

Third Session – Forty-Second Legislature
of the
Legislative Assembly of Manitoba
Standing Committee
on
Justice

Chairperson
Mr. Alan Lagimodiere
Constituency of Selkirk

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MANITOBA LEGISLATIVE ASSEMBLY
Forty-Second Legislature

Member	Constituency	Political Affiliation
ADAMS, Danielle	Thompson	NDP
ALTOMARE, Nello	Transcona	NDP
ASAGWARA, Uzoma	Union Station	NDP
BRAR, Diljeet	Burrows	NDP
BUSHIE, Ian	Keewatinook	NDP
CLARKE, Eileen, Hon.	Agassiz	PC
COX, Cathy, Hon.	Kildonan-River East	PC
CULLEN, Cliff, Hon.	Spruce Woods	PC
DRIEDGER, Myrna, Hon.	Roblin	PC
EICHLER, Ralph, Hon.	Lakeside	PC
EWASKO, Wayne, Hon.	Lac du Bonnet	PC
FIELDING, Scott, Hon.	Kirkfield Park	PC
FONTAINE, Nahanni	St. Johns	NDP
FRIESEN, Cameron, Hon.	Morden-Winkler	PC
GERRARD, Jon, Hon.	River Heights	Lib.
GOERTZEN, Kelvin, Hon.	Steinbach	PC
GORDON, Audrey, Hon.	Southdale	PC
GUENTER, Josh	Borderland	PC
GUILLEMARD, Sarah, Hon.	Fort Richmond	PC
HELWER, Reg, Hon.	Brandon West	PC
ISLEIFSON, Len	Brandon East	PC
JOHNSON, Derek, Hon.	Interlake-Gimli	PC
JOHNSTON, Scott	Assiniboia	PC
KINEW, Wab	Fort Rouge	NDP
LAGASSÉ, Bob	Dawson Trail	PC
LAGIMODIERE, Alan	Selkirk	PC
LAMONT, Dougald	St. Boniface	Lib.
LAMOUREUX, Cindy	Tyndall Park	Lib.
LATHLIN, Amanda	The Pas-Kameesak	NDP
LINDSEY, Tom	Flin Flon	NDP
MALOWAY, Jim	Elmwood	NDP
MARCELINO, Malaya	Notre Dame	NDP
MARTIN, Shannon	McPhillips	PC
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MICKLEFIELD, Andrew	Rossmere	PC
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PEDERSEN, Blaine, Hon.	Midland	PC
PIWNIUK, Doyle	Turtle Mountain	PC
REYES, Jon	Waverley	PC
SALA, Adrien	St. James	NDP
SANDHU, Mintu	The Maples	NDP
SCHULER, Ron, Hon.	Springfield-Ritchot	PC
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SMITH, Bernadette	Point Douglas	NDP
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WOWCHUK, Rick	Swan River	PC

**LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON JUSTICE**

Monday, March 22, 2021

TIME – 6 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Alan Lagimodiere (Selkirk)

VICE-CHAIRPERSON – Mr. Len Isleifson (Brandon East)

ATTENDANCE – 6 QUORUM – 4

Members of the Committee present:

Hon. Mr. Friesen, Hon. Ms. Gordon

*Ms. Fontaine, Messrs. Isleifson, Lagimodiere,
Ms. Naylor*

APPEARING:

Hon. Jon Gerrard, MLA for River Heights

PUBLIC PRESENTERS:

Bill 24– The Legal Profession Amendment Act

Mr. Jurgen Feldschmid, private citizen

Mr. James Beddome, Green Party of Manitoba

Ms. Darcia Senft, Law Society of Manitoba

*Ms. Leah Kosokowsky, Law Society of Manitoba
(by leave)*

Bill 50– The Legal Aid Manitoba Amendment Act

Mr. James Beddome, Green Party of Manitoba

Mr. Patrick Falconer, private citizen

*Ms. Gerri Wiebe, Criminal Defence Lawyers
Association of Manitoba*

Ms. Shawn Kettner, private citizen

Ms. Michelle Dallmann, private citizen

Mr. Carlos Sosa, private citizen

MATTERS UNDER CONSIDERATION:

Bill 24 – The Legal Profession Amendment Act

*Bill 31 – The Horse Racing Regulatory
Modernization Act (Liquor, Gaming and
Cannabis Control Act and Pari-Mutuel Levy Act
Amended)*

Bill 50 – The Legal Aid Manitoba Amendment Act

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Clerk Assistant (Ms. Katerina Tefft): Good evening. Will the Standing Committee on Justice please come to to order.

Our first item of business is the election of a Chairperson.

Are there any nominations?

Mr. Len Isleifson (Brandon East): I nominate Al Lagimodiere.

Clerk Assistant: Mr. Lagimodiere has been nominated.

Are there any other nominations?

Hearing no other nominations, Mr. Lagimodiere, will you please take the Chair.

Mr. Chairperson: Good evening, everyone. I would like to welcome you to the Standing Committee on Justice, and will the committee please come to order.

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

Hon. Audrey Gordon (Minister of Mental Health, Wellness and Recovery): I nominate member Isleifson for Brandon East.

Mr. Chairperson: Mr. Isleifson has been nominated.

Are there any other nominations?

Hearing no other nominations, Mr. Isleifson is elected as Vice-Chair.

This meeting has been called to consider the following bills: Bill 24, The Legal Profession Amendment Act; Bill 31, The Horse Racing Regulatory Modernization Act, liquor, gaming and cannabis control act and pari-mutuel levy act amendment; and Bill 50, The Legal Aid Manitoba Amendment Act.

I would like to inform all in attendance of the provisions of our rules regarding the hour of adjournment. A standing committee meeting to consider a bill must not sit past midnight to hear public presentations or to consider clause-by-clause of a bill, except by unanimous consent of the committee.

Public presentation guidelines: prior to proceeding with public presentations, I would like to advise members of the public regarding the process for speaking in committee. In accordance with our rules, a time limit of 10 minutes has been allotted for presentations, with another five minutes allowed for questions from committee members.

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 a second time, they will be removed from the presenters' list.

The proceedings of our meetings are recorded in order to provide a verbatim transcript. Each time someone wishes to speak, whether it be an MLA or a presenter, I first have to say the person's name. This is the signal for the Hansard recorder to turn the mics on or off.

Thank you for your patience.

Bill 24—The Legal Profession Amendment Act

Mr. Chairperson: We will now proceed with public presentations.

I will now call on Jurgen Feldschmid and ask the moderator to invite them into the meeting. Please unmute yourself and turn your video on.

Welcome, Mr. Feldschmid. If you have any written materials for distribution to the committee, you can now send the file through the chat function or email the moderator, who will distribute it to all committee members.

Mr. Jurgen Feldschmid (Private Citizen): Yes, I emailed two documents to the clerk of the committee earlier today to be distributed to the members of the committee, or in the alternative, it'll—they'll be available to members after my presentation.

Mr. Chairperson: Thank you, Mr. Feldschmid.

Please proceed with your presentation.

Mr. Feldschmid: First, let me thank the Chair and the members of the committee, as well as the clerk and all staff, for giving me an opportunity to speak to you today.

My name is Jurgen Feldschmid. I am the current chair of the executive committee of the family law section of the Manitoba Bar Association. I've practised family law in Winnipeg at the firm of Duboff Edwards for more than 25 years, and my

practice has been almost exclusively in the area of family law for the past 15 years.

With respect to Bill 24, The Legal Profession Amendment Act, we, the members of the Manitoba Bar who practise family law, recognize that these amendments are intended to merely empower the Law Society to undertake the establishment and regulation of limited legal practitioners. They are permissive provisions in this legislation, not mandatory, as they should be in our view, perhaps with one exception that I will address near the end of my presentation.

We also recognize that while the authority which is sought to be provided to the Law Society is to enable them to regulate and license limited practitioners generally, the intent expressed by the Law Society, in line with the recent policy direction of the Manitoba government, focuses on the area of family law.

* (18:10)

Let me say and start that as a general premise, the area of family law does not lend itself readily to the involvement of paralegals and limited practitioners in that it is an area of the law first and foremost focused on dispute and conflict resolution, whether through negotiation, mediation, arbitration or trials before a court, and this is similar to such areas of the law as civil litigation or the criminal law. These areas of the law can be distinguished from more transactional areas of the law, such as real estate conveyancing, corporate transactions and probate and administration of estates.

The critical distinction is connected to the role of the exercise of professional judgment which, in the area of legal services, can only properly be—and properly and effectively provided without undue risk to the recipient of such services by an individual with sufficient legal education, training, mentorship and experience.

No paralegal or limited practitioner should be placed into a position that requires the exercise of professional judgment based on legal education and training. The practice of law for centuries has been viewed as a profession. The essence of a profession is the exercise of professional judgment based on a deep and thorough understanding of the accumulated knowledge relevant to the field in question. This precludes many areas of legal practice from being undertaken by limited practitioners, particularly if they were to operate independent from the supervision of lawyers.

In areas of the law, such as real estate transactions, wills and estates, there are numerous functions which one could see being cost-effectively and safely carried out by paralegals or limited practitioners, not involving the exercise of professional legal judgment, such as the completion of transfers of land, setting up minute books for corporations, preparing documents for probate court and the like. Functions within these areas of law requiring the exercise of professional judgment, such as advising clients on the share structure or governance of a company or the effective tax and estate planning, can properly remain to be provided by lawyers trained and experienced in these areas.

Now one might ask, could we not imagine a similar approach in the area of family law? Could a limited practitioner, for example, not be the professional to prepare the necessary court application, supporting documentation for a client? And this is precisely where the difficulty starts.

This is because, even in the preparation of initiating court applications in the area of family law, this immediately requires the application of professional judgment that a limited practitioner would have prohibited—prohibitive difficulty in exercising, particularly in the absence of the input and supervision of a properly trained and experienced lawyer.

The same challenges arise in alternative-dispute resolution methods applied to family law, such as mediation and arbitration. The reason this is the case is simple. It boils down to this: aside from perhaps the determination of child support in the limited case where the child in question is predominantly with one of his or her parents and the other parent has income derived solely from employment where they receive a T4 slip, no area of family law is consistently and reliably so clear-cut that it does not involve or require the sophisticated exercise of professional legal judgment.

Family law is an area where it is not uncommon for a lawyer to have to be able to grasp the difference between the child psychology concepts, for example, of justified estrangement versus parental alienation, and at the same time, appreciate the conclusion of a report by a certified business evaluator regarding the value of a jointly owned small business or perhaps one owned by only one of the parties, and doing that all in the same case.

This is not to say that we do not believe there is a role for limited practitioners in the area of family law.

But the cost and therefore the potential access to justice advantages of limited practitioners that they represent must be balanced with the necessity of ensuring the availability of the application of proper professional legal judgment where required in every case and for every client.

In our judgment, the key measure by which this may be assured would be to require that limited practitioners must operate under the supervision of a lawyer.

In the last few months, there has been a certain amount of interaction and consultation between the Law Society and the Manitoba Bar Association on the issue of petitioners. The Law Society has had an online questionnaire to which I expect many lawyers have responded.

In addition, the executive committee of the Family Law section of the Manitoba Bar Association, which I represent, submitted an approximately 10-page memorandum to the Law Society shortly after the conclusion of the online questionnaire. I have emailed copies of both these documents to the committee clerk earlier today to be made available to members of the committee.

There have been some—there has been some planning for meetings between senior Law Society executives and the Family Law section executive, but those have not yet taken place.

I have reviewed many of the questions put by members to the honourable Minister of Justice (Mr. Friesen) at second reading of this bill. I was struck by how strongly there seemed to be a presumption on the part of the honourable minister as well as members that limited practitioners would, in the vast majority of cases and perhaps even exclusively, be working under the supervision of lawyers.

