



**Second Session - Thirty-Sixth Legislature**

of the

**Legislative Assembly of Manitoba**

**Standing Committee**

on

**Law Amendments**

*Chairperson*  
*Mr. David Newman*  
*Constituency of Riel*



**Vol. XLVI No. 19 - 6:30 p.m., Monday, November 4, 1996**

ISSN 0713-9586

**MANITOBA LEGISLATIVE ASSEMBLY**  
**Thirty-Sixth Legislature**

**Members, Constituencies and Political Affiliation**

<b>Name</b>	<b>Constituency</b>	<b>Party</b>
ASHTON, Steve	Thompson	N.D.P.
BARRETT, Becky	Wellington	N.D.P.
CERILLI, Marianne	Radisson	N.D.P.
CHOMIAK, Dave	Kildonan	N.D.P.
CUMMINGS, Glen, Hon.	Ste. Rose	P.C.
DACQUAY, Louise, Hon.	Seine River	P.C.
DERKACH, Leonard, Hon.	Roblin-Russell	P.C.
DEWAR, Gregory	Selkirk	N.D.P.
DOER, Gary	Concordia	N.D.P.
DOWNEY, James, Hon.	Arthur-Virden	P.C.
DRIEDGER, Albert, Hon.	Steinbach	P.C.
DYCK, Peter	Pembina	P.C.
ENNS, Harry, Hon.	Lakeside	P.C.
ERNST, Jim, Hon.	Charleswood	P.C.
EVANS, Clif	Interlake	N.D.P.
EVANS, Leonard S.	Brandon East	N.D.P.
FILMON, Gary, Hon.	Tuxedo	P.C.
FINDLAY, Glen, Hon.	Springfield	P.C.
FRIESEN, Jean	Wolseley	N.D.P.
GAUDRY, Neil	St. Boniface	Lib.
GILLESHAMMER, Harold, Hon.	Minnedosa	P.C.
HELWER, Edward	Gimli	P.C.
HICKES, George	Point Douglas	N.D.P.
JENNISSEN, Gerard	Flin Flon	N.D.P.
KOWALSKI, Gary	The Maples	Lib.
LAMOUREUX, Kevin	Inkster	Lib.
LATHLIN, Oscar	The Pas	N.D.P.
LAURENDEAU, Marcel	St. Norbert	P.C.
MACKINTOSH, Gord	St. Johns	N.D.P.
MALOWAY, Jim	Elmwood	N.D.P.
MARTINDALE, Doug	Burrows	N.D.P.
McALPINE, Gerry	Sturgeon Creek	P.C.
McCRAE, James, Hon.	Brandon West	P.C.
McGIFFORD, Diane	Osborne	N.D.P.
McINTOSH, Linda, Hon.	Assiniboia	P.C.
MIHYCHUK, MaryAnn	St. James	N.D.P.
MITCHELSON, Bonnie, Hon.	River East	P.C.
NEWMAN, David	Riel	P.C.
PALLISTER, Brian, Hon.	Portage la Prairie	P.C.
PENNER, Jack	Emerson	P.C.
PITURA, Frank	Morris	P.C.
PRAZNIK, Darren, Hon.	Lac du Bonnet	P.C.
RADCLIFFE, Mike	River Heights	P.C.
REID, Daryl	Transcona	N.D.P.
REIMER, Jack, Hon.	Niakwa	P.C.
RENDER, Shirley	St. Vital	P.C.
ROBINSON, Eric	Rupertsland	N.D.P.
ROCAN, Denis	Gladstone	P.C.
SALE, Tim	Crescentwood	N.D.P.
SANTOS, Conrad	Broadway	N.D.P.
STEFANSON, Eric, Hon.	Kirkfield Park	P.C.
STRUTHERS, Stan	Dauphin	N.D.P.
SVEINSON, Ben	La Verendrye	P.C.
TOEWS, Vic, Hon.	Rossmere	P.C.
TWEED, Mervin	Turtle Mountain	P.C.
VODREY, Rosemary, Hon.	Fort Garry	P.C.
WOWCHUK, Rosann	Swan River	N.D.P.

**LEGISLATIVE ASSEMBLY OF MANITOBA**  
**THE STANDING COMMITTEE ON LAW AMENDMENTS**

**Monday, November 4, 1996**

**TIME – 6:30 p.m.**

**LOCATION – Winnipeg, Manitoba**

**CHAIRPERSON – Mr. David Newman (Riel)**

**VICE-CHAIRPERSON – Mr. Peter Dyck (Pembina)**

**ATTENDANCE - 11 – QUORUM - 6**

*Members of the Committee present:*

Hon. Messrs. Ernst, Stefanson, Hon. Mrs. Vodrey

Ms. Barrett, Messrs. Dyck, Mackintosh, Martindale,  
Newman, Rocan, Santos, Tweed

**APPEARING:**

Mr. Gary Kowalski, MLA for The Maples

**WITNESSES:**

Bill 57–The Public Sector Compensation Disclosure Act

Mr. Fred Veldink, Private Citizen  
 Ms. Alice Young, Private Citizen  
 Mr. Brian Kelcey, Manitoba Taxpayers Association  
 Mr. Dan Kelly, Canadian Federation of Independent Business  
 Mr. Murray Grafton, St. Boniface Teachers' Association  
 Mr. Ian Mac Intyre, Manitoba Teachers' Society  
 Mr. Henri Peloquin, Private Citizen  
 Mr. Terry Voss, Director, Human Resources, University of Winnipeg  
 Ms. Sue Loney, Private Citizen  
 Ms. Gail Atkins, Private Citizen  
 Mr. Peter Narth, Manitoba Association of Principals

