 65 of schedule A—pass; clause 66 of schedule A—pass; clauses 67 through 70 of schedule A—pass; clauses 71 and 72 of schedule A—pass; clause 73 of schedule A—pass; clauses 74 and 75 of schedule A—pass; clauses 76 and 77 of schedule A—pass; clause 78 of schedule A—pass; clauses 79 and 80 of schedule A—pass; clauses 81 and 82 of schedule A—pass; clause 83 of schedule A—pass.

Part 6, clauses 84 and 85 of schedule A—pass; clauses 86 through 98 of schedule A—pass; clauses 99 through 113 of schedule A—pass; clauses 114 through 130 of schedule A—pass; clauses 131 to 136 of schedule A—pass.

* (21:30)

Part 7, pages 92 to 107. Clauses 137 through to 142 of schedule A—pass; clauses 143 to 156 of

schedule A—pass; clauses 157 to 166 of schedule A—pass.

Part 8, pages 108 to 113 of the bill. Clause 167 of schedule A—pass; clauses 168 of schedule A to 170 of schedule A—pass.

Part 9, pages 114 to 123 of the bill. Shall clauses 172 to 178 of schedule A pass?

Some Honourable Members: Pass.

Mr. Chairperson: Clauses 171 to 178 of schedule A are accordingly passed.

Clauses 179 to 184 of schedule A—pass.

Part 10, pages 124 to 130 of the bill. Shall clause 185 of schedule A pass?

Mr. Mackintosh: I move

THAT Clause 185(3)(b) of Schedule A of the Bill be amended by adding ", to the extent that the coverage is available at a reasonable cost" after "costs of construction".

Mr. Chairperson: It has been moved by the Honourable Minister Mackintosh

THAT Clause 185(3)(b) of Schedule A of the Bill be amended by adding ", to the extent that the coverage is available at a reasonable cost" after "costs of construction".

The motion is in order.

Mr. Mackintosh: The amendment adds flexibility to this requirement that the condo corporations obtain insurance coverage for the additional costs beyond replacement costs of meeting current construction standards in repairing or replacing property after damage. If the cost of the coverage is not reasonable, board—the condo board—would then be able to decide not to purchase it or to purchase some limited coverage. The amendment responds to concerns that we received from the insurance industry that, although the coverage is currently available, it may not always be available at a reasonable cost, particularly for older buildings.

Mr. Pedersen: Perhaps, Mr. Chairman, the minister could just give me how is reasonable defined.

Mr. Mackintosh: Well, really, it's a decision that the condo board has to make, recognizing that it has an interest—or it has a requirement that is a duty to the condo owners. So reasonableness really is that kind of a test.

Mr. Chairperson: Any further questions? Committee ready for the question?

Some Honourable Members: Question.

Mr. Chairperson: Do you wish to have the motion reread?

Some Honourable Members: No.

Mr. Chairperson: Shall the motion pass? *[Agreed]*

The motion is accordingly passed.

Clause 185 as amended of schedule A—pass; clauses 186 through 187 of schedule A—pass; clauses 188 to 200 of schedule A—pass.

Part 11, pages 131 to 138. Clauses 201 to 205 of schedule A—pass; clauses 206 to 212 of schedule A—pass.

Part 12, pages 139 to 151. Clauses 213 to 216 of schedule A—pass; clauses 217 to 228 of schedule A—pass.

Part 13, pages 152 to 168 of the bill. Clauses 229 to 239 of schedule A—pass; clauses 240 to 246 of schedule A—pass.

Part 14, pages 169 to 175. Clauses 247 to 251 of schedule A—pass; clauses 252 through 256 of schedule A—pass.

Part 15 of the bill, pages 176 to 187. Clauses 257 to 262 of schedule A—pass; clauses 263 to 270 of schedule A—pass.

Part 16 of the bill, pages 188 to 193. Clauses 271 to 277 of schedule A—pass; clauses 278 to 284 of schedule A—pass.

Part 17 of the bill, pages 194 to 200. Clauses 285 and 286 of schedule A—pass; clauses 287 to 292 of schedule A—pass.

Part 18 of the bill, pages 201 to 203. Clause 293 of schedule A—pass.

Part 19 of the bill, pages 204 to 205. Clauses 294 to 302 of schedule A—pass.

Part 20 of the bill, pages 206 to 208. Clauses 303 to 308 of schedule A—pass.

Part 21 of the bill, page 209. Clauses 309 to 311 of schedule A—pass.

* (21:40)

We will now consider schedule B, pages 210 to 215 of the bill, for the information of committee members. Clauses 1 through 4 of schedule B—pass;

clauses 5 and 6 of schedule B—pass; clauses 7 through 13 of schedule B—pass.

We will now consider schedule C of the bill, pages 216 to 223. Clauses 1 to 4 of schedule C—pass; clauses 5 through 7 of schedule C—pass.

We will now consider schedule D, pages 224 and 225 of the bill. Clauses 1 to 4 of schedule D—pass.

We will now consider schedule E of the bill, pages 226 and 227. Clauses 1 to 3 of schedule E—pass.

We will now consider the remaining items in the bill, reverting to pages 1 and 2 of the bill.

Mr. Pedersen: Before the title, I have a question.

Mr. Chairperson: We'll now revert to pages 1 and 2 of the bill.

Clauses 1 through 6 of the bill—pass; table of contents of schedule A—pass; enacting clause—pass.

Shall the title pass?

Mr. Pedersen: Mr. Chairman, just before we get to the title, I have a question, through you, to the minister. Given that there is a number of parts of this bill, and there's regulations to be written for this bill, for different parts of the bill, and those regulations will come into force in a day fixed by proclamation, can you give me a time estimate, any sort of estimate, of how long the regulations will take? Realizing that to do all the bill—I realize there will be different parts that come in different times.

Just—and obviously I'm not holding you to it, but just some sort of sense of time.

Mr. Mackintosh: The target at this point is next spring because of the consultations needed. You can appreciate there's quite a significant requirement to engage the stakeholders and get the right balance. So that's the target.

Mr. Chairperson: Any further questions? Title—pass. Bill as amended be reported.

Thank you to members of the committee for your work on Bill 40.

Bill 41—The Liquor Control Amendment Act

Mr. Chairperson: We'll now proceed with clause-by-clause consideration of Bill 41.

Does the minister responsible have an opening statement?

Hon. Gord Mackintosh (Minister charged with the administration of The Liquor Control Act):

Yes, just—we've had some good presentations on this one and some advice that we'll certainly take into account. As well, we've had some other advice and concern, and we'll be moving an amendment just after clause 18.

Mr. Chairperson: Thank the honourable minister for the opening statement.

Does the critic for the official opposition have an opening statement?

Mr. Rick Borotsik (Brandon West): Yes, I'll be very interested to see the amendment because one of my comments was with respect to clause 18; I assume it's dealing with clause 18. As the minister's indicated, we had some very, very interesting presentations this evening with respect to Bill 41.

Just as a bit of a—to go over a couple of those, the first one that I heard, and I'm sure the minister heard, is that the consultation process with the stakeholders, perhaps, wasn't quite as—what they would've liked to have seen. However, the one clause that he talked about, which is the immediate vicinity, there's been some serious concerns about that, both legally and with WCB, as with other areas. So I think it's important that we look at definition of the immediate vicinity so that the proprietors of licensees have a little bit more confidence in what it is that they have to do under this particular bill.