However, this is at odds with a significant portion of the content of consultation which has occurred with the Law Society, both in the online questionnaire the Law Society put out for lawyers to respond to and in their position paper—the Law Society—on which the questionnaire was based. In their position paper, there is a significant discussion and inquiry premised on the concept that these limited practitioners may not all practise under the supervision of lawyers.

So there seems to be a significant disconnect between the Law Society's views and the views expressed by some members of the House, including the honourable minister, as to whether these

independent practitioners will be required to work under the supervision of a lawyer or not.

It seems to me that the honourable member for River Heights, Dr. Gerrard, may have hit the nail on the head when he observed during his remarks at second reading that members were being told that the goal was that limited practitioners would be supervised by lawyers—but that was not specifically provided for in the amending legislation.

So there I will close—therefore, I will close my remarks to the committee by saying that I believe the honourable member for River Heights had an extremely good point and that this committee, and the House, should consider and pass an amendment to this amending legislation specifying that these limited practitioners should be required to practise under the supervision of a lawyer.

I thank the committee for its time and await any questions that members may have for me.

Thank you.

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

Do members of the committee have questions for the presenter?

Hon. Cameron Friesen (Minister of Justice and Attorney General): Thank you, Mr. Feldschmid, for appearing here this evening to convey the points that you have made. I don't have any questions for you, but I thank you for monitoring the debate at second reading. We know that you will remain in contact with the Law Society and that you're expressing your concerns to them.

At the end of the day, the point I would make—and would welcome your response to this—is to say: it is not politicians who are setting into place those provisions that would govern how these practitioners would practise. It would indeed be the Law Society. So you have that continued ability to make your representations to that body, as they would be responsible for the determinations of what practices and under whose authority, at all times.

Once again, thank you for appearing. I would welcome your response, if you have one, to that. *[interjection]*

Mr. Chairperson: Mr. Feldschmid, I'll—just wait 'til I acknowledge you. Mr. Feldsted *[phonetic]*, go ahead.

Mr. Feldschmid: Yes. My only response is yes, I do understand that the majority of the rubber is going to

meet the road, as it were, in our consultations with the Law Society. There have been some already and we understand that there'll be further interactions between us and the Law Society and look forward to those.

Hon. Jon Gerrard (River Heights): My question is this: would your recommendation, Mr. Feldsmith *[phonetic]*, be that the bill have an amendment which requires that limited practitioners work under the supervision of a lawyer?

Mr. Feldschmid: Yes, thank you, Dr. Gerrard. Yes, that is my position. I think your point, as I mentioned in my presentation, taken at second reading—was very well taken and I—my view is, and our view, is in alignment with your thoughts as well.

* (18:20)

Ms. Nahanni Fontaine (St. Johns): Miigwech for your presentation. You know, during second reading debate we were assured by the minister that these limited practitioners would be supervised by lawyers. So—and we're hearing that you'd like to see an amendment on that.

What is the likelihood, in your professional opinion, that all of these limited practitioners would, in fact, work under the supervision of lawyers? Like, is that even possible to be able to execute that?

Mr. Feldschmid: Yes, I think it would be. I mean, to some degree, it would sort of formalize something that to a large degree already happens informally. But what I mean by that is that in law firms across this province, including my own, there are senior legal assistants, we call them, who are not really able because there hasn't been a formal legal establishment of such a position, to call them paralegals, but these are individuals who have long years of experience, have all kinds of knowledge, and I suspect that a large number of people who might consider going into this role may, in fact, be people who have acted as legal assistants for a long period of time.

I don't know what the education requirements are going to be there. One thing I would suggest is that there be an ability for people who have been support staff in the legal profession for long periods of time, that they may be having an opportunity to challenge any final exams that any education program has so that they may be able to be certified without having to attend something that is really just going to, in large part, educate them on issues that they already are well familiar with.

But I certainly think that it's—to my mind it's almost the natural fit, it's the natural course, to have people in this role to be working with and under the supervision of lawyers and have a very positive impact on law firms. One of the issues with law firms—in comparison, say, to my perception of what I see in the accounting field—is that we're very flat. There's lawyers and there's support staff and not much in-between, whereas if you look at a lot of accounting firms, the larger ones, there's a lot of gradation and right fitting, right sizing, I would say, the service to the cost of the individual working for the firm providing it.

And I think this may be a positive influence for the profession to copy a little bit more from that model that we see in the accounting profession by the introduction of this sort of intermediate professional position compared to what we have now.

Mr. Chairperson: Okay, the time for questions has expired.

We're going to go back to our next presenter, Mr. James Beddome.

I'll now call on Mr. James Beddome and ask the moderator to invite them into the meeting. Please unmute yourself and turn your video on.

Mr. Beddome, if you have any written materials for distribution to the committee, you can now send the file to the chat function or email it to the moderator, who will distribute it to all committee members. *[interjection]*

Mr. Beddome, just wait 'til I acknowledge you.

So, Mr. Beddome, please proceed with your presentation.

Mr. James Beddome (Green Party of Manitoba): Sorry, Chairperson.

Once again, thank you, Chairperson, members of the legislative committee, the staff as well as the Legislature. I just want to firstly have brief comments tonight on this bill in particular. But I just briefly want to acknowledge how important these public sessions are in terms of bill committee hearings. So we want to acknowledge the hard work that I'm sure the staff and the whole Legislature has put together to make sure that they continue, not—the pandemic notwithstanding.

Also just want to highlight that I think it's important they continue and something I've called for since before the pandemic and even in the previous

governments is that hope this committee might consider a standard of two weeks' notice on all bills. I think it would improve this process.

Having made those brief comments on process, I stand here with a couple of roles, I suppose. One, I am the leader of the Green Party of Manitoba. I also am called to the bar of Manitoba since 2014.

I would have what you'd refer to as quite a general practice, actually. Don't—it's probably more common to say what I don't do, which would be we don't really do any family matters beyond child protection or any real estate transactions, but I started my practice doing a lot of residential school claims; have done a lot of civil litigations; have done environmental hearings.

More recently, when I started my own practice, my business partner, Seneca Longclaws—we expanded into some legal aid work as well in terms of some child protection work, some criminal work, some residential tenancies work as well as some legal aid civil litigations.

I have a very broad practice, and ultimately what I want to leave the committee with tonight is the thought of, are we giving up on access to justice?

This is something I have struggled with since I've been a law student. I should quickly acknowledge that the Green Party of Manitoba doesn't have a formal policy on this position, but access to justice is something that's passionate to the party, to ourselves, but also to me personally. I really worry that the net effect of this, in many ways, may end up becoming a two-tiered legal system.

A couple of lessons that were quickly instilled with me when I first went to law school—two 'coints'. First point of civil litigation: if the claim isn't worth \$100,000, it's not worth pursuing. This is one that I was—learned in my first year of university.

But that's really unfortunate, because that leaves a large gap between \$10 and \$90,000—or \$99,000—where justice is really inaccessible. And ultimately, I would suggest to you, a market-only system is going to have a market failure.

We don't expect our education system to operate this way. We don't expect our highway system to operate this way. So we're expecting market mechanisms to solve something that they're not designed to solve. It's almost inevitably going to result in a market failure.

So I struggle with this because I really appreciate the comments of the last presenter—there seems to be,

if we look at Ontario, a certain inevitability about this. But in creating two standards in the legal profession, I really worry who's going to get left behind and if what we aren't doing, ultimately, as a society, is giving up on access to justice.

I certainly recognize, as the last presenter said, that ultimately, this is going to be left to the Law Society of Manitoba. And don't get me wrong, they do a great job out there, as does the entire—virtually, the entire profession, in my experience, of lawyers across Manitoba.

But there's a lot of concerns that need to be considered further. Yes, they can set insurance standards, but how is that going to affect insurance premiums for all lawyers across Manitoba and payouts to the public through their claims fund?

My friend before mentioned conveyancing. I recognize his point, how some of that can be administrative and certainly can be done under the supervision of a lawyer by a paralegal, but at the same time that means income from the Law Foundation could drastically go down depending on how that's regulated, and it isn't clear to me what the intent to do with that with respect to this bill is.

And that's important, because the Law Foundation funds important organizations like Legal Aid Manitoba; the Public Interest Law Centre. So, you know, as a legal practitioner, I really have some concerns about this and I think we need to think broader and look at the societal aspects. And I really call on you.

Certainly, I have made many kicks of the can to sit there beside you in the Legislature, and it would be my honour to do that, but I don't serve there. I now exist as a private businessperson and, unfortunately, the most common advice that I have to dispense to clients is, you know, you might have a case here but it's not worth pursuing: over and over and over again.

And on the Legal Aid front, the most common thing that I end up dispensing is someone's access to a telephone. I may know how my business arrangements are done, but access to a telephone so I'd comment on policies the Greens have called for, like a basic income as something, to look at that.

So I really want this Legislature to think carefully about this and think about the overall issues of access to justice that any lawyer will tell you are real and palpable, and that we as a society need to deal with.

Those are my comments, such—any questions the committee may have.

Thank you.

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

Mr. Friesen: Mr. Beddome, thank you for appearing this evening at committee.

Thank you, also, for your comments about the logistical support that makes an evening like this possible. I know you and I have had the opportunity to be in committee before, when it's been in person and, obviously, tonight we are making history here and being supported in a very significant way by very hard-working people.

* (18:30)

I can recall my very first committee where we had a remote presenter and, at that time, we actually had a cable that was unfurled from the Legislature Chamber all the way here with duct tape on top of it. And that's how we accommodated a person only eight years ago. So think of the strides we've made.

Thank you for recognizing the efforts of our staff and thank you tonight for the comments that you've also made in respect of this bill.

Mr. Chairperson: Mr. Beddome, do you have any response?

Mr. Beddome: I don't think one was warranted from that. I'll thank the honourable minister for his comments.

Ms. Fontaine: Miigwech for your presentation.

I am curious because I know you started your presentation in respect of access to justice, and, obviously, I think that that is a very broad discussion and incredibly important.

I'm wondering, though, if you can kind of connect, you know, the establishment of limited practitioners to your concerns in respect of accessing justice. I'm not sure if that was clearly laid out. And then, secondly, whether or not you think that there is a role for limited practitioners and if you actually support that or don't support that. So I'm curious if you could provide some facts on that.

Mr. Beddome: So, to your—oh, sorry. Thank you very much to the member for the question.

To the first part of your question, would you want your children taught by a limited teacher? I mean,

there's a real question here in terms of creating two separate standards, and I think it's quite clear how those standards are going to 'grady'-'gratiate' sort of through society in terms of socio-economics.

I do recognize that, you know, some of the attempt is there's a certain degree of inevitability to this. The presenter before me correctly identified that often we are utilizing support staff. So how do we better regulate that?

I can tell you right now, as it stands, I am personally responsible for everything my support staff does. So if they make a mistake, it's my mistake. I mean, I think we have to have these broader questions, but I worry that they're being had without considering the bigger issues of access to justice. And so that really is my broad concern. It's not an easy thing. I don't think it's one way or the other.

I recognize this is just enabling the Law Society to do that but I do worry that we might look back on this five years from now and we're going to see almost a two-tiered system. It's much the same concerns that people have about our health-care system being a two-tiered health-care system, and I actually think, looking at our public health-care insurance model—and there are academics, as I understand, that are doing that research—is something we could look at.

So I just think that we need to realize that justice is a public good and, sadly, I find myself telling clients over and over again, largely because of financial concerns, there isn't much justice in the justice system.

The justice system is really for you if you can quickly raise 10, 20 thousand dollars, at least with a private lawyer. I'm going to have some comments further with respect to some of the amendments to the legal aid amendment act, but I've done both, and I can tell you all the time the conversation is, people can't afford it, they don't want to pay for it. And society loses when those cases aren't fully heard.