Bill 58–The Parental Responsibility Act

Ms. Glynis Hart, Manitoba Association for Rights and Liberties

Mr. Marvin Mirochnick, Private Citizen  
 Ms. Norma McCormick, Coalition of Custodial Parents of Manitoba  
 Mr. Jim Clark, Private Citizen  
 Ms. Victoria Lehman, Private Citizen  
 Ms. Rosella Dyck, Coalition of Custodial Parents of Manitoba

**WRITTEN SUBMISSIONS:**

Bill 57–The Public Sector Compensation Disclosure Act

Mr. Les Ullyot, President, Manitoba Medical Association

Bill 58–The Parental Responsibility Act

Mr. Russ Wookey, Private Citizen

**MATTERS UNDER DISCUSSION:**

Bill 57–The Public Sector Compensation Disclosure Act

Bill 58–The Parental Responsibility Act

\*\*\*

**Mr. Chairperson:** Good evening. Will the Standing Committee on Law Amendments please come to order. This evening the committee will be considering two bills: Bill 57, The Public Sector Compensation Disclosure Act; and Bill 58, The Parental Responsibility Act.

To date, a number of persons have preregistered to speak to the bills before the committee this evening. I will read the names of the persons who have preregistered. With respect to Bill 57: Brian Kelcey, Valerie Price, Dan Kelly, Trevor Lines, Murray Grafton, Ken Pearce, Randy Bjornson, Henri Peloquin, Fred Veldink, Terry Voss, Kenneth Emberley, John LaPlume, Alice Young, Sue Loney, Gail Atkins and Peter Narth.

With respect to Bill 58: Glynis Hart, Mike and Joanne Peterson, Ray and Shirley LaRonde, Patti Hildebrand, Marvin Mirochnick, Rosella Dyck, Russ Wookey, Jim Clark, Sandra De Laronde and Victoria Lehman.

If there are any other persons in attendance who wish to speak to one of the bills before the committee this evening and whose names do not appear on the list, please register with the Chamber Branch personnel at the table at the rear of the room, and your name will be added to the list of presenters. In addition, as a reminder, that those presenters wishing to hand out a written copy of their brief to the committee, 15 copies are required. If assistance is needed to make the required number of photocopies, please see the Chamber Branch personnel at the rear of the room or the clerk assistant and assistance will be provided.

Did the committee wish to hear from out-of-town presenters first? [agreed]

Did the committee wish to use time limits for the hearing of presenters this evening?

**Mr. Mervin Tweed (Turtle Mountain):** Mr. Chairman, could I just make the suggestion, I guess, as in most of the committees or all of the committees I have sat on, the 10 and five-10 minutes for presentation, five minutes for questions.

**Mr. Chairperson:** Is that agreed by the committee?

**Ms. Becky Barrett (Wellington):** As we have stated in virtually every other committee, we do not think that it is necessary that limitations be put on either the presentations or the questioning. We feel that presenters are cognizant of the fact that others are waiting to present. It is important that we as legislators be able to hear what people have to say and question to the fullest of our capabilities the comments that they have to make. Ten minutes for presentations and five minutes for questions do not necessarily allow that kind of detailed analysis, so we will be voting against that recommendation.

**Mr. Chairperson:** Any further discussion?

**Mr. Conrad Santos (Broadway):** Reasonableness required that it depends on the number of presenters. If the presenters are much too many, then the rule may apply, but if the presenters are few, then it is unnecessary to impose the rule. Thank you.

### Voice Vote

**Mr. Chairperson:** Call for the question. The motion has been made, 10-minute presentation and five-minute question and answer.

All in favour of the motion, say yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** All those opposed, say nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** The motion carries.

\* \* \*

**Mr. Chairperson:** Did the committee wish to indicate how late it will sit this evening?

**Hon. Jim Ernst (Minister of Consumer and Corporate Affairs):** Let us go till midnight or so, and we will see how we are making out at that time.

**Mr. Chairperson:** Is that agreed by the committee? [agreed] Which bill did the committee wish to hear presenters on first, Bill 57 or Bill 58?

**Mr. Tweed:** I would suggest, Mr. Chairman, as the out-of-town presenters appear to be on Bill 57, we could start with that one.

**Mr. Chairperson:** Is that agreed by the committee? [agreed] We will now proceed with the hearing of public presentations. The first out-of-town presenter with respect to Bill 57 is Randy Bjornson. Randy Bjornson here? Randy Bjornson, not here, his name will go to the end of the list. Fred Veldink. You may begin your presentation, Mr. Veldink.

\* (1840)

### Bill 57—The Public Sector Compensation Disclosure Act

**Mr. Fred Veldink (Private Citizen):** Good evening ladies and gentlemen. My name is Fred Veldink and I am here to speak against the bill.

Let me start by saying that I am a parent of two school-age children, and I teach at College Beliveau in St. Boniface. It is a French Immersion high school. My reasons for opposing the bill are the following: First of all, it violates in my opinion the privacy that every citizen, including teachers, has a right to. Secondly, teachers are already a highly visible and very well-known group of people, in particular in smaller communities.

Disclosure of gross salary in comparison to, for instance, other people's net salary can lead to situations where teachers will become targets of, first of all, people with criminal intent, thieves, robbers; secondly, salespersons, advertisers, organizations that can vary from political parties to organizations such as sports groups, charities, fellow citizens, unscrupulous media. Adding this kind of stress to the already stressful lives of teachers does not serve any useful purpose. Eventually, it will impact on the job the teacher does in the classroom, which means that the kids will have suffered ultimately.