The second thing is, and it was heard loud and clear from a couple of the presenters, that when you have a competitor being the regulator, it sometimes has a difficulty in developing a fairly solid relationship. There was a couple of—or at least one time there was the term used, it's the attitude of the regulator that sometimes has a difficulties with the competitions or the competitors, and that relationship needs improvement.

I believe that that relationship has improved over the last short while, but that doesn't mean that they can't improve even to a further degree. I know it's difficult, but, quite frankly, Mr. Minister, you have to appreciate the fact that you're working as a partnership in this, not simply as a regulator, and that's where this attitude has to obviously be changed to a degree.

The other issue that we heard, certainly, is the concerns that the operators have with the boutiques. It's additional competition. It takes additional revenue streams away from the private operators

right now, whether they be the wine stores or whether they be the beer vendors, and they have some legitimate concerns. I was told, during the bill briefing, that it's not the intention or the intent of MLCC to impact adversely those operators. And I was also told at that time that any of the placement of those locations was not meant to be as direct competition to those private operators at the present time.

I would like to be on the record as saying that the executive of MLCC has indicated that that's not the intent. Therefore, when placing or siting these particular locations, I'm sure that they will take that into consideration and not have an adverse effect on individuals who are certainly providing a very good service to the citizens of the province of Manitoba.

So, with those short comments, I await to hear what the amendment does have to say with respect to clause 18.

Mr. Chairperson: Thank the critic for the official opposition for the opening statement.

We'll now proceed to clause-by-clause consideration of the bill.

Mr. Mackintosh: I think it may be appropriate for me to respond to those three points if the committee will allow that. These are important points that the sector has certainly raised and the member's shown real insight, I think, into the issues in the bill.

In terms of the immediate vicinity wording, we have to remind ourselves that the existing wording is in or about the premises. That had been interpreted to mean only on the property of the licensed premises. It was, I believe, never the intent to restrict it that way. In other words, if something happens on the sidewalk outside the bar, there should be some responsibility or duty there.

The commission has dedicated itself to making sure that there are some guidance put together in consultation with stakeholders, in terms of how that will be interpreted by the licensing board. There has to be a test of reasonableness, and it's very difficult to put in place, as it was earlier. Any footage requirement, for example, it may be that across the highway in a rural area, is immediate vicinity. In the city it may be much closer. That has to be judged on the circumstances, as the court has to do any time there is some kind of a rule like that.

So the—I think with the consultation process and a new spirit of co-operation that we've seen with

Mr. Hildahl's leadership now, I think that we'll hammer that out with the affected sector. In terms of the attitude, I think I just spoke to that, and I think that's recognized by the stakeholders. We had witnessed, I think, over 20-some consultations before the release even of the strategy. I don't know how we were able to get to the—just the day before—before it became news from somebody, but it just shows you.

I think that's a testament to the spirit of co-operation and partnership that has existed, and we're seeing not just a regulator but, indeed, I think, a commission that is paying attention to the interests. Everyone does have a proprietary interest. Everyone has a, you know, they have families and they have investments and we want to make sure that everyone is buoyed by a stronger hospitality sector in Manitoba, which, I am confident, is going to happen. And I don't say just because of this bill. I would never suggest that. But I want this bill to help to lift the sector, along with increased tourism and population.

* (21:50)

On the final question, which was—

An Honourable Member: Competition, I believe. The boutiques, the boutiques—

Mr. Mackintosh: Oh, yes, the boutiques. Clearly, everyone is out to rightly guard against unfair infringement on their market share. We're seeing increased market share for certain sectors. For example, wine and red wine, for example, is seeing a marked increase. There are always ebbs and flows in terms of the different sale of products, liquor products, but we want to guard against anything unfairly impacting on people's current businesses.

We often hear arguments that are contradictory, though, where some will say, well, there should be deregulation. Some people say, well, let's move to the Alberta model. On the other hand, we'll say, but we don't want more competition, so I think what we're doing is a careful movement into a different area with the boutiques. We have—it's been recognized, I think, by some independent observers, including MADD Canada, that the way we're going in a sure-footed way is the way to go. We're going to do it in a pilot, on a pilot basis. We're going to be careful. We're going to have consultation as well in terms of how the RFP should be worded and what the criteria should be. It's important that the primary consideration should be customer convenience.

The flip side of that is, of course, is to guard against setting up boutiques right across the street from somebody that, rightfully, wants to protect a market share, but that work's going to happen. We hope that the RFPs can go out around—well, by the end of June or July, something like that.

An Honourable Member: Expression of interest.

Mr. Mackintosh: Expression of interest. So that's, again, something that will be worked on, and they'll have some further discussions with stakeholders.

So we take those points and we take them seriously, and we'll continue to listen carefully to the views of stakeholders.

Mr. Chairperson: Ready to proceed with clause by clause? *[Agreed]*

Clauses 1 through 3—pass; clauses 4 through 9—pass; clauses 10 through 12—pass; clauses 13 through 15—pass; clause 16—pass; clause 17—pass; clause 18—pass.

Shall clause 19 pass?

Mr. Mackintosh: We have an amendment at this stage as a result of some discussions with a licensee.

There is some opinion that this might be outside the scope of the bill, but I want to make the case that it should be within the scope because it's about safety. In my view, the whole foundation of The Liquor Control Act is safety, but, not to argue the point, the purpose of the amendment is to enhance safety.

Now, I can speak to the amendment, but I should move it after, if there's consent of the committee that I move it in the event that there's a scope problem.

Mr. Chairperson: Is it the will of the committee to allow this amendment to be debated? *[Agreed]*

Mr. Mackintosh: I move

THAT the Bill be amended by adding the following after Clause 18:

18.1(1) Subsection 96.1(1) is amended by striking out everything before "may conduct" and substituting "If the commission becomes aware of concerns about security at a licensed premises, it"

18.1(2) Subsection 96.1(2) is amended by adding ", such as metal detectors, surveillance cameras or devices that scan or verify the identification provided by patrons, " after "security equipment"

18.1(3) The following is added after subsection 96.1(2):

Privacy

96.1(2.1) When requiring a licensee to make changes to operations under subsection (2), the commission must have regard to privacy and it may require the licensee to take specified steps to protect the privacy of patrons and employees.

Mr. Chairperson: It's been moved by the honourable Minister Mackintosh that the bill—do you wish to have the amendment reread into the record?

An Honourable Member: Dispense.

Mr. Chairperson: Dispense. The motion would normally be beyond the scope of the legislation here, but since the committee has agreed to give consent to have this debated, I'm going to allow that consideration to occur, and subject to the will of this committee.

Mr. Mackintosh: It's come to the attention from a licensee that there's a desire for licensees from time to time to obtain a safety evaluation in situations other than when there's been a death or injury, which is currently in the law, in licensed premises. In other words, where there is an interest to protect—to prevent against disorder.

This amendment would allow a safety evaluation to be conducted when there is a concern about security in licensed premises. And, indeed, when a licensee wants to make such a—seek such an evaluation, it is only—can only be in the interest of public safety, in our view. So the commission can require changes, then, to a licensee's operations following the evaluation, including using specified security equipment.

The commission is required to take privacy, of course, into account when requiring a licensee to improve security following a safety evaluation and, indeed, I think the law of Manitoba would require such a privacy evaluation.

So I hope that clarifies the intention of the amendment. It's one that, again, was requested by the sector.

Mr. Borotsik: Just as clarification, is it the licensee who is going to trigger the inspection or is it the Liquor Control Commission who has the ability, then, to trigger that inspection?