Mr. Gerrard: I would ask, Mr. Beddome, whether you would agree with Jurgen Feldschmid that there should be an amendment so that anybody who has got a limited practice is working under the supervision of a lawyer.

I understand, for example, that with the residential schools practice, that there were often legal assistants who travelled around and helped people fill out forms because it was not economical for a lawyer to travel to a lot of remote communities, and I'm just wondering what your view is in terms of whether people should be supervised.

Mr. Beddome: Thank you to the member for the question. I think that your suggested amendment is a good suggestion, that to ensure that anyone in a limited practice is under the supervision of a lawyer.

It might also deal with some of the trust account issues and the Law Foundation income issues. However, what I will say—you raised the residential schools question. I was very proud to work—

Mr. Chairperson: Mr. Beddome, your time has expired.

Mr. Beddome: May I have leave of the committee to briefly address the last point of that comment? Because I think it's important.

Mr. Chairperson: Is there leave of the committee? *[Agreed]*

Floor Comment: And you raised the residential schools—

Mr. Chairperson: Mr. Beddome—

Mr. Beddome: Sorry. Thank you, Chairperson.

You raised the issue of residential school survivors. I think it was very problematic when we had administrative or form-fillers go around and get those applications. I can tell you that for my work that we didn't do that. It was only done by articling students who were, of course, under the supervision of a lawyer and are entitled to practice, and/or lawyers.

And, I think that was really important, working with abuse victims. It's not easy work. It's—and you have to go slow. You have to have multiple understandings, and I actually had the—need to be very careful with the confidentiality privileges—but had to redo applications that were done by form-fillers that weren't very adequate.

And that is precisely what worries me about where these amendments could go.

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

I will now call on Darcia Senft, and I ask the moderator to invite them into the meeting. Please unmute yourself and turn your video on.

If you have any written materials for distribution to the committee, you can now send the file through the chat function or email it to the moderator, who will distribute it to all committee members.

Please proceed with your presentation.

Ms. Darcia Senft (Law Society of Manitoba):

Thank you, honourable members, Minister and members of the committee—Justice Committee. We appreciate the opportunity to be able to speak with you this evening.

Traditionally, the Law Society, as the regulator of the legal profession, has, on its own initiative, approached the government with proposed amendments to legislation relating to the legal profession. These requests for act amendments always follow robust discussion, committee recommendations relating to policy and regulatory issues, and ultimately resolutions made by the society's board of directors that we refer to as our benchers.

The circumstances that led to the introduction of Bill 24 are as follows: the Law Society has studied issues relating to access to justice, and we have determined that there is a need to increase and improve access to justice, including access to legal services.

Simply put, there are unmet legal needs and an apparent need for more affordable alternatives for obtaining legal information, legal advice and perhaps legal representation. In our own strategic plan, the Law Society actually has a specific strategic objective relating to improving access to justice.

In reviewing the different ways that the members of the public can receive legal assistance, we recognize that members of the public would benefit from having access to additional options. The cost of hiring a lawyer can be prohibitive and, in practical terms, this often means that some people go without the advice they need and end up as self-represented litigants.

Others need advice and support, but they do not necessarily require the full scope of services that a lawyer can offer. We considered these issues in the context of the health-care system, where nurse practitioners and physician assistants have helped to improve access to health care where members of the public do not need the full scope of services that a doctor provides.

And a great example is that you can even get your flu shot now from a pharmacist.

Upon considering the recommendations of special Law Society committees, the benchers—our board—resolved to seek these legislative amendments that would permit the Law Society to both expand the category of exemptions relating to unauthorized practice of law, as well as designate and regulate

another category of legal service provider, namely, a limited practitioner.

We actually sought these act amendments from the government back in 2018. These amendments provide the legislative framework that will enable the Law Society to diversify the types of legal service providers to better meet the needs of the public—and this is very important—while still protecting the public.

* (18:40)

Giving the Law Society this authority is in keeping with our statutory responsibility to regulate the practice of law in the public interest. We were very pleased to see that the government responded favourably to our request by introducing Bill 24 so that the policy decisions of our benchers could be acted upon with the necessary act amendments in place.

Consistent with the Law Society's regulatory authority, the proposed amendments continue to provide rule-making authority to the Law Society as it relates to developing a limited practitioner licence. However, one section of the bill caught our attention because it also authorizes the Lieutenant Governor-in-Council to make regulations, whereas the act did not previously contain this regulation-making ability.

I would refer you specifically to section 25.2 of the bill which would provide the Lieutenant Governor-in-Council with the authority to make various recommendations, including establishing conditions, restrictions, or prohibitions in the practice of law by limited practitioners.

I'm specifying the provisions of the act that would apply to limited practitioners with any necessary changes relating to the education and training of limited practitioners. And it further states that if there were any—if there was a conflict between the rules of the Law Society as we make them and the regulations as proposed to be made by the Lieutenant Governor-in-Council, that the regulations would actually prevail.

We wanted to say this evening that it's very unusual, in our view, to see amendments that insert the Lieutenant Governor-in-Council into the process of governments of the legal profession. This represents a distinct departure from a long-standing regulatory framework where the Law Society independently regulates in accordance with its stated statutory purpose, which is to uphold and protect the public interest in the delivery of legal services with competence, integrity and independence. I stress that

word. The independence of lawyers and the legal profession is a fundamental pillar and essential of—and essential to a proper functioning democracy.

A few years back, the International Bar Association convened a task force on the independence of the legal profession. In its subsequent report in 2016, they stated that one indication of independence is effective independent regulation of the profession. Effective independent regulation, in this context, refers to self-regulation.

Self-regulation refers to the profession's own ability to set and enforce its own rules, free from influence as far as possible. This entails the profession's right to set its own rules and set up bodies to oversee compliance with those rules through powers to admit to the profession, discipline members and, ultimately, even disbar them.

With that limited exception, namely our concerns relating to this new power for the Lieutenant Governor-in-Council to make regulations affecting the governance of the profession, we are in full support of the bill.

Tonight, we are pleased to be able to provide you with an update in terms of where we are at with our process. Over the past few months we have engaged in a consultation process, as you've heard from Mr. Felstedt [*phonetic*], on our website and posted a consultation document, and we invited members of the profession, along with key justice system stakeholders, to provide their comments and give us feedback.

We received more than 50 submissions and we are in the process of reviewing those submissions. So we were very pleased with the response. We also made a profession in mid-February to members of the judiciary. There were 29 in attendance, and we anticipate receiving some very thoughtful and much-considered feedback from them in the days to come.

Recognizing that we do need to consult further, currently we are making plans to reach out more broadly to other justice system stakeholders, such as social workers and mediators who are often involved in family breakdown and marital dispute matters and also reaching out to the public generally.

We anticipate that continuing that consultation process in this way will be very valuable because these front-line—if I can put it that way—service providers are in a position to convey to the society what they have experienced as service providers and

to relate to us their observations about the experiences of the public, who themselves are key stakeholders.

As the regulator of an independent legal profession, we do remain concerned about any act amendments that may be used or even viewed as a potential erosion of the society's authority to regulate its own members in the public interest in accordance with its mandate.

The task force of the International Bar Association stated: The right to self-governance in the legal profession is at the heart of the independence of the bar. Self-regulating bodies comprising legal professions are better equipped to understand and appreciate the complex challenges and issues faced by their colleagues on a daily basis.

Moreover, a self-regulated profession ensures that lawyers have a say, whether direct or indirect, in the promulgation of the rules and regulations that govern the profession. Self-regulation, however, safeguards the public's right to an independent legal profession and ensures that government control, whether direct or indirect, is eliminated or minimized to the greatest extent possible.

I wish to just respond briefly to the comments made by Mr. Jurgen Felsted [*phonetic*], that we would respectfully disagree that there's any need for a further act amendment that would somehow suggest that there needs to be a statutory provision that would actually require lawyers to supervise limited practitioners.

And the reason for that is what I've just been talking about. The Law Society, we believe, is in the best position to regulate the profession and should do so independently after appropriate consultation, and, of course, having regard to our overarching need to regulate the profession, but always, always in the public's interest.

And with respect to Mr. Beddome's remarks, I feel much more positively about tonight's proceedings. I do not think that anyone is giving up on access to justice. On the contrary, I think that these act amendments that we proposed and the government has put forward in this bill tonight are taking a necessary step forward that would allow for further exploration of what can be done to increase the types of services that are available to members of the public who need them, because we do know from many studies—

Mr. Chairperson: The time for your presentation has expired.

Is there leave for the committee to allow Mrs.—

Floor Comment: I have about 20 seconds left, if that.

Mr. Chairperson: Do we have leave? *[Agreed]*

Ms. Senft: So we would respectfully request, though, that any amendments to The Legal Profession Act would proceed consistently with the historical approach that has been taken, and, therefore, the government should not limit the power of the Law Society to make its own rules in the public interest.

Subject to any questions that you may have, that's our presentation.

Mr. Chairperson: Thank you for your presentation.

Do members of the committee have questions to the presenter?

Mr. Friesen: Thank you, Ms. Senft, for appearing at our committee tonight, and I want to thank the Law Society for its careful and thoughtful work that led to these amendments—or led to this work that we're now considering this evening.

I thank you also tonight for your focus on the intentions of the work: to fill gaps, as you say, to make legal services more accessible. So two presenters before you spoke about the effect on the profession. You took a broader approach and talked about the need for these things to make legal services affordable.

There seemed to be some reflection, earlier this evening, that somehow there was a questioning of whether there could actually be activities that these limited professionals would—practitioners would take up that lawyers wouldn't have to do.

Could you just speak for a moment to us at this committee about the types of things that you believe, after the consultation and after consideration, that these limited practitioners could do to assist the profession and to assist clients?

Ms. Senft: I think that what the previous speakers were referring to is just some concern that it wasn't stated right in the proposed act amendments exactly what the Law Society intended when we asked the government to introduce the authority, through this bill, for the society to even introduce this category of licence.

I think it would be remiss of me to comment right now, this evening, when we are currently in the midst of our consultation process, about the parameters, if I can put it that way, of any scope—potential scope of

practice, including whether any or all of those tasks would have to be performed under the supervision of a lawyer.

For example, we may come up with, after the appropriate consultation, some tasks that we feel could be done independently, going back to the example of getting your flu shot from a nurse practitioner or a pharmacist. However, there may very well be other tasks—tasks that could be very competently done, undertaken by somebody who's not a lawyer, as long as there was a lawyer still supervising those tasks.

* (18:50)

So we are keeping the door open because we want to, in the public interest, ensure that we are *[inaudible]* considering the unmet legal needs, bravely looking at what can be done in the public interest. And again, the Law Society is here to protect the public, we are not the voice of the legal profession, we are the regulator in the public interest. That's our statutory mandate.

So unless I can ask the permission of the committee, I don't know if that answers your question, but I do have with me this evening Leah Kosokowsky, the new CEO of the Law Society, and she is prepared, subject to anybody—the appropriate permission being given—to add to my comments if she sees fit. I would ask that if she does have any comments, that there be no objection to that.

Mr. Chairperson: Okay, we're asking if there's leave from the committee members to allow Mrs. Kosokowsky to speak, once we're finished questioning here?

Ms. Fontaine?

Ms. Fontaine: No, we can proceed.

Mr. Chairperson: Leave has been granted.

Ms. Kosokowsky? Is Ms. Kosokowsky there?

Floor Comment: I know she was given the Zoom link.

Here. She's coming.

Mr. Chairperson: Ms. Gordon?

Hon. Audrey Gordon (Minister of Mental Health, Wellness and Recovery): So, is there a limit on the time that the new individual will be speaking, or are we sticking to 10 minutes for each presentation?