Put in the context of Bills 47, 33, 72, and 26, this bill is another nail in the coffin in which you are burying our public education system, and I urge you to stop the attacks on education, on teachers, and to work with us in the interest of all present and future Manitoba students. Please stop the attacks and withdraw Bill 57. I would like to add that the erosion of privacy is a process that is ongoing in society with all areas—the press, television, the media in general. There is less and less privacy that we have. Secondly, I would like to point out here that the bill will expose or will publicize people with a salary of \$50,000 or more. Why \$50,000? If we are all equal before the law, why does the bill not specify anybody and everybody who receives any amount of provincial compensation? Why are all people not subject to this kind of disclosure? Why are people who make \$50,000 or more selected? Thank you.

**Mr. Chairperson:** Thanks, Mr. Veldink. Questions?

**Ms. Becky Barrett (Wellington):** You mention that teachers are singled out, not only in this piece of legislation but in several others before the House this session. It is not just people who earn less than \$50,000 that are not being asked to have their salaries. It is many private people, people who have contracts and links to various government agencies but are in their own private sector kinds of work. Do you think that they should be

asked to be made public their salaries if they get a sizeable amount of money from the grant from the public coffers?

**Mr. Veldink:** Well, most definitely because I think we are all equal before the law. So to single out one group is unfair. If, as you pointed out, a group or a company gets government grants, I think they should fall under the same guidelines. It is only logical.

**Mr. Conrad Santos (Broadway):** Equality before the law means that everyone would be under the same rule unless there is some reasonable grounds for classifying taxpayers or people or citizens. Do you think the limit of 50,000, as against less than 50,000, is a reasonable basis for classifying people?

**Mr. Veldink:** Well, the way I see it, I think teachers have been targeted because a lot of teachers might fall in that category. So I cannot see any other purpose than targeting teachers. Again, why make the cutoff \$50,000? If you want to be really reasonable, I think it should be across the board from \$1 up to whatever amount.

**Mr. Chairperson:** Thank you for your presentation, Mr. Veldink.

**Mr. Veldink:** Thank you.

**Mr. Chairperson:** The next presenter is Alice Young. Alice Young, come forward, please. You may begin your presentation, Ms. Young.

**Ms. Alice Young (Private Citizen):** Thank you. I just traversed the Norwood Bridge for the first time so it took me a bit to get across there without getting lost.

Good evening, ladies and gentlemen. Thank you for giving me the opportunity to speak to you tonight on the devastating impact of the proposed legislation in Bill 57. One of the foundations of our Canadian society is the Charter of Rights and Freedoms. This Charter speaks to the rights of the people of Canada, the responsibility of its government. In Canada, we have enjoyed a nation that treats all of her people equally. We have prospered in a nation which is truly concerned for her people's safety.

I am proud to be a Canadian; I am proud to be a Manitoban, and I am equally proud to be a public school teacher. I am a drama teacher in the public school

system, and for the next few minutes I would like you to imagine that you were all students in my drama class. As I do with my class when I am preparing them to create a scene, I will take you through a sensory exercise in emotion. Do not worry, you do not have to get on the floor and act like trees or anything like that, but we are going to go through an exercise that will help you feel the situation as I see it a little bit more clearly. I will try that with you right now.

Please sit back, relax, close your eyes and let me run you through this scenario. Imagine that you are a beginning teacher. Your name is Carrie Smith, and you have finally secured a full-time teaching position. After four years of working as a term substitute in a system that the provincial government is stripping of funds and support, you finally get a job as a Grade 9 teacher at Bunyan High in Bunyan School Division. Bunyan is a school division about 190 kilometres outside the city of Winnipeg and as you pack your belongings and prepare to leave your family and friends, your father tells you how proud he is of you, how those six years of university are now going to pay off. He also reminds you that life in a small town can be somewhat different than that in a big city.

Life as a teacher is hectic. You are putting in very long hours, preparing, marking and trying to get your students ready for the provincial exams. In addition to all of this, you are coaching the girls volleyball team, serving on many school committees and helping with the yearbook. In spite of the long hours and the hard work, you feel like you are truly making a difference. You are being accepted by this small farming community and doing what you love to do, that is, teach. Then the government of Gary Filmon decides to shatter your world. This government puts into legislation Bill 57.

First you really do not concern yourself about it. You are working very hard, and after six years of university, you still have student loans to pay off. Then printed on the front page of the Bunyan Times, Carrie Smith, Class 6 teacher, Bunyan High, salary \$50,338. You are outraged. You go and get a copy of the legislation, and lo and behold there in print, a list of all of its employees whose total compensation is more than \$50,000. This list includes the name of each employee, his or her position or classification and total compensation.

It is from this point on that your life changes. You will still work just as hard with just as many long hours. You will still coach and serve on committees, but mood in Bunyan is changing. It is no longer a friendly place for those listed on the front page. As a small agricultural town with no industry base, you start hearing comments like, while shopping at the local Foodfare, you overhear the parents of two of your students. They are saying something like, did you see in the paper, Jeff's teacher, Miss Smith, she makes over \$50,000 a year. That is more than we have gotten out of the farm in the last three years. And with all that money, Jeff is still having trouble with math, and she is doing nothing. She is just overpaid and incompetent. I am going to school board, and I will raise some—you try to ignore that conversation, but it hurts. You are doing your best. You offer after-school classes and pick up math. Anyway, where does Premier Filmon get off in publishing your salary?

\* (1850)

The next Sunday at church you overhear the following conversation, did you see how much the new teacher at school makes? It is outrageous. When I was a teacher back in the good old days, I made \$150 a month, and I had to haul in the firewood. I would expect, now that she is coming to this church, that our offering had better increase. It is a sin what these young people are making these days. You would expect them to contribute to the church and other charities. They are being paid out of my pocket, so they had better share. You try to ignore this conversation also, but it hurts.