Mr. Mackintosh: It comes from either the public or the commission or a licensee, the request.

Mr. Borotsik: Would it normally be complaint driven to the commission to then put in the inspection in that particular licensee?

Mr. Mackintosh: Well, it could be from a complaint, but it could also be from a licensee.

Right now, the legislation is rather narrow and doesn't speak to the availability of—and the security of knowing that there is an order of the commission that can be available to a licensee, then, to enforce security enhancements to a licensed premises.

Mr. Borotsik: Does the commission not have this power, currently, under legislation? Do they not have the right to go in there and do any inspections with respect to safety? They are the authority, the licensor. They have the ability to withdraw that licence at any point in time. I do know that they're fairly restrictive as to what can and cannot happen. Do they not have the current right, right now, under the legislation to go in and to put in one of those inspections?

Mr. Mackintosh: It really is an enhancement of the legal regime. It takes it a step up. It puts it into legislation, the ability to require certain kinds of safety enhancements to a licensed premise. The commission can exercise the ability to ask licensees to take certain steps, but this provides a codification of it right in the act. It provides a way for a licensee to defend any challenges that may exist to, for example, verifying identification at the door. It provides a legal basis, now clearly in law, in legislation, not just at the discretion of the commission, as a result of a hearing order. It's a codification.

* (22:00)

Mr. Borotsik: As I see it, this is not a protection for the licensee. This is another control item for the Manitoba Liquor Control Commission. Should there be an inspection, MLCC now has the ability, as codified law, the ability to demand that the licensee install other types of security equipment, such as metal detectors, surveillance cameras or devices that scan or verify. So this is not the protection for the licensee. This is control for MLCC, to be able to go into a licensed premise and have them comply with security changes that would be forced upon them. Is that not correct?

Mr. Mackintosh: The—this is for the protection of the public, but it can be at the request of a member of the public, or it can be at the request of a licensee. This amendment has been requested by a licensee.

This has come from, actually, a major licensee in Manitoba. They have asked for this so that there can be a legislative backing to their security procedures.

Mr. Borotsik: Are you saying that the licensee had no ability to put in additional security in their operation without having it codified in the legislation? I would suspect that they could go and put in cameras, they could put in metal detectors, they could put in biometrics, if they wanted to. They don't have to have it codified in this piece of legislation. Or are you saying that they can't do that? They have to have it in this legislation in order to put it in place?

Mr. Mackintosh: And I'm—I think we'd be prepared to have further briefings, too, before the bill goes to conclusion on this one, if that would satisfy the member, and he's entitled to that. But I think what we should be emphasizing is that security arrangements at a licensed premise can be, and have been, and are, challenged by members of the public, where they think that security enhancements are unreasonable or infringe on their liberties. And, quite frankly, it's not in the public interest to have an absence of legislated backing to security enhancements that are made by licensed premises.

Mr. Borotsik: The debriefing is going to be absolutely mandatory, I can assure you of that, and I would like to see the legal opinions. But the other issue, as you say, this is beyond the scope of the legislation. Why is it that you're throwing in—*[interjection]* I believe that that was the term, that it was beyond the scope of the legislation. So, if it's beyond the scope of the legislation, why is it that we're putting amendments in here that perhaps can be even challenged in a court of law?

Mr. Mackintosh: Well first, yes, the Legislature has the right to amend its legislation, but there are internal rules about scope of legislation. It's my view that it's entirely within the scope of this bill, but there are others that have a different view. My view is The Liquor Control Act is fundamentally about public safety and well-being, and that's what this amendment is about. But there are other views out there so, with a greater certainty, we've asked for approval of the committee to proceed with the amendment, which is a legislative procedure, as long as there's consent by the committee.

But—so that's the reason for it. This could do nothing but enhance the legislated authority and basis of security procedures in Manitoba licensed premises, in our view.

Mr. Borotsik: One licensee has asked for this change. Has this been—have the other licensees been consulted? Has the other stakeholders been advised that, in fact, there's going to be some changes to the security provisions within the legislation?

Mr. Mackintosh: Yes, it's our understanding there's been discussion in the industry over the last period of time, actually, not just all that recent, like not in the last few months, but over some period of time, about a court challenge to a security procedure in licensed premises. And so some debate has been going on in the sector for some time, we understand.

Mrs. Bonnie Mitchelson (River East): And, I guess—the minister appears to be very vague about the exact circumstances behind why this kind of out-of-scope amendment is needed, so I'm wondering if he could be a little more concise with us and provide a little more detail. I mean, we can't talk around in circles when we're talking about changes in legislation that are going to impact many premises throughout the province.

Mr. Mackintosh: There was—there had been an ongoing case or dispute between Canad Inns and the privacy commissioner of Canada about a security procedure, and this doesn't address all the issues that are associated with that one, but the issue arose in the context of that litigation, I understand. And, as a result of that, there was a request by Canad Inns that we put these kinds of strengthening provisions into the bill.

Mrs. Mitchelson: And, then, can the minister indicate whether this is exactly what Canad Inns wanted, or is there anything extra in here that they didn't ask for?

Mr. Mackintosh: I'm advised that there had been discussions with their counsel and they had given a thumbs up to the amendment.

Mr. Borotsik: Yes, and that's—I understand the privacy issues; I understand the security issues; I understand codifying it into the legislation. Does this have any negative implications for other operators who, in fact, will be forced by MLCC to comply with these types of security devices?

Mr. Mackintosh: The amendment, really, is about greater safety in licensed premises and whether it's at the request of the premises or a member of the public. The commission would work with the licensee and, of course, then, there can be an appeal if there was some discontent about the nature of the order.

Mr. Borotsik: That appeal would be to whom?

Mr. Mackintosh: The appeal would be to the licensing board.

Mr. Borotsik: Yes, I—a briefing's going to be necessary and, certainly, the stakeholders are going to have to be brought up to—to be informed of this. As I say, my concern, now, is not from one licensee requesting certain ability to fight a privacy issue. My concern, now, is with the other hundreds of operators that are out there that the commission, by any one individual complaining about an operation, will go in—can go in, do an inspection, and insist on having other security measures put into place. And we've got them identified here in the legislation. I can see that happening and forcing, perhaps, other operators into some substantial capital costs in order to comply to a regulation that the Liquor Control Commission wishes to put into place. That's my fear and I don't see any safeguard to this.

* (22:10)

The only safeguard, you say, is an appeal to the board. Well, the board is the board, and if the Liquor Control Commission is going to make the request or the compliance necessary the board will probably go along with the commission. So I don't see any safeguard and we may have to look at some sort of an amendment to have an appeal process put into place for any other operator if, in fact, that is a concern.

This was dropped on us fairly quickly, Mr. Minister. Obviously, there was no opportunity to not only talk to the stakeholders but to myself and have us analyze what it is. So I hate to say it but the Liquor Control Commission—I think it was said earlier tonight—one of the words in it is control. Too much control sometimes impacts and impedes commerce so those operators may well be impacted by this.

Mr. Chairperson: Any more comment or advice? No.

Is the committee ready for the question?

Some Honourable Members: Question.

Mr. Chairperson: Do you wish to have the proposed amendment reread into the record?

An Honourable Member: No.

Mrs. Mitchelson: Can I just ask a question? The minister did indicate that there certainly could be briefing on this before the bill passed or went to third

reading. Will he make a commitment today to ensure that all of the stakeholders and all of those out there in the industry are brought in and have the opportunity to have some discussion and understand what this amendment really means before this bill goes to third reading?