Mr. Chairperson: We have one minute left for questions. We will need leave of the committee to continue on. *[interjection]*

Okay, we have about 30 seconds left here for questions. If we want to allow Ms. Kosokowsky to answer questions, we'll ask for leave of the committee to proceed with that. *[interjection]*

The time for questions is up. Is there leave of the committee to continue with questions? *[Agreed]*

Ms. Fontaine: Apologies for the confusion here; just kind of trying to figure out a process here.

I would like to ask, in respect of section 25.2(1), so the Lieutenant Governor-in-Council may make regulations and all of those pieces that are in there—so, to be clear, this wasn't something that came from the Law Society in that deliberations from—with the government.

And so I guess my—I'm curious in respect of what is your expert opinion on this piece and whether or not you think that it would be beneficial to try to have an amendment here to remove that section in its totality?

Ms. Senft: Yes, we believe that there are—that's exactly what we would be seeking: an amendment to remove the regulation-making authority of the Lieutenant Governor-in-Council. We believe that there are other ways to address any concerns.

We understand that, at the time that we were in discussions with the government, there may've been some concern that our model wasn't fully developed. It is still not fully developed. As you've heard me tonight, we are still in the middle of consultations.

So we believe that if there is a need to introduce any changes, we can do that through subsequent act amendments in consultation with the society, as has historically been done all this time.

Mr. Gerrard: I'd just ask—it's Mrs. Korzeniowski *[phonetic]*? Whether you have any—I don't know if I've got your name right and if I don't, I apologize—but whether you have any additional comments to add at this point?

Ms. Leah Kosokowsky (Law Society of Manitoba): Only to say, in response to the question about what limited activities might be undertaken by a limited practitioner, we could envision a situation where there is very limited issues in a family-law situation where the couple is in agreement and that a limited practitioner may be able to assist with the document preparation, the filing of documents. There may be

other situations where they simply want to consent to adjournment before the court that would allow a limited practitioner to appear before the court, to do that upon consent.

Now, when I say that, I say that with some caution, in the sense that we still are certainly consulting with the profession and with the public to ensure that the public is protected, and that the concerns that Mr. Feldschmid has identified are addressed because by no means do we want to place the public in a situation where a limited practitioner would be employing skills that are beyond their education or training.

Thank you very much.

Mr. Chairperson: Well, that concludes the list of presenters I have before me.

Bill 50—The Legal Aid Manitoba Amendment Act

Mr. Chairperson: We will now move on to the presenters for Bill 50. It has been brought to my attention that Norman Rosenbaum has cancelled for this evening, so we will proceed to James Beddome.

I will now call on James Beddome and ask the moderate—to invite them into the meeting. Please unmute yourself and turn your video on. If you have any written materials for distribution to the committee, you can now send the file through the chat function or email it to the moderator, who will distribute it to all committee members.

Mr. James Beddome (Green Party of Manitoba): No, I do not, honourable Chairperson. Thank you.

Mr. Chairperson: Please—Mr. Beddome, please proceed with your presentation.

Mr. Beddome: Thank you, honourable members of the Legislature. I will be really brief tonight. Ultimately, I think this amendment, with respect to allowing the executive Legal Aid Manitoba to set tariffs is logical. I don't have a real issue with the legislation that we have before us, but what I will say is the need of it is truly somewhat limited.

Throughout the entire pandemic, Legal Aid has taken—has made use of their discretionary increase powers in many ways to deal with readjusting their budget. I don't pretend to have all of the answers, but I presume they're probably spending a little bit less on travel and have done some discretionary increases to deal with that.

What I think is going to be most important is going to see this government's budget, and what I hope this government will consider is drastically increasing the funding for Legal Aid.

As I acknowledge tonight, I am a practitioner that is on the panel of Legal Aid, but I don't see that so much from a self-interested perspective as a lawyer but from a broader aspect of access to justice. And I think this recommendation comes from the Fineblit report and there are some parts of that report that I like and there are some parts of that that I don't like. This amendment, I think, is logical.

The idea that things should stay cost-neutral with Legal Aid, I don't think is true. I think if we're going to increase access to justice, increasing the funding to Legal Aid is a very efficient, a very low-cost way of doing things and actually a good way for the economy overall too, because where do lawyers spend that money allotted on rent and administrative assistance.

So I think, broader, that's what we need to be looking at, in terms of our access to justice on this. And because we are speaking of the Fineblit report, I'd also highlight some of the comments that it made with respect to the bill.

* (19:00)

I think it's important to recognize how important that I've seen it as a lawyer of the Public Interest Law Centre would be in, but I would suggest for this legislative members to consider, is actually that there's probably a market for about six different PILCs in Manitoba. That would ensure multiple representation and when there's conflicts that arise, that would make sure that there would be different flavours, shall we say, of Public Interest Law Centres, and would then, perhaps, better enable some blending, if there's so desired in terms of seeking private funding, which [*inaudible*] does.

So I think those points need to be highlighted because I do recognize this amendment comes from the Fineblit report.

Ultimately, what I'll say is this amendment, I think, has its place, but the broader thing that we really need to see the members of the Legislature do is drastically increase the budget for Legal Aid Manitoba to make justice more accessible in this province.

Those are my comments. Thank you.

Mr. Chairperson: Thank you for your presentation.

Do members of the committee have questions for the presenter?

Hon. Cameron Friesen (Minister of Justice and Attorney General): Thank you, Mr. Beddome, for also presenting on Bill 50.

I'm going to go out on a limb here and say that the comments towards the end were probably out of scope for the purpose of this discussion, but there will be other venues for that in respect of this bill.

I find myself agreeing with you that essentially, what matters of course is that Legal Aid manages to budget and that, in this case, the housing of that responsibility, somehow, in the minister's office, it seems to undercut that aim. And so essentially what's important is that Legal Aid Manitoba has the ability to set its priorities, to set rates and to do so within approved budget levels.

Thank you, tonight, for appearing before committee.

Mr. Chairperson: Mr. Beddome, did you want to comment to that?

Mr. Beddome: Yes. Thank you, honourable Chairperson, and thank you to the minister for their questions.

But—I think—that's why I felt it was important to put these comments on; that this amendment in itself is fine, but the broader issue should be overall budget that's going to Legal Aid Manitoba is what we have to look at. If Legal Aid Manitoba is given a budget that doesn't grow with inflation and doesn't grow overall, then that result is it's going to set its priorities different, and that means it's going to not increase eligibility guidelines; it's going to lower the amount that it's paying on tariffs; it's going to not fund certain cases. And of course that's going to be the result.

So, ultimately, the overall budget is going to be more important than this amendment that's being made and brought forward today.

Hon. Jon Gerrard (River Heights): Yes. Just to get your comment here, it seems to me that this bill would provide for more ability of Legal Aid to set its budget that—but clearly, what you're talking about is the overall budget of Legal Aid, and unless you increase that overall budget, this legislation is not going to be very effective. I think that's what you're saying.

And when you say drastically increase, what sort of increase do you think is necessary?

Mr. Beddome: Thank you very much for the question from the member.

Yes, I'm asking for an increase, and my point is that they can adjust the tariff levels, but they already have throughout this pandemic by discretionary increases, so it's just boxes that we check inside PBOonline. I won't bore the legislative staff with the inner workings of the database.

But I would say doubling it is not unreasonable. It's probably the best \$40 million you could spend right now in the pandemic, and think about how you could expand and think about the legal issues that aren't being covered. So, 90 per cent is criminal, and there's a need for that, but there's also a need to expand civil litigation; there's a need to expand on family matters; there's a need in many areas of law.

We're probably going to see a slew of bankruptcies and business closures as we come out of this pandemic. All of these things are going to require people that need legal assistance, and Legal Aid is a great bang for your buck both, I think, publicly in terms of access to justice, but even for me as a lawyer. My earlier comments that I made in terms of Bill 24 tonight is, so often I have to have a conversation, draft up a budget for a potential client in the paid marketplace and they say it's too expensive. And that takes a lot of time for me, where with Legal Aid I can just get to work and serve people.

And so it offers, actually, a win-win. And so simply kicking that up. I mean, \$40 million is not actually drastic in the context of a budget that I think is around \$15 billion roughly give or take; I may be off a bit. Other members can correct me on that, but that would be what I would be looking at.

Mr. Chairperson: Are there any other committee members who would like to ask questions of Mr. Beddome?

Seeing none, I'd like to thank you for your presentation, and we'll now move on to our next presenter.

I will now call on Mr. Patrick Falconer and ask the moderator to invite them into the meeting.

Please unmute yourself and turn your video on. If you have any written materials for distribution to the committee, you can now send the file through the chat function or email it to the moderator who will distribute it to all committee members.

Please proceed with your presentation, Mr. Falconer.

Mr. Patrick Falconer (Private Citizen): Mr. Chairman, Mr. Vice-Chairman, committee members, thank you for the opportunity this evening to present my views on Bill 50, the legal aid amendment act.

I'd like to pause and recognize and commend the hard work of the clerks and the Legislative Assembly to have this standing committee session being held. It's a wonderful achievement, so thank you.

My name is Patrick Falconer. I'm a 63-year-old Manitoban who struggled for my most of my adult life to contribute meaningfully to improve the province that I am proud to call home. I, like most of us, have had finer and less fine moments in these efforts.

I'd like to remind you that Bill 50 was introduced for first reading by then-minister of Justice and Attorney General, the Honourable Cliff Cullen, back on the afternoon of Monday, November 1st, 2020. The bill was introduced with its title alone. No text or explanatory notes were released.

Citizens, taxpayers, stakeholders and MLAs alike all had to wait until March before this information was made public. In terms of the Legislature, that represents a delay of 12 sitting days. In terms of the public, that represents an astonishing delay of four months, a full 120 calendar days.

Even more shocking, Bill 50 was not an aberration, a lone wolf, so to speak. Bill 50 was one of 19 so-called mystery bills that were introduced in November with no text. The text of all 19 of these bills was withheld from the public for four months. Some, including the 300-plus page education modernization bill, have only been made public late last week.

Mr. Chairperson: Mr. Falconer, if I could ask you to just direct your presentation to just specifically to Bill 50.

Thank you.

Mr. Falconer: I'm doing my best, Sir.

Mr. Chairperson: Mr. Falconer.

Mr. Falconer: Yes.

Mr. Chairperson: Go ahead.

Mr. Falconer: I was one of the stakeholders who had and expressed major concerns to the minister about the possible contents of Bill 50 over those four months. I also expressed great concern about the 19 bills without text, but was reassured in writing by both PC House Leader Goertzen and Vice-Chair

Isleifson that Manitoba is one of the only jurisdictions in the country to provide an opportunity for members of the public to make presentations to committees of the Legislative Assembly as part of the legislative process. And I was told if, upon reviewing the bills currently before the House, you would like to engage directly with MLAs and put your thoughts on the record, I would encourage you to do so.

Bill 50 is the first of the 19 mystery bills to reach the standing committee stage, so I am pleased to take this earliest possible opportunity to take the distinguished PC MLAs up on this offer, a short 10 minutes to put my thoughts on the record to the standing committee process.

Bill 50 and the other 18 mystery bills are now seriously tainted by this disturbing history, the result of the escalation of partisan procedural disputes that the Pallister government has taken to the extreme, an extreme that—

Mr. Chairperson: Mr. Falconer, if we could get you to try and focus your comments specifically to bill 'fiffly'.

Mr. Falconer: I'm speaking about the process by which Bill 50 arrived at your table. I think that's specific to the bill and how it—the context of how—the process of how it arrived—

Mr. Chairperson: Mr. Falconer, we would like to direct your presentation to the contents of the bill, not how the bill was developed.

Mr. Falconer: Excuse me, Chairman—

Mr. Chairperson: Mr. Falconer.

Mr. Falconer: Could I ask for a clarification as to why process is not an important thing to talk about?

Mr. Chairperson: Okay, on the agenda tonight is Bill 50, and you can speak specifically about the contents of the bill.