Monday afternoon, after a very long and trying day, a team meeting at lunch and an announcement of further cuts of support personnel in the school, you look up from your desk and see three young girls. They ask you if you can coach the upcoming girls' basketball team. They tell you that they really like you, and they think that because you coached volleyball, you should also coach basketball. You explain to them that you are just swamped with courses to prepare and marking. The girls are disappointed. When they leave the room, you hear one of them say, geez, for someone who makes over 50 grand, she sure has an easy job. That really hurts. You decide no matter how much you have on your plate, you will find the girls tomorrow and tell them that you will coach basketball.

However, it is the one conversation that you do not hear that really affects you the most, that really makes you question Premier Filmon's motive in Bill 57. It is a conversation that takes place in the Bunyan Bar. Late one Friday night, a group of young ne'er-do-wells are gathered checking out the local paper. They are scanning the list of all those people making over \$50,000. They come to your name, and they talk about the fact that you live alone, you are gone all day at school, you are basically an easy mark. They make plans to hit your house on Tuesday. They feel that they are bound to make a good haul, as you are reported at making over \$50,000.

This conversation hurts the most because, when you arrive home on Tuesday, your house has been ransacked. Your new stereo is gone, and your sense of personal safety has vanished. Your only question is why? Why does Gary Filmon want to take away your privacy? Why does he want to take away your personal safety? More importantly, why does he want to devalue the profession that you love, a profession that is responsible for the greatest natural resource that a province has, its youth, its future? Why does he want to publicly ridicule you and all your colleagues? Does he truly believe you are doing an inadequate job? Does he truly believe you are overpaid?

As a Premier, he is charged with the care and well-being of the province's citizens. Why then is his government so bent on destroying this well-being?

All right, ladies and gentlemen, open your eyes now. If we were in a real drama class, I would have you come out and act out some improvisations now. Scenes like Carrie's excitement on her job, overhearing the conversations, Carrie's reaction to the personal safety, the break-in at her home. I would have you draw on your understanding of the situation on your own personal experiences to try to create a true sense of the emotional sense in Carrie's life. However, you are not students in my drama class. You are the lawmakers of this province. You are the ones charged with plotting the course of Manitoba. It is within your hands that the future and well-being of our citizens lie. The proposed legislation in Bill 57 is wrong. It is harmful. It is hurtful. It is discriminatory. If its only purpose is the public ridicule and harassment of public employees, then it is a breach of the government's responsibility.

Currently, the people of Manitoba have the right to privacy. Revenue Canada guarantees this right with respect to income tax returns. The Department of Ed guarantees this right with respect to teacher's classification and experience. Why then is the government of Gary Filmon trying to take away this right? I do not have the answer to that. All I know is the proposed legislation in Bill 57 is morally wrong, and that you, the people around this table, are the people that can change it. You are the legislators that can see the gross error in the proposed legislation. I thank you for the opportunity to address you this evening on this hearing. I challenge you, please, to stop hurting the teachers of Manitoba. Rescind Bill 57. Thank you.

**Mr. Chairperson:** Thanks, Ms. Young.

**Mr. Gord Mackintosh (St. Johns):** Thank you, Ms. Young. If that was your first presentation, it was an excellent one, and one that we listened to every word. I think you are in the right chosen profession.

In answer to your question, do you think the answer is that the government is trying to shame and stigmatize public servants and increase public skepticism and demands on these individuals and on their salaries, regardless of the value that they contribute to the community?

**Ms. Young:** I can really see no other reason for them doing this. In my mind, why would you do this except if you were trying to harass or demean or devalue what a person is doing? It is not needed for anything. It is not something that the general public really needs to know. At this point in time, it is available to them, in terms of going to their school division office and getting the general figures. The general figures are all out there. I do not think personally I need my name in the front of some paper, or over the airwaves of some radio station targeting me. As a female, it is a dual target because there is a safety issue involved in it, in a lot of ways.

**Mr. Doug Martindale (Burrows):** Thank you for an excellent presentation. Are you aware that the Minister of Finance (Mr. Stefanson) publishes every year a list of civil servants' salaries for the Province of Manitoba?

**Ms. Young:** Yes.

**Mr. Martindale:** Are you aware that the minister retroactively applied this bill to civil servants and only published those whose salaries were over \$50,000 this year?

**Ms. Young:** Yes.

**Mr. Martindale:** Do you think that that distorts the picture that the public might get in that they do not see the hundreds and hundreds of civil servants who earn less in many cases, far less than \$50,000?

**Ms. Young:** I think I agree with you. There are many, many teachers out there that do not make the \$50,000 mark, you are right. It is very hurtful and demeaning for a small handful to be targeted with this legislation.

**Ms. Barrett:** If I understand what you have been saying is that the \$50,000 figure which is, I might add, selectively applied, it does not apply to all groups or individuals who get \$50,000 or more from the government coffers. You are saying it takes those salaries out of the broader context and only highlights or isolates one small part of it rather than all of the salaries. You can see that 50 or 60 or 40 percent of teachers do not make those kinds of salaries. Is that an accurate assessment of what you have been saying?

**Ms. Young:** Yes. I believe that it is discriminatory in a lot of ways, and that you will target the people and the teachers at the upper end of the salary scale, those that have gone on, on their own time most of the time, on their own expense to further their education, received masters in education or doctorates on their own time and expense to do that, and then have their names and their salaries published.

**Hon. Eric Stefanson (Minister of Finance):** Thank you, Ms. Young, for your presentation. I guess I am wondering if you are aware, based on comments from the member for St. Johns (Mackintosh) referring to shame and stigmatizing public servants, and then the member for Burrows (Martindale) talked about the information that is currently being released. It used to be all salaries for public servants over \$25,000. It was adjusted in line with the principles behind this legislation in this year to \$50,000. But are you aware that that information has been provided for approximately 20 to 25 years under

governments of at least two political stripes here in Manitoba?