Mr. Mackintosh: Yes, I've already committed to a briefing on that, and as well the Hotel Association and the restaurant association will be apprised of this amendment.

Mr. Chairperson: Any more comments, questions?

Ready for the question?

Some Honourable Members: Question.

Mr. Chairperson: On the amendment 18.1—shall clause 18.1 pass?

Some Honourable Members: No.

Mr. Chairperson: The Chair hears a no.

Voice Vote

Mr. Chairperson: All those in favour of clause 18.1 passing, signify by saying aye.

Some Honourable Members: Aye.

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

Some Honourable Members: Nay.

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

Formal Vote

Mr. Borotsik: Recorded vote, Mr. Chair.

Mr. Chairperson: A recorded vote having been requested.

A COUNT-OUT VOTE was taken, the result being as follows: Yeas 5, Nays 4

Mr. Chairperson: The motion is accordingly—the clause is accordingly passed; 18.1 is accordingly passed—the amendment, pardon me, is accordingly passed.

* * *

Mr. Chairperson: Clause 18.1—pass.

Shall clause 19 pass?

An Honourable Member: No.

Mr. Chairperson: The Chair hears a no.

Voice Vote

Mr. Chairperson: Those in favour of clause 19, indicate by saying aye.

Some Honourable Members: Aye.

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

Some Honourable Members: Nay.

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

Formal Vote

Mr. Borotsik: Recorded vote.

Mr. Chairperson: A recorded vote having been requested on clause 19.

A COUNT-OUT VOTE was taken, the result being as follows: Yeas 6, Nays 4.

Mr. Chairperson: Clause 19 is accordingly passed.

* * *

Mr. Chairperson: Clause 20—pass; clause 21—pass; clauses 22 through to 27—pass; enacting clause—pass; title—pass. Bill as amended be reported.

Thank you to members of the committee for their work on Bill 41.

Bill 43—The Real Property Amendment Act

Mr. Chairperson: We'll now proceed with clause by clause of Bill 43.

Does the minister responsible for Bill 43 have an opening statement?

Hon. Gord Mackintosh (Minister of Family Services and Consumer Affairs): And we've had some dialogue with the titled insurers. They have some concerns that were expressed to the parties and, over the last several days, in terms of flexibility about witnessing documents that are titled insured. And we think that there are some good issues that they have raised and, accordingly, there's some amendments that we'll be proposing later in the bill.

Mr. Chairperson: Thank the honourable minister for the opening statement.

Does the critic for the official opposition have an opening statement?

Mr. Blaine Pedersen (Carman): Mr. Chair, and, also, I just echo the minister's statement that the issues brought up by the TIAC people are certainly

relevant to this bill, and I hope that the amendments that the minister proposes will answer those concerns brought up by those—by that group.

Mr. Chairperson: Thank the critic for the official opposition for the opening statement.

Ready to proceed with clause by clause?

Clauses 1 and 2—pass; clause 3—pass; clauses 4 through 9—pass; clauses 10 and 11—pass; clauses 12 through 14—pass; clause 15—pass; clause 16—pass.

Shall clause 17 pass?

Mr. Mackintosh: I move

THAT the proposed subsection 72(2), as set out in Clause 17 of the Bill, be amended by repealing clause (b) of the definition "transfer".

Mr. Chairperson: It's been moved by the Honourable Minister Mackintosh

THAT the proposed subsection 72(2), as set out in Clause 17 of the Bill, be amended by repealing clause (b) of the definition "transfer".

The amendment is in order.

Mr. Mackintosh: Given the concerns raised by the title insurers and, to address them, we'll give additional flexibility for consumers and financial institutions and title insurers, particularly, in our view, some people in rural and remote areas. One—it's one change, but there's a ripple effect so that there are six related amendments, most of them to this clause, all of which address that specific issue, which deals with who can witness transfers and mortgages. For example, we can develop other alternatives such as agents authorized by a financial institution, not just employees or officers. And the other one might be employees of a related subsidiary of a financial institution.

Those are just two examples, but I think we can have some further dialogue with the sector to conclude that list.

Mr. Pedersen: Just a question, then, in regards to that: under 72(2) under section 17, it says bank, credit union, any other financial institution, is that—I'm sorry, I'm not quite keeping up here. I guess it's getting too late for me in the evening, but just—other financial institutions, are they now recognized, or how are they recognized?

* (22:20)

And I think it was the terms that was used was tier 2 banks. Are they now recognized under this amendment?

Mr. Mackintosh: What it will do is set out any additional financial institutions in regulation.

Mr. Pedersen: So, when you're doing these regulations, then will you be in contact with the TIIAC group to make sure that they're at least agreeable with how your regulation will read so that it'll include companies which they deal with?

Mr. Mackintosh: Yes, there will be further consultations in terms of the wording, the proposed wording of any regulation with both TIIAC and the Bankers Association, and I understand that there has been discussions with the Bankers Association as—already.

Mr. Chairperson: Any further questions? Are you ready for the question on the motion?

Some Honourable Members: Question.

Mr. Chairperson: Do you wish to have the motion reread?

Some Honourable Members: No.

Mr. Chairperson: Dispense.

Amendment—pass.

Shall clause 17 as amended pass?

Mr. Mackintosh: I move

THAT Clause 17 of the Bill be amended by adding the following after the proposed subsection 72.5(3):

Other witnesses

72.5(3.1) In addition to the witnesses referred to in subsections (1) to (3), the district registrar may accept a transfer for registration that is witnessed by a person in a class of persons designated in the regulations.

Mr. Chairperson: It's been moved by the Honourable Minister Mackintosh

THAT Clause 17 of the Bill be amended by adding the following after the proposed subsection 72.5(3):

Other witnesses

72.5(3.1) In addition to the witnesses referred to in subsections (1) to (3), the district registrar may accept a transfer for registration that is witnessed by a person in a class of persons designated in the regulations.

The amendment is in order.

Comments?

Mr. Pedersen: So, under practical terms, when this is running, the—you'll have to make application to the district registrar to accept a class of persons designated in the regulations. Is this for each and every individual transaction, or is this again written in regulations as to who would be given. And then I'll—I am assuming that if you don't have all the different types of persons it could be, classes of persons, so then you would still have to apply to the district registrar?

Mr. Mackintosh: That wouldn't require the involvement of the district registrar. The district registrar has the ability to exempt witness requirement in very unique situations, and it may be, for example, a very remote community. But we'll make sure that there's still some checks and balances to guard against any fraud in that circumstance. But the amendment is to make sure that there's a listed—there's a list of who else could witness a signature.

Mr. Pedersen: And could you give me some examples of who that list would include?

Mr. Mackintosh: Well, I think, the—you know, the two that are most obvious and were part of the conversation that I had with the TIIAC group were agents that—not just employees or officers of a financial institution, but agents of a financial institution. And, as well, there may be a related subsidiary of a financial institution that has an employee, an officer or an agent that could do the job.

Mr. Chairperson: Any further comments?

Committee ready for the question?

Some Honourable Members: Question.

Mr. Chairperson: Do you wish to have the motion reread?

Some Honourable Members: No.

Mr. Chairperson: Dispense?

Some Honourable Members: Dispense.

Mr. Chairperson: Shall the motion pass? *[Agreed]*

The motion is accordingly passed.