* (19:10)

Mr. Falconer: Thank you, Mr. Chairman. I was advised that I could speak to process and content related to the bill. The content—the process I'm speaking about is specific to how Bill 50 arrived at the standing committee. It's a—specific to the bill and the process by which the bill arrived. I think that is pertinent to thinking about the bill and about considering its substance and its direction.

May I continue?

Mr. Chairperson: Continue, Mr. Falconer.

Mr. Falconer: Pardon me, Sir?

Mr. Chairperson: You may continue, Mr. Falconer.

Mr. Falconer: Thank you.

So, I was interrupted, thank you.

An extreme that entailed the unprecedented breach of due process and a clear break with long-standing and cherished democratic standards. Was there provocation by their—by the opposition? Surely. Has being the government during the midst of a pandemic been a challenge? Surely. Was withholding the text of 19 bills, including Bill 50, for four months defensible? Surely not. I repeat: surely not.

As the March 2nd letter to the—Premier Pallister and leaders Kinew and Lamont from six distinguished and deeply concerned Manitobans from across party lines clearly and unequivocally stated, this is unacceptable.

The March 2nd Winnipeg Free Press editorial stated: The procedural infighting in Manitoba's current Legislature has taken petty—

Mr. Chairperson: Mr. Falconer, just to remind you, you are drifting off of Bill 50 again.

If you could try and give us specific comments regarding Bill 50 in your presentation, we would appreciate that.

Mr. Falconer: Thank you, again, for trying to help in terms of the focus of my discussion. As I've said, the focus of my discussion is a process specific to Bill 50 as well other bills, but specific to Bill 50. I'm hoping that my 10 minutes will allow me to speak to that. I'm not looking to have half an hour; I'm just looking to again take up the offer of expressing my opinions which relate to a process specific to Bill 50.

May I proceed?

Mr. Chairperson: Proceed, Mr. Falconer.

Mr. Falconer: Those are the softball descriptions. Scott Forbes, president of the Manitoba Organization of Faculty Associations, described the government's conduct as showing, I quote, a stunning contempt for Manitobans. Dennis Pillan, a respected political science professor from York University, is reported to have called, quote, a new low in parliamentary behaviour from Canada's right wing, and that's saying something that this is a very bad precedent. Molly McCracken, director of the Manitoba office of the Canadian Centre for Policy Alternatives, reportedly

referred to the process related to Bill 50 as conduct—as being part of the global attack on democracy and called it, quote, disrespectful to Manitobans.

In an attempt to find middle of ground relating to Bill 50 and the other bills, perhaps we could refer to it as a serious case of democratic backsliding.

Mr. Chairman, Mr. Vice-Chairman and committee members, I invite you to stand back with me for a moment of reflection. I would like to creatively paraphrase one of the—what—one of the famous quotes from Edmund Burke; Edmund Burke is the classic—classical political thinker of the 18th century who's often referred to as the father of conservatism: The only thing necessary for democratic backsliding to triumph is for good persons to do nothing.

Premier Pallister is, in the end, most responsible for this unprecedented breach of parliamentary tradition relating to Bill 50 and the other 18 bills. But I must ask whose actions, through either omission or commission, have allowed this to happen? My answer is the members of his PC caucus, who I'm sure are good people but seem to have done nothing or at least have not done enough to rein in what are often described as the Premier's controlling, hyper-competitive and even authoritarian tendencies.

These are not qualities that most good people admire. These are not the qualities that inspire trust and confidence. These are not the qualities we would want to promote in our children. No, these are the qualities that, left unchecked, both enable and propel democratic backsliding.

Resistance is not futile. No, indeed. Democracy is fragile and resistance to backsliding by good people is 'obligatory.'

So I conclude my remarks by issuing an indictment from the court of public opinion and the Manitoba court of legislative history. I've provided copies of the indictment to the clerk in advance of this evening's meetings.

The indictment reads: The PC members of the Standing Committee of Justice are hereby indicted for, first, aiding and abetting Premier Pallister and government leaders in establishing a dangerous precedent in Manitoban and Canadian history by tabling 19 bills, including Bill 50, for first reading without text and then not releasing the text for another four months, thereby establishing a new low in parliamentary conduct, denying the public's right to the timely review of legislative initiatives, and casting shame upon our fine province.

And, second, aiding and abetting Premier Pallister's failure to abide by and honour the Progressive Conservative Party of Manitoba's guiding principle—

Mr. Chairperson: Mr. Falconer, your 10 minutes for your presentation time is expired. Thank you for your presentation.

Do members of the committee have questions to the presenter?

Mr. Gerrard: Yes. I would ask Mr. Falconer: the delay of four months—did that create uncertainty in Legal Aid or in others as to what was going to happen? Could it have created uncertainty in terms of the security of people's jobs and—because this information as to what was in the bill was not available?

Were there significant additional consequences, perhaps, to this delay?

Mr. Falconer: Thank you for the question.

I think there was great concern within the community. Again, I was one of many stakeholders in a process that was led by the social planning council regarding concerns in what content would be provided or be in the bill regarding the Public Interest Law Centre.

The Public Interest Law Centre has been operating for more than 40 years and is one of the great stars in the Legal Aid system in Manitoba. The—one of the mandate letters for the minister was talking about transitioning PILC away from government, so there was a very major concern over that entire four months that this kind of provision would have been included in the act. It was with relief—great relief, to find that, indeed, it was not. But it was four months of anxiety and concern and ambiguity and a lack of clarity.

Thank you.

Ms. Nahanni Fontaine (St. Johns): Miigwech, Ms. Falconer, for—or, Mr. Falconer, for your presentation.

And, again, I think that you raise some really important points in respect of democratic processes and Manitobans being able to access bills that are specified bills—so, these are bills that actually will receive royal assent—and being able to access the text of those bills once they're introduced.

So I do agree with you there. I think that that's really important for Manitobans to be able to assess

what the government is doing in a timely manner and not this kind of secretive manner.

I am—I don't know if you're aware, Mr. Falconer, that actually before we rose in December we had tried to allow the government, albeit late, but we did try to allow the government to table these 19 bills intersessionally. And, unfortunately, the member for River Heights (Mr. Gerrard) blocked that. The Liberal independent members blocked that.

So, I think it's important to just put that on the record. And, of course I know that people are getting, you know, a little excited in this room right now. Again, we were trying to kind of mitigate what the government was doing by not sharing these pieces of legislation.

And so I just wanted to share that with you because I know that there was an attempt by our caucus to try and get those bills tabled so that people would be able to see them.

But I thank you for your presentation tonight.

Mr. Falconer: I went with knowledge that there is a—quite a few hues of grey and little black and white in some of these situations.

* (19:20)

I understand the context and the history in terms of measures that were taken. I believe that the government had the full month of November to be able to release the bills, prior to their being [*inaudible*] intersessionally.

I note that the House resumed sitting for a period of time before the government chose to release these bills, including the educational modernization act, which was released only a few days ago.

So the extent to which bills would have been released and hypotheticals, I think is a hard thing to be able to guess. The reality is that it was four months.

Thank you.

Mr. Chairperson: Any other questions from committee members?

Seeing none, thank you for your presentation, Mr. Falconer.

We will now move on to our next presenter.

I will now call on Gerri Wiebe and ask the moderator to invite them into the meeting. Please unmute yourself and turn your video on.

Welcome, Gerri. If you have any written materials for distribution to the committee, you can now send the file through the chat function or email it to the moderator, who will distribute it to all committee members.

Ms. Gerri Wiebe (Criminal Defence Lawyers Association of Manitoba): Thank you, I don't.

Mr. Chairperson: Thank you. Please proceed with your presentation, Gerri Wiebe.

Ms. Wiebe: Good evening now, everyone. Thank you very much for the opportunity to speak to you here this evening.

I'm here as the president of the Criminal Defence Lawyers Association of Manitoba and, obviously, we are a stakeholder in the criminal justice system and we have a vested interest in the contents of the bill that you are considering this evening.

I think it's important to take a broad view of what we're looking at when we're looking at Legal Aid Manitoba so please forgive me if you know the information I'm about to impart, but for those of you who don't, I hope that you will find it helpful in understanding the context of the system that is engaging right now.

A successful criminal justice system is dependent on the success of a number of separate but interrelated components. These components include law enforcement, prosecution services, the defence bar, courts, legal aid, victim services, correctional services and a whole host of others.

Defence counsel are an integral part of a criminal justice system for distinct, yet interrelated reasons. First, defence counsel bring legitimacy to the criminal justice system. The state has virtually unlimited resources to investigate and prosecute those charged with a criminal offence. The court process is complicated and it's time intensive.

The reality is that the vast majority of people accused of a crime in Manitoba cannot afford to fund their own defence. In fact, Legal Aid Manitoba's own annual report indicates that the vast majority of Legal Aid Manitoba clients make less than \$10,000 a year. Most people accused of crimes in Manitoba are marginalized, racialized and living in poverty; 69 per cent of Legal Aid Manitoba clients self-identify as Indigenous and another four self-identify as another visible minority.

In order for our system to be fair and to maintain the confidence of the people that it purports to serve,

competent counsel has to be appointed through legal aid, in order to allow accused persons to properly navigate the complicated and high stakes criminal justice system.

Defence lawyers bring efficiency to the criminal justice system. Our justice system is slow and incredibly expensive to the taxpayers. Effective defence counsel reduce the costs of the system by ensuring that matters move expeditiously through the system.

Effective counsel can do this by cutting the—cutting down to the issues that are truly important. The same matter, if dealt with by an unrepresented accused, will use significantly more court time. This ties up the prosecutor, a judge, clerks and limits the ability of our system to handle backlogs.

Criminal defence lawyers ensure that people who don't need to be in jail aren't in jail. The cost of incarcerating a male in Canada is approximately \$254 a day. Manitoba has the highest incarceration rates in Canada and Indigenous people are continually very, very over-represented in our justice system.

Criminal defence lawyers help to ensure that accused persons are not wrongfully convicted. Settlements for these miscarriages of justice are hugely expensive but the greater cost is to the administration of justice. Nothing causes the public to lose faith in the justice system faster than hearing of an innocent person spending years in jail for a crime that they didn't commit.

Competent defence counsel vigorously defend their clients. If, in spite of this vigorous defence, a person's guilt is proven beyond a reasonable doubt, then the system has worked as designed.

Without defence counsel advocating for an accused, you have the state acting on *[inaudible]* instead of for them.

In Manitoba, the criminal justice system has traditionally run on defence counsel services provided by private bar defence counsel at a very significant discount because of the Legal Aid tariff. Defence counsel take on these cases because they believe in their civic responsibility to protect the poor, the indigent and the underserved.

Let's be very clear, if private bar lawyers providing legal aid services were to demand market rates, the criminal justice system would collapse.

The reality is that the current model of administering legal aid services in Manitoba has not

been as effective as it could and should have been. Despite the critical role of defence counsel in the fair and efficient administration of justice, the Legal Aid tariff has been chronically neglected.

Other components of the justice system have received significant funding increase over the last 13 years, where the Legal Aid tariff has remained stagnant. I'm going to repeat that. For 13 years, the Legal Aid tariff has not increased one penny.

There has been no mechanism in place to consider the adequacy of the tariff on a regular basis, resulting in long periods of time with no increases and increases only being achieved through job action that disrupts the system and diminishes public confidence in it.

When only one side of the scales of justice are being adequately funded, the impartiality of the very system is put into question. Keep in mind, the tariff is not an hourly wage. From the tariff, a defence lawyer has to pay for office space, supplies, phone, Internet, support staff, bookkeeping, insurance, practising fees. The list goes on and on.

Criminal defence firms are small businesses that support the local economy in cities and towns all over Manitoba. We rent office space, order office supplies from local businesses and hire staff to work in our legal offices. Our expenses have increased with inflation over the last 13 years, while our revenues have remained flat or even decreased. Our small businesses, like many others, have been ravaged by the pandemic.