\* (1900)

**Ms. Young:** I am aware of that. However, what this legislation does, Mr. Stefanson, is take it to the public and then allows people in newspapers and so on to publish names.

**Mr. Stefanson:** Mr. Chairman, I guess I should phrase it as a question, Ms. Young, whether or not you are aware that same information I am referring to that is published in terms of salaries of direct public servants is published in a document, our Public Accounts, and it is something that is accessible to every Manitoban, to yourself and anybody else, and obviously if any members of the media wanted and choose to use it, that information is available to them as well.

**Ms. Young:** Yes, I was aware of that.

**Mr. Chairperson:** Thanks very much for your submission. Good evening. The next presenter will be, starting at the beginning of the list, Mr. Brian Kelcey. You may begin your presentation, Mr. Kelcey.

**Mr. Brian Kelcey (Manitoba Taxpayers Association):** Mr. Chairman, first I just want to make a note in that I hope Mr. Martindale will, so I do not lose my train of thought, come to the question of the benchmark as to where you set the salary levels when I am finished. Frankly, the Manitoba Taxpayers Association, which I am representing today, would be surprised at any significant opposition to this bill, which I have described in the newspaper as a wonderful piece of legislation, particularly from members who I know around the table who have sat on both government and opposition sides. I think particularly those members who have been in opposition realize the need for this level of public accountability. It is for that reason, because of the obvious merits of this piece of legislation that I am not here with an extensive, long, and nauseating written presentation to go through with you today, but I did want to focus on a couple of brief points to add to the debate which I think need to be made.

First, just as a rebuttal comment to the presentations that were previously made, it has been noted, I do not



think strongly enough so far this evening for the ordinary citizens behind me, that it is hard to describe this legislation as singling out any particular group. What this in fact does, and this is very important for our association, is it more or less brings disclosure requirements in the pseudo-public sector. In other words the sector receiving grants through the government from arm's length agencies or as a direct subsidy brings those disclosure requirements into line with the rest of the civil service. The nightmare tales of robberies against teachers because their salaries have been disclosed and so forth, first, municipal officials I guess will be suffering from the same robberies and attacks and so forth. I do not want to make light of this situation, but the fact is that civil servants who work for the ordinary provincial civil service have been under the same legislation for years and have not suffered from the kind of targeting or attacks that has been spoken of unfortunately earlier.

Two points briefly again, I want to be brief because we have a large number of ordinary citizens behind us, but first a comment directed mostly at the opposition members here tonight, and that is that I do think, and the members we have spoken to believe, that this is not an initiative to malign the public sector or public sector workers. In fact for us it will make the debate much more constructive and allow us to be more constructive. To give two particular examples, it is often argued from the Manitoba Teachers' Society that administrative costs, particularly redundancies in school board administrations and so forth, are a significant cause of increasing levels of taxation at the school board level. We cannot prove that right now, because we have no idea what kinds of salary dollars are being spent on the upper echelon. Now, teachers can say this, we would love to be able to prove it, if it is true that significant reductions could be made in those areas. Without public disclosure requirements, we are not in a position to be constructive and so we have to make generalizations.

Once again, as a watchdog agency, we have the same problem, for instance, as I have had, you know, in many years previous to being in this position with the University of Manitoba. It is my personal thesis, as those members here who have heard our presentation on Bill 32 will know, that administrative costs particularly at the faculty administrative level and senior administrative level at the University of Manitoba are, again, a primary cause of the loss of educational services lower down

within those institutions. We cannot say anything about that. Once again, we have to generalize and say, well, administrative costs are too high, and the university administration comes back and says, well, our central administrative costs are only 5 percent to 6 percent of our budget. But what most people do not know is that the administrative salaries for academic administrators are counted as academic expenses and so buried in budgets which we cannot track because we have no idea what salary levels are being discussed there.

So, once again, we support this because it will make the debate more constructive. It will help us to target our energy on the real waste rather than targeting it on those public sector workers down in the lower echelons who are doing front-line, day-to-day work.

A point to make to the government, the other point I wanted to raise tonight: we have found so far in the work that we have done with our members strong support for an idea which I know the opposition has been speaking of greatly, and I hope they will note this evening, and that is that the point of public disclosure in and of itself is not to invade an individual's privacy but rather to provide insight into what you could call debatable necessities as to whether a particular public expense is necessary or not. We have found strong support so far, although we have not done extensive work on this to date, amongst our membership for the concept of amendments to this legislation which would extend the disclosure requirements, particularly the definition in Section 1, to those private sector organizations which choose to morph into public sector organizations by accepting public grants and subsidies.

It is our preference, of course, as it always has been, that the government end these subsidies once and for all and simply ban them as the Alberta government has done. But, in the absence of that useful kind of sanction, to prevent that kind of unnecessary and wasteful government intervention into the marketplace, we think increased accountability for those companies which choose to accept grants and subsidies would be a useful interim measure. Once again, I want to stress that those businesses receiving grants, if those grants are of a sizable nature and conform with the requirements in here, if you are looking for support from our members for those kinds of amendments, you have got it. Thank you, Mr. Chairman.

**Mr. Chairperson:** Thank you, Mr. Kelcey.

**Ms. Barrett:** Mr. Kelcey, I have heard your presentations on several bills this session, and not surprising I am sure to you we have disagreed with much of what you have said in here. I was noting down what you said earlier in your presentation about members who have been in opposition realizing the importance of getting public information, et cetera, and that it is necessary to be in a position to be constructive in deciding how public monies are to be spent. I was all prepared to ask you about how you would feel about the private sector entities who receive large amounts of public sector money, and I must admit that I was very surprised to hear you say that you believe that your organization would support the inclusion of private sector organizations into this category. I applaud the Taxpayers Association, or you speaking on behalf of the Taxpayers Association. I think that is a very important position that you have taken, and I think something that we will be attempting to implement here tonight. So I do not have a question, just a comment. Thank you.