Mr. Mackintosh: I move

THAT the proposed subsection 72.5(4), as set out in Clause 17 of the Bill, be amended by striking out "(3)" and substituting "(3.1)".

Mr. Chairperson: It has been moved by the Honourable Minister Mackintosh

THAT the proposed subsection 72.5(4), as set out in Clause 17 of the Bill, be amended by striking out "(3)" and substituting "(3.1)".

The amendment is in order. Comments?
Questions?

Mr. Pedersen: I'm assuming that's just the housekeeping things, because 3.1 is now added.

Mr. Mackintosh: This amendment just adds the appropriate cross-reference.

Mr. Chairperson: Any further comments or questions?

Committee ready for the question?

An Honourable Member: Question.

Mr. Chairperson: Do you wish to have the motion reread?

An Honourable Member: Dispense.

Mr. Chairperson: Dispense. Shall the motion pass?

An Honourable Member: Pass.

Mr. Chairperson: The motion is accordingly passed.

Mr. Mackintosh: I move

THAT the proposed clause 72.7(2)(c), as set out in Clause 17 of the Bill, be amended by adding "or other designated person on behalf of the financial institution".

Mr. Chairperson: It's been moved by the Honourable Minister Mackintosh

THAT the proposed clause 72.7(2)(c), as set out in Clause 17 of the Bill, be amended by adding "or another designated person on behalf of the financial institution".

The amendment is in order. Comments?
Questions?

Committee ready—

Mr. Pedersen: Just hold on. I'm trying to catch up here. 72(7)(c). Just explain what you're doing here, please, Mr. Minister.

Mr. Mackintosh: That's just being consistent in another related section. It's the same purpose. It's very narrow, but it just makes that consistent in the other section that's appropriate.

Mr. Chairperson: Is the committee ready for the question?

An Honourable Member: Question.

Mr. Chairperson: Do you wish to have the motion reread?

An Honourable Member: Dispense.

Mr. Chairperson: Dispense. Shall the motion—the amendment pass?

An Honourable Member: Pass.

Mr. Chairperson: The amendment is accordingly passed.

Mr. Mackintosh: I move

THAT the proposed subsection 72.7(3), as set out in Clause 17 of the Bill, be amended in the English version by adding the following after clause (a):

(a.1) subsection 72.5(3.1) (other witnesses);

Mr. Chairperson: It's been moved by the Honourable Minister Mackintosh

THAT the proposed subsection 72.7(3), as set out in Clause 17 of the Bill, be amended in the English version by adding the following after clause (a):

(a.1) subsection 72.5(3.1) (other witnesses);

The amendment is in order. Comments? Questions? None.

Is the committee ready for the question?

An Honourable Member: Question.

Mr. Chairperson: Amendment—pass.

Clause 17 as amended—pass; clause 18—pass; clause 19—pass; clause 20—pass; clauses 21 to 23—pass; clauses 24 and 25—pass; clause 26—pass; clause 27—pass; clauses 28 to 30—pass; clauses 31 to 35—pass; clause 36—pass; clauses 37 and 38—pass; clauses 39 and 40—pass; clause 41—pass; clauses 42 and 43—pass.

Shall clause 44 pass?

* (22:30)

Mr. Mackintosh: I move

THAT Clause 44 of the Bill be amended by adding the following after the proposed clause 195(b.4):

(b.5) for the purpose of subsection 72.5(3.1), designating classes of persons as witnesses;

Mr. Chairperson: It has been moved by the Honourable Minister Mackintosh

THAT Clause 44 of the Bill be amended by adding the following after the proposed clause 195(b.4):

(b.5) for the purpose of subsection 72.5(3.1), designating classes of persons as witnesses;

The amendment is in order. Comments or questions?

An Honourable Member: Oh, this is adding the (b.5)?

An Honourable Member: That's the regulation-making ability.

Mr. Chairperson: Honourable Minister Mackintosh.

Mr. Mackintosh: Well, this is the section that recognizes the regulation-making ability in this area.

Mr. Chairperson: Any further comments or questions?

Committee ready for the question? Do you wish to have the motion reread? Dispense?

An Honourable Member: Dispense.

Mr. Chairperson: Amendment—pass.

Clause 44 as amended—pass; clause 45—pass; clause 46—pass; clause 47—pass; clause 48—pass; clause 49—pass; clauses 50 through 52—pass; clause 53—pass; clause 54—pass; enacting clause—pass.

Shall the title pass?

Mr. Pedersen: Again, to you—Mr. Chair, to the minister. Just how long is it expected to take to get these regulations written so that persons like TIAC can continue to operate in Manitoba?

Mr. Mackintosh: Yes, the target is December 5th.

Mr. Chairperson: Any further comments? None?

Title—pass; Bill as amended be reported.

Thank you very much to all committee members for your work here this evening, and what's—the time being 10:33 p.m., what's the will of the committee?

Some Honourable Members: Committee rise.

Mr. Chairperson: Committee rise. Thank you to members of committee.

COMMITTEE ROSE AT: 10:33 p.m.

WRITTEN SUBMISSIONS PRESENTED BUT NOT READ

Re: Bill 35

June 8, 2011

Clerk of Committees

251 Legislative Building

Winnipeg, Manitoba R3C 0V8

Submission of the Canadian Wireless Telecommunications Association to the Standing Committee on Social and Economic Development Consideration of Bill 35(Consumer Protection Act – Cell Phones)

Introduction

1. The Canadian Wireless Telecommunications Association (CWTA) is the authority on wireless issues, developments and trends in Canada. It represents wireless service providers, as well as companies that develop products and services for the industry. CWTA welcomes the opportunity to share its views at Committee examination of Bill 35 as part of the legislative process.

2. CWTA represents wireless service providers, as well as companies that develop products and services for the industry. Wireless telecommunications play an important role in the economic, social, and cultural life of Canadians, employing 260,000 Canadians in high paying jobs, delivering \$41 billion in economic benefits, with coverage to more than 99% of Canadians, with 96% having access to advanced 3G (or faster) networks and handsets, tablets etc.

3. Advanced wireless networks support more than interpersonal communications. They are the backbone of the digital economy, and play an ever-expanding role in the delivery of a wide range of government services. For example, last year Canadians made more than 6 million calls to 9-1-1 or emergency numbers over mobile networks.

4. CWTA maintains that the provisions of Bill 35 are unnecessary, and that government regulations inevitably add costs to government, industry, and

ultimately consumers. Wireless customers are better served by open competitive markets and a self-regulated wireless industry with a strong Code of Conduct. Moreover, through a range of recent market-driven initiatives, Canadian wireless carriers are improving the consumer experience and increasing the value Canadians receive through a variety of choice and pricing offers.

Code of Conduct

5. CWTA's wireless service provider members subscribe to a Code of Conduct that underscores their commitment to providing the highest standards of service and support to their customers. Specifically the Code serves to:

- Provide our customers with complete details on rates, terms and coverage offered in each of our plans
- Help ensure that our customers understand the terms of their contracts
- Communicate with our customers in a way they understand
- Ensure that our advertising is clear
- Protect consumers' rights when we must change contract terms
- Provide ready access to customer service
- Safeguard our customers' personal information
- Resolve your complaints efficiently, fairly and courteously

6. CWTA notes that the Code of Conduct already ensures that consumers have all the information they need to make informed purchasing decisions with respect to the aspects of the commercial relationship between carriers and subscribers addressed in the Bill.