The chronic underfunding of Legal Aid has had significant consequences to the justice system. Talented lawyers are leaving the practice of criminal defence and young lawyers are choosing alternative areas of practice because criminal defence work is too difficult a career path.

With Legal Aid tariff being insufficient to support healthy small businesses, few lawyers have been able to do legal aid work. Those who have continued to do it have been forced to take on a volume of cases that can compromise both the quality of the representation and the wellness of the lawyer representing the client.

Public confidence in the administration of justice has been impacted. The notion of a two-tiered justice system, one for the wealthy and one for the poor, among the general public is pervasive. Public opinion of access to justice is poor in our province.

The CDLAM is not opposed to devolving control of the tariff to Legal Aid management and, in fact, we

find the government's stated objective of ensuring that Legal Aid has the ability to make adjustments quickly and manage services more effectively to be laudable.

The CDLAM has, in fact, seen Legal Aid management make extensive efforts to use the limited discretion that it currently has to be responsive to the efforts of private bar defence lawyers to continue to provide legal services during the pandemic. This nuanced reaction to a very unique situation has demonstrated that Legal Aid management is capable of executing this government's goal.

We were also encouraged to hear the Justice Minister acknowledge that fees have not increased for years and that this needs to be addressed in order to ensure that lawyers will continue to choose this important field of practice.

I cannot stress enough that Legal Aid can only deliver effective services if it is properly and reliably resourced. The consequences of Legal Aid funding go far beyond fairness for defence lawyers. Adequate and reliable funding are critical to ensuring equal access to justice, procedural fairness and a just and equitable criminal justice system as a whole.

We ask you to remember that the health and vitality of the defence bar is synonymous with the health and integrity of the criminal justice system in Manitoba in its entirety.

Thank you very much for this opportunity to present to you today.

Mr. Chairperson: Thank you for your presentation.

Do members of the committee have questions for the presenter?

Mr. Friesen: Ms. Wiebe, thank you for being here this evening and presenting to us here at committee.

Thank you for your defence of criminal defence lawyers. That was an informative presentation, and thank you for reinforcing some of the points we've been trying to make that this shift in responsibility for tariff setting can only help to promote those things you mentioned, like access to justice.

* (19:30)

So I appreciate your presentation here this evening. Thank you for sharing with us about your perspective of your organization on these amendments.

Mr. Chairperson: Ms. Wiebe, do you have any comments to that?

Ms. Wiebe: I don't, other than to say, you're welcome.

Ms. Fontaine: Miigwech, Ms. Wiebe, for your presentation and for your expertise that you shared with everyone in the committee this evening and also for your service.

I do—I think there was a question earlier in respect of tariffs. So, one of the things that we know about Bill 50 is that it's one thing to transfer, you know, the administration of tariffs to the Legal Aid management board but it's an entirely different thing when there's no dollars to actually do anything with that and to not be able to kind of increase those dollars or those tariffs.

So I am curious, you know, your thoughts on that specifically, but also, like I said, I think there was a question this evening about, you know, what an individual thought, you know, the type of money that we would need to be able to adequately and reliably and properly fund Legal Aid.

Ms. Wiebe: Thank you very much for that question. Two—there's sort of two parts to that question and I'll answer the second one first.

I could give you my personal opinion as to what dollars would be required but, quite frankly, the CDLAM has confidence in Legal Aid management and their expertise in managing their tariff valuing the work of services done. Legal Aid Manitoba management, quite frankly, has, over the years, expressed quite unconditionally to the CDLAM that they recognize that the tariff has been underfunded.

And let's be very clear: the reason that Legal Aid has been able to function with the budget that it has for the last number of years has been on the backs of defence counsel—private-bar defence counsel, to be very specific.

You can imagine what a dollar was worth 13 years ago and what that same dollar is worth now. The reason that they have been able to expand services to account for their own inflation has been by not passing on the cost-of-living increases to the service providers that were delivering the bulk of Legal Aid defence services in Manitoba.

So while I'm not going to put a number out there to present to this committee in terms of what is necessary, and I will go so far as to say that while Mr. Beddome's suggestion that you double Legal Aid funding is something that I wouldn't discourage, I think something fairly significantly less than that would be adequate to achieve the goals of being fair

and equitable not only to defence lawyers, because that's a small part of what I'm asking you to consider.

I'm asking you to consider the stakeholders, the people who we represent, because they are the ones who are hurt by the lack of funding and they are the ones who will benefit from equitable funding for private-bar defence counsel.

Mr. Gerrard: Thank you for your presentation.

Now, when I talked to—tried to find out a little bit more about this, one of the things that I was told was that it was important to have that flexibility, in part because you would need to pay lawyers more for very complex cases than more simple ones and that one of the things that tends to happen is that lawyers don't want to do complex cases because they tend to be not paid adequately for them.

I wonder if you could just comment.

Ms. Wiebe: That is certainly one aspect of the difficulty, although the discretion that Legal Aid management has been afforded that was referred to by Mr. Beddome earlier this evening is, essentially, the only discretion that they've had up until now to go beyond the legislated tariff of fees and that gave Legal Aid management the ability to provide payment for exceptionally complicated cases in certain circumstances.

Having said that, the amount that Legal Aid could pay for an exceptionally complicated case was entirely dependent on how much they had in order to properly fund the defence. So that is one aspect, for certain.

The difficulty from our perspective arises more from things like the requirements from court that we attend for pre-trial conferences, that we attend for certain hearings with respect [*inaudible*] hearings, they're called 516 hearings, where there's no contact order—

Mr. Chairperson: The time for questioning is expired. I'd like to thank Ms. Wiebe for presenting to us today, and we move on to our next presenter.

I will now call on Shawn Kettner and ask the moderator to invite them into the meeting. Please unmute yourself and turn your video on.

If you have any written materials for distribution to the committee, you can now send the file through the chat function or email it to the moderator, who will distribute it to all committee members.

Floor Comment: I do not.

Mr. Chairperson: Shawn Kettner, please proceed with your presentation.

Ms. Shawn Kettner (Private Citizen): Thank you, Mr. Chairperson, Vice-Chairperson and the committee meeting members.

I'd like to thank all of you for the opportunity to address this committee and express my views on Bill 50, the legal aid amendment act.

My name is Shawn Kettner, I'm a private citizen; I have lived, worked and raised my family in Manitoba. I grew up in the North End of Winnipeg, chose to settle here and raise my family here. I'm also a retired business owner and I'm a proud Manitoba—or at least I was—always speaking highly of our beautiful province and the place I call home.

This has become harder and harder to do, as I often find myself up late at night or welling up with tears as I go about my day as I observe the destruction and 'deterioration' of what makes—or used to make—our province a place that proudly calls itself friendly Manitoba. And I'm not alone; everyone I talk to, every analysis of the current trends in the Manitoba politics I read in the mainstream media, everywhere I look people are frightened, frustrated and fearful for the future of our province. By that, I am referring to the barrage of proposed changes to the many government bills, including Bill 50, that has dramatically changed the essence of who we are and how we will care for each other now and in the future.

From what I understand, government bills are there to act as a guide or a set of rules for our various programs and institutions that we collectively determine, resulting in the best practices for all Manitobans and for the future generations. The various steps in our legislative procedures provide—or at least intend to provide—the democratic process that ensures inclusivity and transparency. And here is where things seem to have gotten a bit messed up.

The very heart of democracy is based on working together to collectively determine the will of the people, and by that I mean inclusion, not exclusion. Bill 50 was introduced for first reading by then-minister of Justice and Attorney General, the Honourable Cliff Cullen, on November 2nd, 2020. And, as well, we are all aware, the bill was introduced with the title and no text.

We, the citizens of Manitoba and the MLAs, all had to wait a full four months until March 21st before this information was made public. Not only were the politicians and the general public not privy to the text,

but the civil servants who best know the effects of the bill on the communities they serve were not provided with the text.

Not having access to the proposed changes in a timely manner grossly limited the opportunity to analyze and advise as to how the—

Mr. Chairperson: Ms. Kettner, I'd just like to remind you that if you could direct your comments specifically to Bill 50 and keep focused around just Bill 50, that will be appreciated.

Ms. Kettner: Yes, I will try to do that. My presentation is very short, I'm almost done. All right.

It is our trained professionals and not our politicians who are the experts and are able to understand and best advocate for our communities and we—as we have just heard by the previous presentation. And it is only through 'transparence' and democratic consultation that truly good choices and political decisions can be made.

* (19:40)

Bill 50 was only one of the 19 mystery bills that were introduced last November with no text. This government has chosen to withhold the text of many bills to the last moment. Nowhere else, never in the history of our province, the legislatures of all other Canadian jurisdictions, or in the established norms in every international jurisdiction that responded to the inquiries by the Manitoba Legislative Library have there been the tabling of so many bills without text.

This is unprecedented and done democratic—

Mr. Chairperson: Ms. Kettner, if I could just—

Ms. Kettner: I'm almost—

Mr. Chairperson: —remind you again to focus on the content of Bill 50, please.

Ms. Kettner: All right. Two more seconds, here.

Mr. Chairperson: Ms. Kettner.

Ms. Kettner. Yes; thank you. I ask that you determine how to proceed with Bill 50. As you decide how to determine to proceed with Bill 50, you take into account the lack of time allowed for the examination of this bill and therefore your responsibility for enabling the tabling of all of those bills with no text.

I ask that you listen to the concerns of citizens like myself and make the necessary adjustments to Bill 50, in light of it being one of the 19 mystery bills that did

not sufficiently allow for the democratic process to be upheld.

I ask that all party members work together in an open, public and transparent process to amend the rules of the House before the next session to better reflect and respect due process, as well as to remote—promote more meaningful public participation in the legislative process.

And I close by asking that you listen to your hearts so that you can once again proudly call—we can proudly call ourselves friendly Manitoba and celebrate our caring, kind society that honours the democratic process and is inclusive, and therefore leaves no one behind.

Thank you, committee and Chairperson.

Mr. Chairperson: Thank you for your presentation, Ms. Kettner.

Do members of the committee have questions for the presenter?

Ms. Fontaine: Miigwech, Ms. Kettner, for your presentation. I do just want to acknowledge the concerns that you're bringing forward this evening as a private citizen, as a Manitoban. I think it is important that citizens have the opportunity to put on the official record of Hansard the concerns brought forward when the Pallister government introduced bills with no text.

And so I do want to just acknowledge that what you brought forward tonight is a very serious concern. It is undemocratic; it's something that we haven't seen, and—but we're seeing it with this Pallister government, and I think it's important to put it on the record.

So, thank you. Miigwech.

Ms. Kettner: Thank you, MLA Fontaine. Much appreciate your comments.

Mr. Friesen: Thank you, Ms. Kettner, for presenting. I feel compelled to respond to the statement just made by the previous member.

I want to ask you a question and ask you if you knew that, for weeks at a time last spring, when the government had brought all of its bills to the Manitoba Legislature, that member, who's the House leader, allowed the bells to ring and votes to be taken to be able to stop the government from actually introducing its bills by the time required to have those bills passed in the House in the spring.

Were you aware of that blockade of democracy that happened last spring, or were you only aware of what you say occurred in this year?

Ms. Kettner: Yes. I was very aware of what had happened last spring and—or last fall, and I understand that there has been a very odd approach to the democratic process over the last while, and that—that the 19 bills with no text were still the 19 bills with no text, and that that was the problem in the fall and it was the problem in the spring.

And then I know that there was also a request to provide the bills between session and that that didn't happen. So there's been a lot of game-playing here and I think that the democratic process has been damaged and that the competence in our government has been damaged. And I don't know—there's nobody I've talked to that isn't concerned about the games that are being played.