**Mr. Kelcey:** I guessed that there was no question coming, but just to speak to Ms. Barrett's remarks. Again, the point for us is that if a business, if a not-for-profit organization chooses to take public funds, it is in essence choosing to put itself into the public sphere by accepting those funds. While, again, our preference is to ban that kind of activity entirely and ensure that government is providing government services rather than handing out subsidies to businesses, in the absence of that, certainly it is reasonable to extend the same provisions, not simply to municipalities and teachers and school boards and universities, but to those organizations which are voluntarily choosing on their own initiative to put themselves under that umbrella. If public dollars are involved, that is a choice those businesses will have to make. Frankly, yes, we agree, Ms. Barrett, it is a reasonable sanction under the circumstances.

**Ms. Barrett:** So, just taking a hypothetical instance, would your organization then under this suggestion, support the publication of the information around the monies that have been generated or have been given by government in the amount of almost \$50 million to the Jets organization and the Jets owners, would this fit into your category of private organizations that get public

money and, therefore, should fall within the purview of this legislation?

**Mr. Kelcey:** Quite obviously I think that is, on many Manitoban's minds, probably the preeminent example, where a government makes decisions to invest in a private enterprise like that to such a significant sum. Again, it is obviously in the public interest that we know what is happening there.

Now I am going to say one more time that obviously it is not a prospect that necessarily excites me. You know, I accept, as some of the earlier speakers have, that you are talking about digging into people's books and private organizations and so forth, but in a case like the Jets organization, you have got significant sums of public money going in. If they are going to accept them and if they are going to be allowed to accept those funds, then the preference for us is that there be enhanced accountability on those organizations, which have, for all intents and purposes, chosen to be public-sector organizations on a temporary basis.

**Mr. Santos:** Mr. Chairperson, given that approximately 52 percent of one's salary is going back to federal and provincial and other kinds of tax levies, would you think it will be more reasonable, if the target is really 50,000, that the cutoff point be increased to 102,000 or more?

**Mr. Kelcey:** I will take that as a trick question, Mr. Chairman, but in fact, as I have been quoted in print, I believe, it is our preference that there be maximum possible public accountability for public dollars, which is precisely the reason why we would support extension to businesses receiving subsidies. Although obviously the further down you get, the less useful it becomes in some ways in that, you know, a clerk who is making \$19,000 or \$20,000 is not going to be the target of much public criticism or wrath unless there are many more thousands more than are necessary. I would certainly support, I am afraid, a level less than 50,000 simply because I have not looked at the figures lately, but my understanding is that is well above the average salary of the typical Manitoban family, and if you were going to set an arbitrary level, that would be the arbitrary level I would choose over and above zero.

\* (1910)

**Mr. Chairperson:** Thank you very much, Mr. Kelcey, for your presentation this evening.

Valerie Price, please. Valerie Price. Valerie Price, not answering the call, will go to the bottom of the list.

Dan Kelly. Mr. Kelly, you may begin the presentation.

**Mr. Dan Kelly (Canadian Federation of Independent Business):** Thank you, Mr. Chairman, for the opportunity to come before you here this evening. As you may know, the Canadian Federation of Independent Business has had a long history of interest related to the salaries paid to public-sector workers. As employers, small and medium-sized firms have been extremely critical of the large wage gap between public and private-sector employees.

It is important to acknowledge at the outset that many of our public-sector workers work very hard and earn every dollar that is paid to them. We have some of the brightest and most dedicated civil servants in the country right here in Manitoba, many of whom are trying to make a difference in the lives of the taxpayers that they serve. However, using Statistics Canada census data, CFIB research demonstrates that the wage advantage of provincial civil servants compared to similar occupations in the private sector is 21 percent, which is the highest level in Canada. As taxpayers, CFIB members are extremely concerned that this wage gap exists, and we want to work to eliminate this disparity.

As a starting point, I also believe that it is very important that as much information on public sector salaries is made available to the public. After all, each dollar paid to a public sector worker is a dollar of tax revenue taken out of the economy. In fact, until recently, we have been paying our public sector workers out of future tax revenue due to the magic of deficit financing. The legislation that is before you here this evening is an extremely important addition to the province's own rules with respect to releasing salary information.

As the Finance minister will recall, CFIB has been calling for this type of legislation as part of our pre-budget submissions for many years. The lack of accountability and public information from municipal governments, in particular, has been a sore point for our organization and for many others.

As our research demonstrates that while the wage gap between provincial civil servants and similar jobs in the private sector is 21 percent, the similar figure for the workers of the City of Winnipeg is 24 percent. I know that this disparity is particularly evident at the senior levels of government, where many high-ranking provincial officials have been lured over to the City of Winnipeg due to their higher wage structure. The legislation that will allow the public to obtain a greater understanding of how well our tax dollars are being spent, I think, is money well spent.

It is also important to recognize that while we all speak of the high costs of the core civil service, our health care system in school divisions have been the significant cost drivers. As education and health alone make up more than 50 percent of the provincial budget, it is vital that these sectors not be left out of the public eye. And while CFIB is supportive of the spirit of this act, we are concerned, however, that in implementing this legislation, the province has lowered the bar for reporting the salaries in the core civil service. In my opinion, the \$50,000 threshold needs to be lowered to avoid cherry picking a few salaries that might seem out of line. A lower threshold would allow a greater opportunity for systems thinking and a careful analysis of all salaries in a department, a unit or a government agency. While implementing a reporting requirement of \$50,000 may be a good start for the larger public service, the lower threshold for the core civil service should be maintained.