7. Although sometimes misrepresented as being "without consequences," the Code of Conduct is, in fact, used as a tool by the Commissioner for Complaints for Telecommunication Services when evaluating the basis for complaints against its signatory members. In a recent media interview, the Commissioner for Complaints noted that "I'm a big supporter of industry codes of conduct—especially good ones—because they clarify what consumers can expect. They set minimum standards for the industry and they give us a tool."

8. CWTA does not agree that only micro-regulation of commercial relationships can compel service providers to respect their customers. Such a conclusion overlooks the fundamental motivation of carriers to keep their customers happy, or suffer the “consequences” of losing that customer to a competitor.

9. Over the past two years, numerous new entrants have come into the market across the country. Since 2008 the wireless industry’s \$9.2 billion investment in spectrum and capital infrastructure has permitted a wide range of advanced wireless products and services to come into the marketplace. 10. Canada now boasts more of the fastest HSPA+ networks than any other country. The wireless industry now employs 260,000 people in Canada, each of whom has a direct stake in ensuring that customers feel well served by their carrier. Clearly, all wireless carriers have incentives to comply with the Code of Conduct in order to minimize customer losses to competitors. In other words, the competitive imperative for wireless carriers to comply with the Code of Conduct is very strong, because the consequences of losing a customer have never been higher.

Recent Consumer Friendly Developments

11. In addition to the Code of Conduct, CWTA notes that individual carriers have recently implemented a range of consumer-friendly practices:

- Unlocking handsets at the end of the contract, or earlier if the device has been fully paid for
- Online account usage details that provide records of voice, data and text usage
- Alerts to let customers know when they start roaming, and when additional charges will apply
- Text messages alerts when a customer is approaching and/or has reached their data allotment, and also at predetermined increments throughout the usage period
- Data usage calculator tools to help customers determine the appropriate amount of data to purchase for their personal usage habit, and applications that allow subscribers to check data usage

Conclusion

12. In conclusion, CWTA appreciates the opportunity to provide this submission to the

legislative committee review of Bill 35. Further to realities in the marketplace, CWTA maintains there is no compelling rationale for provincial intervention in the commercial relationship between wireless carriers and their customers.

13. Consumers are well served and the industry is self-regulated through the CWTA’s Code of Conduct, the CCTS, and a competitive marketplace of wireless providers offering an unparalleled choice of devices, plans, and price ranges. Consumers are motivated by excellent products and service at the best possible price, while carriers are driven to gain and maintain market share 14. CWTA respectfully submits that government micro-regulation will only add costs for the industry and consumers, and that consumers are better served by competition than by regulation, and by a self-regulated wireless industry with a strong Code of Conduct.

15. CWTA appreciates the opportunity to share its views in this important process, and looks forward to continuing to work with officials as the regulatory process moves forward, to ensure there are no unintended regulatory consequences that could wind up harming Manitoba’s wireless consumers.

Bernard Lord

Canadian Wireless Telecommunications Association

* * *

Re: Bill 35

June 8, 2011

Clerk of Committees

251 Legislative Building Winnipeg, MB R3C 0V8

Submission of Globalive Wireless Management Corp. to the Legislative Committee Consideration of Bill 35 (Consumer Protection Act – Cell Phones)

Introduction

1. Globalive Wireless Management Corp. (“WIND”) congratulates the Manitoba government for demonstrating leadership in the area of consumer protection in the wireless industry and supports the passage of Bill 35 as a necessary measure to protect Manitoban consumers.
2. WIND has been offering wireless voice, text and data services to consumers under the brand name

WIND Mobile since December, 2009. WIND currently offers services to over 300,000 customers in Toronto, Calgary, Edmonton, Ottawa and Vancouver. WIND plans to launch services to Manitoban consumers in the near future.

3. WIND submits that Bill 35 is necessary to ensure that wireless customers are able to benefit from newly created competition in the wireless sector. Among other means to achieve this, the most important is limiting carriers' ability to charge punitive and anti-competitive early termination fees that effectively prevent consumers from leaving carriers that treat them poorly.
4. The CWTA Code of Conduct is not a satisfactory alternative to the Bill 35. It does not, for example, limit carriers' ability to charge early termination fees, a critical part of Bill 35.
5. WIND understands that the Canadian Wireless Telecommunications Association (the "CWTA") has made or will make a submission to this Committee opposing the passage of Bill 35. WIND disagrees strongly with the CWTA's position.

Consumer Frustration

6. In its public consultation paper, the Consumer Protection Office listed a number of significant complaints received from consumers who found contracts for wireless services difficult to understand, were subjected to charges for cancelled services that surprised them and were unhappy with sudden changes to contract terms.
7. These complaints should not be ignored and suggest that self-regulation by the industry has not been sufficient to protect Manitoban consumers. While WIND does not support high levels of government intervention in matters best left to the market, such as pricing and the structure of commercial plans, government intervention focused on greater transparency and mobility between carriers is clearly needed to protect Manitoban consumers and to allow them to benefit from a more competitive marketplace for wireless services.
8. Bill 35 strikes the right balance between addressing consumer complaints proactively, on

the one hand, and allowing market mechanisms to regulate pricing and the structure of commercial plans, on the other.

Early Termination Fees (ETFs)

9. It is common practice among the incumbent wireless carriers to require customers to enter into long term, fixed term contracts to obtain subsidized mobile devices. The carriers enforce the contracts by imposing ETFs on customers who want to terminate those contracts prior to the end of the term.
10. This practice in and of itself is not objectionable, in WIND's view. It is reasonable to expect a carrier offering a handset subsidy to recover that subsidy in some fashion. And many consumers given the choice of a subsidized handset with a fixed term contract versus a full price handset with no fixed term contract will voluntarily choose the subsidized handset model. This choice should be available to them.
11. What is objectionable to WIND is that many consumers electing to purchase the subsidized handset do not understand (and are not given the tools that they need to understand) the impact of that choice on the overall cost of their wireless service. For example, they may not understand the amount of the handset subsidy and the impact that accepting the subsidy has on the cost of their wireless services. Or they may not be given the information needed to calculate the ETF they'd pay to leave their carrier early. As a result, consumers are often shocked to learn that to cancel their contracts early, they need to pay ETFs which are often extremely high and may be completely unrelated to the amount needed to compensate the carrier for their handset subsidies.
12. The Seaboard Group has correctly observed that wireless "contracts that are supposedly keyed to wireless device subsidies are in fact much more than that. They are curiously crafted, penalty-payment-laden, keep-'em-in-the-fold devices designed to discourage customers from changing their service plans or their service provider for an extended period".¹ Seaboard

¹ Seaboard Group, "Death Grip: Caught in a Contract and Cannot Quit", July 2010

also notes in the same report that in its conversations with the office of the CCTS and consumer agencies, “ETFs are now the most common subject of communications service-related complaints since the elimination of system access fees for new customers by most carriers...”

13. Bill 35 appropriately limits the amounts carriers may charge as ETFs and contains measures designed to mandate full and proper disclosure of the ETFs.

Competition in Manitoba

14. The public consultation paper issued by Manitoba’s Consumer Protection Office correctly pointed out that the cell phone industry in Manitoba is highly concentrated among a small number of providers. The federal government awarded spectrum to a number of new entrants in 2008 hoping to introduce greater competition into the sector and it is expected that competition will soon arrive in Manitoba.
15. Enhanced competition has been good for Canadian consumers. According to a February report from CIBC World Markets, the entry of new entrants has led to a reprice in voice of about 17% in two years. In addition to bringing prices down, competition has led to the introduction of pricing innovations such as unlimited long distance (provincial, national or continental), flat rate international calling and unlimited data plans.
16. Bill 35 will give Manitobans better opportunities to enjoy the benefits of robust competition and choice by limiting ETFs and allowing consumers to change carriers without incurring undue penalties.