And that's why I ask that the parties work together in an open and transparent way so that we can look at the rules, because I don't think the people that wrote those rules had the intention, or could even have imagined that bills would be presented—that a series of 19 bills would have been presented to the Legislature without any text. It's just unconscionable that that has happened. And I don't think it's just PCs that are at blame, but it doesn't mean that it was the right thing to do.

Mr. Gerrard: I just want to say thank you very much for your comments, and we would certainly be on the side of making changes to our current rules, so that bills have to be presented at a timely manner in the future, as you've called for.

Thank you.

Ms. Kettner: Thank you, Dr. Gerrard. I appreciate your comments.

Mr. Chairperson: Are there any more questions from committee members? Seeing none, we will move on to our next presenter.

I will now call on Michelle Dallmann and ask the moderator to invite them into the meeting. Please unmute yourself and turn your video on.

If you have any written materials for distribution to the committee, you can now send the file through the chat function or email it to the moderator, who will distribute to all committee members.

Michelle Dallmann, you are presently muted. We can't hear you in committee. Please unmute yourself. We still cannot hear you.

Ms. Michelle Dallmann (Private Citizen): Hello.

Mr. Chairperson: We can hear you now.

Ms. Dallmann: Okay—beautiful. Thank you so much. Yes, hi. I don't have any documents for the people.

Mr. Chairperson: Michelle Dallmann, please proceed with your presentation.

Ms. Dallmann: Good evening and thanks everyone here for your attention. I am coming here as just an individual person that—a deeply concerned citizen of Manitoba.

Following Mr. Falconer and Ms. Kettner, I'd like to speak specifically to the process of the introduction of Bill 50, the legal aid amendment act. An unfortunate precedent was set recently when the current PC government was allowed to present only the titles of bills to the public and opposition without any information regarding possible changes and additions to current bills in place.

This bill, Bill 50, is the first of 19 bills to be debated in this session of the House. From the outside, from the citizen's perspective, this seems like an obvious abuse of an already terribly fragile democratic system that a lot of Manitobans have come to mistrust.

This mistrust has been deeply rooted entirely through the fault of those who are sitting in power now and those who have been in power in the past. I know it's possible that the reasoning behind this decision to allow these—to allow Bill 50 and others to go forward may have seemed rational from the point of making it.

I think that it's extremely important that we not detach from reality and really work to understand the state that our political system is in, according to the public eye.

No one trusts you guys and if they do, they're trusting a little bit blindly. And it seems to say a lot about the value that the minister and Brian Pallister place on the public understanding of our system and the absolutely disregard that is had for us, the citizens that you serve, to be able to have an honest conversation and be active participants in our own provincial democratic practices.

And for the first time in 151 years since Manitoba's conception, a government official has gotten away with intentionally blindsiding the public—

not with misinformation in the bills, but with absolutely no information at all.

*(19:50)

And I don't think that it is out of line to speak on the textless [*inaudible*] in Bill 50 and the other ones, and demand better of our government, of my provincial representative, of my—our civil servants. The Premier (Mr. Pallister) and the House is supposed to serve us, my brothers and sisters, and the move to present these bills is actually just embarrassing. It's another shame put on our province without the consent of us, the citizens who trusted enough to give you the power that you have. It is your job to make sure that our rights as human beings are respected beyond the letter of the laws within these bills. It is your job to ensure that our rights are protected and that our democracy is transparent.

The decisions made today about these bills—Bill 50 and the other 19 ones and for the rest of this session—are not supposed to be the decisions made by a single man.

We, as Manitobans, demand that scholars, scientists and true professionals—like the ones who've presented today—are heard, listened to and genuinely respected. We demand that a deadly pandemic not be trivialized and compared to the Stanley Cup. We demand that these childish and petty actions, defensive reactions and bad decisions be taken accountability—be taken responsibility for, instead of being shirked onto someone else. We demand to be properly informed about these bills because it is our right.

In an interview regarding these bills, Brian Pallister stated that his position—that the representatives of the NDP should stop acting like they're the government in charge. But then, in another interview, he also blames the opposition for coercing his personal decision to present these bills with absolutely no information whatsoever. This lack of accountability is completely irresponsible.

The principle of democracy is openness and transparency for ease of accessibility among the public. Someone was quoted in another interview saying that the reason that this happened is because we have bad rules, which is true, and as we can and will see in most of these proposed bills that there are plenty of detrimental—and even utterly destructive—rules that could be in place.

And it's interesting to me that any adult in politics would claim that this isn't an abuse of an unwritten

rule of basic respect for the democratic process. This is just shady. It's petty and it's humiliating, you know?

I'm going to simplify this issue, make a sport-ball reference so that it can make sense to some people who might not catch on to why producing these bills without text is manipulating the system for personal gain and cheating us, the citizens, out of our right to an open democracy.

Now, technically, there's no official rules in street hockey, right? So if you're new to hockey, to the streets or to the idea of teamwork and co-operation, you might take it upon yourself to play to win at all costs, without any thought of the effects about your actions and what they might take—and how they would affect your team or the opposing players. You might think, well, there's nothing written down about not taking a stick to the back of this guy's head, so why not play to win? That should give me the advantage.

But, we know that doesn't seem right. You don't see grown men out there blindsiding each other just to get ahead in the game. And the situation right now is exactly the same: just because there isn't a rule outright specifying that you don't have to publicly and explicitly share the information within a proposed bill before it comes to House doesn't mean that that gives Brian Pallister—or any future government—the permission to go behind the backs of our citizens and blatantly disrespect centuries-long democratic practices of free and accurate information and open debate.

The decisions made now and forever regarding these intentionally secretive bills need to be made with the people in mind—not just the people of today, who will temporarily benefit from the lack of forethought. Our children deserve to see that the democratic process is fair, our friends need to know that their fears for their future are being heard and our families need to know that, when they have something to say, a government that truly serves our people and—will stand up and protect our right to life, our right to human dignity and our right to a fair democracy.

And that's all I have to say. Thank you for listening. If there's any questions, I'm here, I got you.

Mr. Chairperson: Thank you for your presentation. I would just like to remind people and the present people presenting to us that the purpose of the committee meetings is to discuss and debate the content of the bills before the committee more so than the process of the introduction to it. And I did allow

you a great deal of latitude today. I hope you can appreciate that.

So with that, do members of the committee have any questions for the presenter?

Ms. Fontaine: Miigwech, Ms. Dallmann, for your presentation tonight. I actually think it's really important for Manitobans. I mean, you probably know this, that we are, I think, one of only two jurisdictions across Canada that allow for citizen public presentations, right? And so I think it's important that we have private citizens come tonight, exercise their democratic right to be able to present to the standing committee.

I think it's actually quite informative for some of our PC members here, including the Justice Minister, to hear directly from Manitobans, particularly to hear from Manitobans on how they were impacted by the Premier (Mr. Pallister) and his Cabinet with tabling bills and withholding the text.

I think that it's really important that they sit here, even though they're squirming, they're squirming in their seats while we have these presentations. I think it's important that they hear directly from Manitobans that it was undemocratic, it wasn't right, it's not what governments should do and that they should get their act together so that the next time they want to introduce bills, hopefully they've learned their lesson this time, and the next time that when they get up in the House and they introduce bills, they'll have the texts of the bills available as well.

So I want to thank you for spending your evening with us and sharing your concerns. And, like I said, maybe members opposite will learn something.

Miigwech.

Ms. Dallmann: Absolutely. Thank you, Nahanni. I genuinely appreciate your statements. And when you say that the people across from you feel like they're squirming, imagine how we as the citizens feel, being blindsided, slapped upside the head with information that we don't understand.

I get it that it's uncomfortable for a private citizen to come in here and say it's not fair to be treated like an idiot, but when we are not given the opportunity to even wrap our heads around texts in bills, it's absolutely fair for us to come here and say, hey, I wish I had the opportunity to be able to reflect on the text in the bills so that I could give you a substantial debate against it. But we were given absolutely no time for that, and that is unacceptable.

Thank you.

Mr. Gerrard: I want to say thank you for coming forward, because it's important that all of us hear this, and from our point of view, I and my Liberal caucus will be working hard to try and get the rules changed so that bills have to be presented in a timely fashion in the future.

Ms. Dallmann: Thank you, I appreciate the reassurance. And I hope that, in the future, the people who are having a hard time thinking that the bills don't need to be presented in a timely fashion can reflect on that and actually do better to represent Manitobans as a whole because it's not PC, it's not NDP, it's not Liberal; you're in Manitoban government meant to run for Manitobans. That does not work if all Manitobans are not taken into consideration and respected as Manitobans.

Thank you.

Mr. Chairperson: Do we have any other committee members wishing to ask questions of the presenter?

Seeing none, that concludes the list of presenters I have before me.

Sorry, there is one more. I will now call on Carlos Sosa and ask the moderator to invite them into the meeting.

Please unmute yourself and turn your video on.

* (20:00)

Mr. Sosa, if you have any written materials for distribution to the committee, you can now send the file through the chat function or email it to the moderator who will distribute it to all committee members.

Mr. Carlos Sosa (Private Citizen): No, I do not.

Mr. Chairperson: Mr. Sosa, please proceed with your presentation.

Mr. Sosa: So I'm also here to speak on Bill 50, the legal aid amendment act. I echo a lot of comments that were made. I think it's also critical to say that I do identify as a person with a disability. I'm also a support worker that works with people with intellectual disabilities that live independently in the community.

I also have previous experience working with people who have had to deal with the justice system, who live in poverty, who can't even be here tonight because they simply do not have the financial resources to access the technology to be a part of these

meetings. So I'm providing that perspective to this committee.

I definitely agree that legal aid funding needs to be increased, that legal representation is so critical, that our most vulnerable often have limited resources when it gets—when it comes to legal representation. And so it's so critical that we see the increased funding.

Obviously, the Public Interest Law Centre absolutely is a great organization, needs to be kept standing.

What I also say—it's also—access to justice is also critical for democracy. It protects rights. But also, that includes access to information. And I'll say that it's critically important that people know what's being presented in front of them, that we just don't find out a couple of days ago what's in the bill.

Again, I work with individuals who don't have access to the Internet, so presenting information is so critical and providing information well ahead of time is so critical. And I think it's important for all parties to work together to ensure that information on bills are provided ahead of time that are in plain language so that our most vulnerable are able to participate in this process.

It's very sad that I see all parties not wanting to work together so that people are informed when they make presentations to committees, so that they're informed with bills, that there's enough notice given. And that's so critical, and that's foundations for our legal system, for society as a whole, that we all think about democracy.

I'll say this, I hope that the next time you go through with this and these bills that you provide these bills ahead of time so that the most vulnerable that I work with are able to be a part of this process and not to just be blindsided. And that's all I really want to say.

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

Do members of the committee have questions for the presenter?

Mr. Friesen: Thank you, Mr. Sosa, for presenting this evening on behalf of those you're representing and on—for yourself, and what you shared on the bill. Thank you.

Mr. Sosa: I definitely want to thank the minister for that.

I just want to, again, reiterate that I work with people who live in poverty, so obviously realizing that people in poverty have limited opportunities to participate in the democratic process. So it's absolutely critical that—post-pandemic—that committees go out of their way to ensure that our most vulnerable are included in this process.

Ms. Fontaine: Miigwech, Mr. Sosa, for your presentation.

And I just want to take this little quick second and opportunity to just say miigwech to you for all of the work that you do in the community. I know that when it's, you know, pre-pandemic, pre-COVID, we see you at all of the different events and activities that go on around Manitoba, and you are just a strong proponent and advocate for the communities that you represent. And so I just want to take that moment to say miigwech for that work.

Mr. Sosa: I definitely wanted to thank you and we'll [*inaudible*].

And I think that we need to make sure that our most vulnerable are at the table, that our most vulnerable are considered and that, if we don't, then we are no further ahead in society and that when information is presented, that it's not presented in a four-month delay, that it's presented on a timely basis so that people have access to this information and not have to wait to about a week before a Legislature committee meeting.