I also wanted to outline to you a few examples that have come to our attention as reasons why this legislation is important. Very often, when we present our data on the gap between public and private sector salaries, the unions and many others will stand up and tell us that that does not exist, that there is no wage gap, that the public sector is not earning any more than similar occupations in the private sector.

It is interesting that during the recent home care debate and through other debates that we have seen recently, the unions have begun to admit that this wage gap does exist. In fact, I can point to a recent example where the unions, when they were complaining about the privatization of home care or the contracting out of home care services, said to us that home care workers would see their salaries drop by 60 percent. That, I think, is a very clear example of why this legislation is important, to make sure that we

have that kind of information to do those careful kinds of analyses that are necessary rather than just relying on public innuendo or comment. I would much rather see my research from the CFIB be added to my research from the government itself in releasing the civil service salaries.

The attached document to your package outlines a number of recommendations designed to address the significant problem of the wage gap between public and private sector salaries. But I never want to miss an opportunity to suggest that a general tax reduction may help to eliminate this gap by providing the private sector with the resources to provide wage increases to their workers.

Thank you again for the opportunity to offer our support for this legislation. Anything that can be done to improve the public's understanding of where their tax dollars are being used, I believe, is a positive move. The magnitude of the problems facing government today are such that black and white advice rarely contains the answers. Arming the public with as much information as is reasonable is a cost-effective way of encouraging business and personal taxpayers, politicians and civil servants to work together in finding these important solutions. Thanks very much.

**Mr. Chairperson:** Thank you, Mr. Kelly.

**Ms. Barrett:** In your first page, you say, and I quote: "After all, each dollar paid to a public sector worker is a dollar of tax revenue taken out of the economy." I do not understand that statement, Mr. Kelly, because most public sector workers do not earn \$50,000. Most public sector workers earn far less than that. Most of their salaries are not disposable income, so that they go back into the economy, helping independent businesses throughout the province of Manitoba generate revenue and paying those taxes that your organization, in particular, is not fond of. I do not understand how you can say a public sector wage earner's salary is money taken out of the economy when it is obvious that the vast majority of all salaried workers, public or private, put their money back into the economy, either directly or indirectly. I am wondering if you can explain that sentence to me.

**Mr. Kelly:** I think it is important to realize that we have to look at where the wealth in the economy is being

generated, and also, where the permanent, long-lasting job creation is taking place. Our organization has made great strides to say that it is the private sector's role in creating jobs. Governments can help us in establishing the climate in which to create those jobs, but the public sector has never created a permanent, long-lasting position ever. These jobs are all there as a result of wealth that is generated in the private sector economy.

Now, having said that, I want to add and, based on your comments, you were talking about the wealth that is being created by the money that is being paid to civil servants being regenerated throughout the economy. Certainly that is true. I share with you the frustration that I know is out there of many civil servants, who also do not like to see their disposable income being swallowed up through taxation. So I think the benefits of tax reductions, I think, are something that would be shared by civil servants and business owners alike.

I have to stress that we are not here to attack civil servants by any means. As I said in the outset, there are many of the civil servants that I know personally that are doing their jobs for the right reasons. They are doing that because they truly believe that they are providing some benefit to the people of Manitoba. We will always need a small sector of public service to help set that climate, if you will, for the private sector to flourish. However, our view is, as we have stated many times, that we have allowed that public sector to grow to a far greater extent than it should, and also the resources that we spend on the public service, unfortunately, I think, are a little bit beyond what governments these days can afford.

\* (1920)

**Ms. Barrett:** Yes, thank you. I find it very frustrating this five minutes of questions, because I would like to get into a real discussion with you. I just have one other question. It is on the last paragraph when you say, and I quote: "Anything that can be done to improve the public's understanding of where their tax dollars are being used is a positive move."

I believe you were in the room when Mr. Kelcey made his presentation, from the Manitoba Taxpayers Association. Would you agree with his association? I will ask you personally because I know that you cannot speak on behalf of your organization because I do not

think you have polled on this. Would you agree with an amendment that would add any private organizations or corporations that took public grants and thus became quasi-public in their use of taxpayers' money should be under the same regulations while they are taking government money?

**Mr. Kelly:** I want to add from the outset that again we have not done a specific survey on this issue. You are right, and I thank you for realizing that. What I will say, and that is an easy question for us to answer, because the CFIB, I think, has been very forceful in our comments, that no private sector organization should be getting any public sector funding of any kind, that all subsidies to business—small, medium size, or large—should be eliminated. That is something that I know your caucus has supported on many occasions, is eliminating all of the subsidies to business.

So I do not believe that there should be any accountability measures necessary on the private sector, because subsidies to the private sector should be eliminated altogether. Having said that, in situations where at present there are subsidies being granted to private sector organizations, I would think that my members might support a concept where in fact increased accountability would be necessary if they fall under the same criteria. Again, I cannot imagine any example, including the Jets, quite frankly, that would be a situation where over 50 percent of the resources in that organization would be from the public sector.

**Mr. Mackintosh:** I do not buy entirely, and I will have to look at this more carefully, the comparison of the private and public sector wages. Just given, I think, your acknowledgement even in the document of the municipal services, health, education and public utility sectors being in the public sector and the wages may be at the place they are to ensure low turnover, for example, in professionalization, so it may be that you are comparing apples and oranges, and you are certainly not comparing jobs of equal value.

However, I ask you, if you are concerned about the level of public-sector wages, what is your organization doing—and I think this is the more important question—to increase the wages of the private sector in Manitoba? For example, what is your organization doing to enhance unionization, for example, of nonunion sectors? What is

it doing to promote the development of high-tech jobs to compete in the world economy, for example, by maintaining and enhancing a domestic telecommunications industry which is going to go down the tubes on Friday?