Code of Conduct

17. The CWTA’s wireless carrier members, including WIND, have agreed to be bound by a Code of Conduct. Although the Code provides some safeguards to consumers, the number and tenor of consumer responses to the Manitoba Consumer Protection Office make clear that the Code has not been sufficient to protect consumers from a number of practices that have led to consumer dissatisfaction with the industry.
18. The Code of Conduct contains no provisions limiting the quantum of early termination fees a carrier member may charge and only general

provisions relating to disclosure of contract terms including contractual ETFs. And it is unclear how the CCTS (which handles complaints under the Code of Conduct) would address a complaint from a consumer who was surprised by the amount of the ETF being charged by a carrier, but agreed to the formula at the time of signing the contract without fully understanding what he or she signed.

19. Even if the Code is amended to include provisions such as these, the Code can be amended from time to time at the whim of carriers. Conclusion
20. In conclusion, WIND appreciates the opportunity to provide this submission to the legislative committee reviewing Bill 35. The number and nature of the complaints received by the Consumer Protection Office makes clear that Bill 35 is needed to protect Manitoban consumers and to ensure that they are able to benefit fully from enhanced competition when it arrives in Manitoba.
21. WIND looks forward to continuing to work cooperatively with members of the Consumer Protection Office on detailed regulations to Bill 35 to ensure that the regulations continue to strike an appropriate balance between consumer protection and carrier freedom to innovate and compete.

Vanessa Brazil, WIND Mobile

Re: Bill 35

June 8, 2011

Members of the Public Consultation Committee hearing Bill 35, The Consumer Protection Amendment Act (Cell Phone Contracts).

I would like to make comment on the above mentioned bill. I would have preferred to appear in person, but due to the short notice and a previous commitment, I regret that I can not attend in person. As such I am instead filing my comments via email.

I am in favour of Bill 35 - The Consumer Protection Amendment Act (Cell Phone Contracts), which will allow for better protection to consumer on cellular telephone contracts with the various cell phone companies.

My comments deal more with the subsidization of cellphones and having that subsidization built into

the contract. We all know that as consumer, you receive nothing for a payment of nothing. As such, when a consumer purchases a \$0.00 (zero) cellphone or a substantially reduced cost \$29.00 cellphone, they know that they are actually paying for the cellphone in the contracted price. The cellphone companies clearly advertise or indicate the outright purchase price of their cellphones if you do not enter into a 2 or 3 year contracted agreement as anywhere from \$300.00 - \$900.00 per phone depending on the type etc. So when they are selling a cellphone for \$0.00 or \$29.00 the difference in the cellphone cost is being paid monthly from a portion of the contracted service price. A number of sales people even say the word subsidized when talking to consumers.

My issue is that once you are off contract, you have actually purchased your cellphone outright. So why are the cellphone companies still charging the consumer the same monthly fees? Should the monthly fee rate not drop, once the subsidization has been fulfilled? Or what about a consumer who has purchased his purchased their cellphone outright from say the Apple store, why are they being forced to pay the same amount for service as a person who has received a \$0.00 cellphone and is paying for subsidization?

I can understand the cellphone companies wanting to lock a cellphone to their network, so that a consumer can not leave until after you have fulfilled your contract obligations. But once the contract has been fulfilled, the phone should be unlocked and the rate for service should drop to whatever it was less the monthly subsidization amount. I would have to guess that that difference would be approx. \$10.00 - 25.00 per month. I base this on an outright purchase price of a cellphone of \$300.00 and a monthly subsidization amount of \$10.00 over 36 months = \$360.00 which would include a built in finance charge, to a 900.00 phone subsidized as \$25.00 per month over 36 months = \$900.00 with no finance charge.

Please think about the consumer and their ongoing payments to cellphone companies once they have fulfilled their contracted obligations. The Province of Québec is clearly looking out for consumer in this regard. Why is Manitoba ignoring this one area of consumer protection? After all not every consumer needs or wants to get a new cellphone each time their contract comes due. There are many consumers who are perfectly content with their current cellphone. And there are many consumers who have fulfilled

their contracts or purchased cellphones outright who may want to change cellphone companies, and simply are not doing so as they feel they will be ripped off by the high cost of monthly subsidized service, when they already own their cellphones.

In closing I ask that the Province of Manitoba make the cellphone companies list the subsidization amount in their contract, and when the phone is no longer being subsidized or a consumer wished to use their own purchased outright, that the monthly rate for service be reduced accordingly.

Thank you for allowing me to voice my concerns in this format. I know I can not answer questions a committee member may have this way. But if anyone wants to contact me I can be reached at your convenience at the address or telephone number below.

Derek Hay

* * *

Re: Bill 35

June 8, 2011

Clerk of Committees
251 Legislative Building
Winnipeg, MB R3C 0V8

Re: **Rogers Communication Partnership
Submission to the Legislative Committee
Consideration of Bill 35 – The Consumer
Protection Amendment Act (Cell Phone
Contracts)**

Introduction

Rogers Communications Partnership (“Rogers”) is a diversified Canadian communications company, and Canada’s largest wireless voice and data communications services provider, with over 9 million customers. Rogers is also the country’s only national carrier operating on both the world standard GSM and HSPA+ technology platforms.

Rogers has reviewed Manitoba’s *Bill 35, The Consumer Protection Amendment Act (Cell Phone Contracts)* (the “Legislation”). We appreciate the opportunity to provide the Legislative Committee with our comments on this important piece of legislation. Rogers is equally committed to ensuring our customers in Manitoba receive the best possible customer support.

Rogers is committed to doing the right thing for our customers. This means that we treat our customers

fairly and ensure they have the information they need to make informed choices. Failing to do so may result in our customers leaving us for one of our competitors. For Rogers the customer experience is a key priority and in the current competitive environment we actively listen and respond to our customer needs.

Our customers in Manitoba have recently further benefited from a new network build. We recently invested \$86 million in a joint build with MTS that expanded Rogers' high speed wireless network in Manitoba by 150 times to cover 97% of the Manitoba population. This allows Rogers' customers across the entire province to access HSPA+, with download speeds of up to 21 megabits per second. At the same time, Rogers has been complementing these network improvements with improvements to customer service as further described below.

Rogers' commitment to our customers

Rogers' commitment to customer service is all the more necessary in light of the competitiveness of the wireless market. Several carriers and their subsidiary brands operate in Manitoba. In addition two new carriers that bought spectrum in the recent auction have indicated that they plan to offer services in Manitoba in the near future. Rogers continues to work on initiatives to improve the customer experience. We continually make changes based on our customer needs; not because it is demanded by legislation but because customers expect it.

Over the last three years, Rogers has already made significant improvements to our customer support that are consistent with the Province's customer service goals. These include the following initiatives:

2008:

Introduced data alert tool when a customer reaches 80 and 100 percent of data package.

Introduced SMS notifications when entering a roaming zone.

Introduced data overage protection.

2009:

Created the Rogers Customer Commitment to define what customers can expect when doing business with us.

Defined and publicized a four step escalation process for customers to receive quick resolution of complaints.

Established an Office of the Ombudsman.