And I do thank you for those comments.

Mr. Gerrard: Thank you for the work that you do. Thank you for helping people who are living on low incomes. We clearly have some work to do in our—here in the Legislature, both to try and ensure that bills are brought in in a timely manner in the future, but also to make sure in this sort of technology-oriented world that people who are disadvantaged and often left out can participate adequately.

So you've given us a challenge, and thank you.

Mr. Sosa: I definitely want to thank you for those comments.

And I think part of accessing technology also means that we need to look at things such as increasing social assistance rates. It's time that we do that, and that would allow people to participate in processes like this. And so I definitely make that—yes, it's not a part of this bill, but I think we need to think about that as well.

Mr. Chairperson: Are there any other questions from committee members to the presenter?

Seeing none, I would like to thank you, Mr. Sosa, for your presentation.

And that concludes the list of presenters I have before me.

* * *

Mr. Chairperson: In what order does the committee wish to proceed with clause-by-clause consideration of these bills? Is it okay to proceed with numerical order? *[Agreed]*

Bill 24—The Legal Profession Amendment Act
(Continued)

Mr. Chairperson: We will now proceed with clause by clause of Bill 24.

Does the minister responsible for Bill 24 have an opening statement?

Hon. Cameron Friesen (Minister of Justice and Attorney General): I am just pleased to put a few comments on the record in respect of Bill 24. I thank the presenters this evening for being with us, for providing additional perspectives on these measures that are designed to create a new designation, a new category of legal service providers in Manitoba, as other provinces have done.

We thank the Law Society for their work in developing this in Manitoba, for doing the consultation work. We thank them for their advocacy. We thank them for their determination to meet unmet needs in legal services in this province.

I thank them tonight, as well, for raising comments. There were certain comments that the Law Society had made in respect of a 25.2(1) section that has to do with the Lieutenant Governor-in-Council and regulatory-setting powers. I would just want to make the comment to say—and I know they'll probably be listening, so I'll just make this comment now and say we have endeavoured to follow the Saskatchewan model in this respect. This measure's only intended to be a stopgap to address the need for a regulation and provide some guide rails if there is something needed, as the Law Society of Manitoba is preparing the program itself because, obviously, this will take some time to develop these concepts.

So we believe that the 25.2(1) (c) may be necessary in some case, and yet I would want to make it clear that we don't really anticipate the use of Lieutenant Governor regulatory-making power. I will

commit that department officials will continue to engage with the Law Society subsequent to this committee to provide clarifications, to listen.

* (20:10)

I'm sure that this is resolvable. Nevertheless, we did appreciate for the Law Society the signal that is highly supportive of this direction to move—purpose, of course, being to create further access in our system, to create access to justice, to be able to fill unmet needs. And that should be something that, well, all of us are interested in.

So, thank you, Mr. Chair.

Mr. Chairperson: We thank the minister.

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

Ms. Nahanni Fontaine (St. Johns): Let me just say that access to legal services, we understand, is challenging, particularly for low-income and marginalized Manitobans. There are many places where many Manitobans would be well served by having more access to legal services.

Bill 24 would serve to extend some legal services to be provided by those who aren't lawyers, all under the review of the Law Society of Manitoba. In principle, I believe that this would serve the public and increase access to those services.

I want to take just a quick moment to acknowledge all of the work of the Law Society in producing and contributing to this bill that we're here for tonight. I appreciate the work that the members do. It's important work and it's critical work on behalf of Manitobans.

And so I would also just like to take this opportunity to thank all of the presenters that we had here this evening, in—and offering their expertise and thoughts on Bill 24.

Miigwech.

Mr. Chairperson: We thank the member.

During the consideration of a bill, the enacting clause and the title are postponed until all other clauses have been considered in their proper order.

Also, if there is agreement from the committee, the Chair will call clauses in blocks that conform to pages, with the understanding that we will stop at any particular clause or clauses where members have comments, questions or amendments to propose.

Is that agreed? *[Agreed]*

Clauses 1 and 2—pass.

Shall clauses 3 through 6 pass?

Some Honourable Members: No.

Mr. Chairperson: So, I hear a no. So we will go through clauses 3 through 6 separately.

Clause 3—pass; clause 4—pass; clause 5—pass.

Shall clause 6 pass?

An Honourable Member: No.

Mr. Chairperson: I hear a no.

Ms. Fontaine: I move

THAT Clause 6 of the Bill be amended by striking out the proposed section 25.2.

Mr. Chairperson: It has been moved by Ms. Fontaine

THAT Clause 6 of the Bill be amended by striking out the proposed section 25.2.

The amendment is in order. The floor is open for questions.

Is committee ready for the question?

Some Honourable Members: Question.

Mr. Chairperson: The question before the committee is as follows:

THAT Clause 6 of the Bill be amended by striking out the proposed section 25.2.

Shall the amendment pass?

Some Honourable Members: No.

Mr. Chairperson: I hear a no. The amendment is accordingly defeated.

Clause 6—pass; clauses 7 and 8—pass; enacting clause—pass; title—pass. Bill be reported.

**Bill 31—The Horse Racing
Regulatory Modernization Act
(Liquor, Gaming and Cannabis Control Act
and Pari-Mutuel Levy Act Amended)**

Mr. Chairperson: We will now proceed with clause by clause of Bill 31.

Does the minister responsible for Bill 31 have an opening statement?

Hon. Cameron Friesen (Minister of Justice and Attorney General): I do, Mr. Chair.

Mr. Chairperson: Minister Friesen.

Mr. Friesen: Thank you.

I'm pleased to put some brief comments on the record in respect of Bill 31, The Horse Racing Regulatory Modernization Act (Liquor, Gaming and Cannabis Control Act and Pari-Mutuel Levy Act Amended).

I would want to say that in this province, regulation of horse racing hasn't undergone any changes significantly since about 1965, and so it's been long-overdue. Even though the horse-racing industry has continued to evolve, the regulation control and location has not.

So, this bill is designed to modernize the regulatory framework to better align with industry needs and ensure that racing continues to be conducted fairly and with integrity.

So, will Bill 31 seeks to create a financially sustainable regulatory model that will reduce red tape for the thoroughbred and standard-bred horse racing industries. It amends The Liquor, Gaming and Cannabis Control Act and expands the Liquor, Gaming and Cannabis Authority of Manitoba's—LGCA—regulatory mandate to include horse racing.

As a modern regulatory agency, the LGCA can draw on its vast experience regulating the liquor, gaming and cannabis industries and establish a risk-based approach to regulating the sport of horse racing as well.

I want to also mention that the legislation would also amend The Pari-Mutuel Levy Act. It would ensure that that levy continues to fund industry programs such as race purses and breeder programs, and simplify the process for collecting and distributing the fund.

So, we recommend this as well, and I do thank all of the stakeholders for contributing their thoughts and perspectives on the matter, which have been incorporated into the legislation that is here before us at committee this evening.

Mr. Chairperson: We thank the minister.

Does a critic from the official opposition have an opening statement? No opening statement from the opposition, so we'll move on.

During the consideration of the bill, the enacting clause and the title are postponed until all other clauses have been considered in their proper order. Also, if there is agreement from the committee, the

Chair will call clauses in blocks that conform to pages, with the understanding that we will stop at any particular clause or clauses where members have comments, questions or amendments to propose.

Is that agreed? [*Agreed*]

Clauses 1 and 2—pass; clauses 3 through 6—pass; clauses 7 and 8—pass; clauses 9 and 10—pass; clauses 11 through 14—pass; clause 15—pass; clauses 16 through 20—pass; clauses 21 through 26—pass; clauses 27 and 28—pass; clauses 29 through 33—pass; clauses 34 through 36—pass; enacting clause—pass; title—pass. Bill be reported.

* (20:20)

**Bill 50—The Legal Aid Manitoba
Amendment Act**
(*Continued*)

Mr. Chairperson: We will now proceed with clause by clause of Bill 50.

Does the minister responsible for Bill 50 have an opening statement?

Hon. Cameron Friesen (Minister of Justice and Attorney General): I'm pleased to present Bill 50 to the committee this evening. As we have discussed this evening, we—this bill proposes amendments to The Legal Aid Manitoba Act related to the tariff of fees paid to private bar lawyers who administer services on behalf of Legal Aid.

And, of course, as we know, Legal Aid Manitoba delivers legal advice and representation services for criminal, child protection, family law, poverty law and immigration and refugee law to individuals based on financial eligibility guidelines and merit criteria.

Legal Aid is responsible for managing their budget and setting the eligibility guidelines for accessing legal aid services. Legal Aid Manitoba has the authority to set the financial eligibility guidelines as they see fit and, as was discussed this evening, and has used that authority prudently, guided by the resources available to it.

Private bar lawyers, as we were also made aware of tonight by the Criminal Defence Lawyers Association of Manitoba—we thank them for their presentation—are paid based on a tariff as defined in the Legal Aid regulation scheduled tariff of fees. And as Gerri Wiebe presented this evening, on behalf of that organization, that tariff has not increased for a long, long time.

We believe, in essence, that that tariff-setting control should lie with the Legal Aid Manitoba management commission and not in the minister's office.

And so we know that the tariff has been under discussions for several years. We know that it was the subject, or one of the subjects, of a recent independent review of Legal Aid Manitoba. It was the advice of that report to move the responsibility of setting the tariff from the government to Legal Aid Manitoba, and thus the bill and thus the intended changes.

The bill will then essentially afford Legal Aid Manitoba with all the necessary levers and tools available to manage services delivered to Manitobans.

So I'm pleased with the proposed amendments, and I am pleased to commend this bill to the committee for passage.

Mr. Chairperson: We thank the minister.

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

Ms. Nahanni Fontaine (St. Johns): The main purpose of Bill 50 is to transfer the authority of establishing fees paid to solicitors to the Management Council of Legal Aid Manitoba instead of being regulated under The Legal Aid Manitoba Act.

The success or failure of Bill 50, however, is ultimately reliant on increased legal aid funding from this very minister, from the Premier (Mr. Pallister), from the Pallister government. And so, as a result, it leaves a lot of questions and concerns when it comes to Bill 50 if there's no dollars to actually put this into effect.

Bill 50 has the potential to increase wages for Legal Aid, but if the Pallister government and, under the administration of this particular Justice Minister, continues to make cuts to Justice, obviously that won't be the case.

And we know that just last year, private lawyers had threatened to boycott legal aid cases if the Pallister government didn't increase their hourly rates, and we know that these rates have not been increased in years.

As well, Madam Speaker—or, Chairperson. Sorry, it's a long day. Legal Aid Manitoba needs assurances that Bill 50 is in good faith and will actually benefit the legal community here in Manitoba, and as was expressed by some of our presenters, ultimately, strengthening Legal Aid Manitoba strengthens access

to justice and strengthens equitable justice for—in—often in many cases the most marginalized and affected Manitobans.

And so I'd like to thank all of the presenters for contributing their voices to tonight's legislative process and sharing their expertise and recommendations, and hopefully, the minister was listening to—this evening and is actively looking at increasing the budget for Legal Aid Manitoba.

Miigwech.

Mr. Chairperson: We thank the member.

During the consideration of a bill, the enacting clause and the title are postponed until all other clauses have been considered in their proper order.

Also, if there is agreement from the committee, the Chair will call clauses in blocks that conform to pages, with the understanding that we will stop at any particular clause or clauses where members may have comments, questions or amendments to propose.

Is that agreed? [*Agreed*]

Clauses 1 through 3—pass; clauses 4 through 6—pass; enacting clause—pass; title—pass. Bill be reported.

The hour being 8:27, what is the will of the committee?

Some Honourable Members: Rise.

Mr. Chairperson: Committee rise.

COMMITTEE ROSE AT: 8:27 p.m.

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