2010:

Created the Handset Protection Guarantee.

Introduced first bill estimator for wireless customers.

Introduced handset unlocking.

Introduced data sharing across devices.

Introduced email notifications as another convenient way of informing wireless customers of any price plan or other changes they have made with their account.

Since the start of 2011 Rogers has introduced the following additional initiatives to improve the customer experience:

- Ensured the "no contract" prices of handsets were more prominently displayed in marketing and retail material;
- Better publicized that a "no contract" option has always been available to the customer and that customers can change price plans at any time;
- Introduced an early hardware upgrade program that will allow customers to upgrade their phone at any time for a transparent fee that will be based on the number of months remaining in their term commitment;
- Clearly stated the handset subsidy saving on the customer's monthly bill.

Furthermore, in the coming months Rogers will continue to increase the transparency for consumers between the device subsidy and early cancellation fee.

While Rogers believes that the competitive marketplace is delivering benefits to consumers and wireless consumer legislation is not needed in Manitoba, Rogers wishes to work together with the Government of Manitoba to ensure consumers continue to receive the best customer experience possible.

The Legislation

As a national service provider, it is essential for Rogers to deliver a consistent level of service across the country. Rogers recently made a series of changes to our customer contracts and Terms of Service to meet the requirements of Quebec's recently passed Bill 60, *An Act to amend the Consumer Protection Act and other legislative provisions*. We therefore encourage the Province to

ensure that any measures it passes, including regulations, mirror the requirements of Quebec's new legislation as much as possible. This will assist all wireless carriers to expeditiously introduce any required new customer service initiatives.

Based on our initial review of the legislation, many of the proposed amendments follow closely the Quebec Act. As a result, Rogers is close to full compliance with the Legislation. There are, however, a few sections of the Legislation that differ from the Quebec Act. This could create confusion for customers and be inconsistent with efforts to assist customers when they purchase wireless products and services. We provide below some specific comments regarding our concerns with certain sections of the Legislation.

a) Customer Contracts

Rogers agrees that contracts should be clear and understandable to provide customers with a level of certainty. Bill 35, however, outlines a detailed list of requirements to be "*set out prominently and in a clear and understandable manner*" on the beginning page or pages of a contract, including a requirement to provide descriptions and explanations of various elements of the contract.

In our customer contracts, Rogers details the charges for all items the customer subscribes to, including the monthly recurring fee for the plan(s) and monthly fees for optional services. We ensure that each customer leaving a store understands their monthly commitment and additional fees that may be incurred. Our customers receive a document entitled *Things You Should Know*, which outlines key terms and conditions a customer needs to know, including information about the various fees. As well, customers receive a "first bill estimator" so that they know in advance approximately how much will be charged on their first monthly bill.

While Rogers believes that it is important to ensure disclosure of applicable fees to customers, we are however concerned that the list of elements proposed to be included in the contract under the Legislation may add unnecessary complexity and confusion for the customer instead of reducing it. For example, it would be both impractical to include all pay per use fees, such as roaming rates, in the contract given the variable nature of some of these fees. Roaming varies by region, therefore, providing all customers with a lengthy list of all roaming rates that only apply to those customers actually travelling to specific regions results in lengthier contractual

documentation for our customers. It is important to know that Rogers currently has over 650 direct operator network relationships. Our current practice of referring customers to the user-friendly online roaming rate tables are more practical, easier for customers to use and reference and is more environmentally responsible.

Likewise, it would be impractical to describe our many optional services, including their costs and restrictions, in the contract, particularly in the beginning pages as the Legislation requires. Such a requirement would significantly increase the size of the contract. Our current practice of clearly displaying current optional services and offers online, in-store or in other advertising, along with their prices and any restrictions, is more practical. Our current practice allows the customer to review the information applicable to them and allows for new optional services to be added easily so that our offers are up-to-date and relevant.

We encourage the Government to allow for such continued flexibility and not require that all pay-per-use or optional services a customer has not subscribed to be included in the contract.

As well, there is the requirement to provide details of the manufacturer's warranty within the beginning pages of the contract. We similarly caution the Government from requiring the inclusion of manufacturer's warranties in the contract. Manufacturer's warranties are included with the devices purchased and can often be quite lengthy. A requirement to include such warranties in the contract will simply add to the length and complexity of a contract and is wasteful since the customer receives the identical information with their device. Furthermore, it would require wireless carriers to maintain separate contracts for each manufacturer and to update and produce new contracts every time there is a change to a manufacturer's warranty, which is not within our control. Also, it is important to note that the warranty is with the manufacturer not the wireless service provider.

We therefore recommend that the Government review the list of mandatory terms as currently required under the Legislation. A requirement to include only the services to which a customer has subscribed and not duplicate any information already provided to the customer will ensure all key terms are disclosed without overwhelming the customer.

b) Unilateral contract changes

The Legislation provides that material terms cannot be unilaterally changed, and if such material terms are unilaterally amended the customer can cancel the contract without penalty. Included in the Legislation is a specific and lengthy list of which contract terms are considered “material terms”, including the monthly cost for “base services”; additional use charges; charges for optional use services; and any other fee payable by the customer. Many of these terms, such as those for optional services to which the customer has not subscribed, do not seem to be “material” to the customer.

Rogers again encourages Manitoba to be consistent with the flexible approach to unilateral contract changes taken by Quebec in Bill 60. Quebec’s legislation does not allow for a unilateral change to an essential element of the contract, such as the nature of goods or services that are the object of the contract; the price of services subscribed to on a term commitment; and the term of the contract. We encourage Manitoba to be less prescriptive in its Legislation, similar to the approaches taken by Quebec.

c) Director’s discretion

The Legislation includes various provisions that require contracts to be set out in a “*clear and understandable manner, satisfactory to the director*”. As well, the Legislation includes provisions for certain written notices to our customers to be given in a “*form that is satisfactory to the director*”.

Rogers works to present contracts in a way that we believe to be easily understood by customers with the key components of the contract written in plain language. The key consideration when developing cell phone contracts is transparency for customers so all the key elements are understandable. Customer notifications are similarly written in a manner that is clear and understandable.

As a national service provider Rogers must ensure that all customer notifications and contracts are

consistent for customers in all provinces. This includes the form in which notices and contracts are set out. To do otherwise would simply create unnecessary complexity and confusion for our customers. We, therefore, encourage the Province to allow wireless service providers to determine on their own how to set out written notice to our customers and the form in which contracts are set out.

Conclusion

Rogers believes in ensuring that our consumers are treated fairly and honestly. We are committed to customer service and will continue to listen to our customers and respond with initiatives that improve the customer experience based on our customer needs.

Given the competitive nature of the wireless industry, we do not believe wireless consumer legislation is needed in Manitoba, or any other province. We wish, however, to work together with the Province to ensure that any legislation passed is consistent with existing consumer protection legislation in Quebec and Ontario. As well, we encourage the Province to ensure any such legislation remains as flexible as possible to allow wireless service providers to continue to innovate and offer customers with unique products and services that meet their needs.

Rogers looks forward to working with the Province as its review of the Legislation continues. Also, we look forward to the opportunity to participate in the review of any Regulations drafted under the Legislation.

Should you have any questions or concerns about the proceeding comments please do not hesitate to contact me.

Yours very truly,

Kenneth G. Engelhart

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The Legislative Assembly of Manitoba Debates and Proceedings
are also available on the Internet at the following address:

<http://www.gov.mb.ca/legislature/hansard/index.html>