**Mr. Kelly:** That is a very loaded question, and allow me to respond to a few points that you have raised. One is, certainly to increase the amount of unionization in the province, CFIB is doing very little. One of the important points that I think should be raised, and I did raise this in my comments, the way that I believe to allow business owners to increase the wages of their workers is by providing them with the necessary resources to do that.

Payroll tax reduction, something that the CFIB, I believe, has been the lead organization in, in calling for a reduction, payroll tax reduction, such as unemployment insurance premiums, Workers Compensation premiums, the Manitoba payroll tax, those kinds of premium reductions, I believe, would allow business owners the opportunity to pass along some of those additional resources to their employees. For example, a reduction in the unemployment insurance premiums, right now the federal government can afford about a 75-cent reduction in UI premiums. I believe that passes along a significant amount of new resources into the hands of individual workers, but it also provides business owners with a lot of additional resources, some of which, I believe, would go back into the economy through wage increases for their workers. I believe that that is the kind of win-win solution that we should pursue here. A tax reduction, I believe, is the best way of eliminating the gap, by allowing business owners to increase the wages of their individual workers rather than having the public sector tax every dollar out of us and provide it to a select few that are in a position of greater strength.

**Mr. Martindale:** Mr. Kelly, according to the tables in the accompanying document that you provided us with, the average salary for a provincial government employee is \$35,639 and, for institutions, \$29,258. Why would the government's bill set a minimum threshold of \$50,000 unless they were intending to scapegoat certain parts of the public sector?

**Mr. Kelly:** I share your concern in that regard. That is why, in my presentation, I made the point that our view is that the bar should not be raised. The previous

threshold that was there for the core civil service should be maintained, and the \$50,000 threshold, I believe, is a good start for the extended civil service, but it should not be left at that level. So I certainly would share your concern in that regard.

**Mr. Chairperson:** Mr. Santos, last question. You have a minute.

**Mr. Santos:** I want to pose my question on the private sector. The highest chief executive officer in the private sector is paid \$3,372,804. That is the gross. The basic salary is \$950,000; incentive pay is \$250,000, and other pay is \$3,191, benefits. That is approximately 135 times the ordinary average worker. How much ratio would you think will be reasonable, the highest-paid and the lowest-paid worker in our society?

**Mr. Kelly:** First, I would like to acknowledge that my organization, by coming here this evening, represents a small subset of the business community in general. While we represent over 92 percent of the businesses in this province, we represent small and medium-sized companies. We do not represent GM, Chrysler or Ford or the Royal Bank. However—

**Mr. Chairperson:** I am afraid time has expired. Is there leave to complete his answer?

**An Honourable Member:** Leave.

**Mr. Chairperson:** Leave to complete your answer, but briefly, Mr. Kelly.

**Mr. Kelly:** I will be very brief. However, I believe that there is no role for government in regulating how much a salary an individual earns. I believe that the government should be encouraging as many people as possible in our society to earn as much as is possible and to increase their wages through their own hard work and efforts, and anything that government does to intervene, I believe, is a net deterioration of our economic circumstances.

**Mr. Chairperson:** Thank you very much, Mr. Kelly, for your presentation this evening. Trevor Lines. Is Trevor Lines here? Trevor Lines, not being here, will go to the bottom of the list.

Murray Grafton. You may begin Mr. Grafton.

**Mr. Murray Grafton (St. Boniface Teachers' Association):** Thank you and good evening. My name is Murray Grafton, and I am president of the 350 teachers in St. Boniface Teachers' Association.

As a Canadian, I have always been proud of our country's protection of the individual and the value placed on personal privacy. I have lived and travelled extensively overseas. I have experienced living under a military dictatorship. I understand that our rights and freedoms are fundamental yet fragile. The attack on any individual's rights is an attack on the rights of all. I am alarmed that a government of Manitoba would inflict such meanspirited legislation on its own citizens.

In Canadian practice, there has been the need for public disclosure of salary as a balance to those groups or individuals who set their own salaries. Bill 57 goes beyond this for no apparent good purpose but rather to attempt to target or identify or embarrass certain individuals. The salaries of public school teachers are currently available to interested parties of the public through the collective agreements under which teachers work. I question the intent of Bill 57. The desire to personalize teachers' salaries exceeds the requirement to inform the public. It is an unwarranted intrusion into people's privacy. One wonders where this brave new view of the individual will take our society. I contend that my specific salary is a personal matter between my employer, the St. Boniface School Division, and myself, and I reject the social message of this bill.

\* (1930)

Between October 21 and October 30, I met with the teaching staffs of St. Boniface, school by school. It is the view of the teachers of St. Boniface that Bill 57 is discriminatory since it is aimed only at employees of the public sector and excludes employees of organizations established for the purpose of profit. This legislation creates two classifications of citizens before the law. This is unfair and socially divisive. Bill 57 will pit social groups against one another and encourage mistreatment of public service employees. This discriminatory lack of regard for the individual privacy of teachers will add another unnecessary stress to Manitoba's teachers. The negative implications of Bill 57 may even discourage some of our brightest young minds from a career in teaching, at least teaching in

Manitoba. If the government does pass this legislation, it should remove the discriminatory limitations of Bill 57 and force the compensation disclosure of all Manitobans. That would still be wrong, but at least it would treat all citizens of Manitoba equally.

As president of the St. Boniface Teachers' Association, I have received numerous telephone calls from teachers who are also concerned about other ramifications of Bill 57. Teaching is a profession with many female members. Teachers may also become very well known in their communities. The concern some women teachers have raised with me is that Bill 57 and public disclosure of salary will more specifically target them to the fringe element in their communities. This is especially a fear of single female teachers who live alone. These teachers suspect that naming individuals along with their salaries has the potential to attract a criminal element that may victimize them. The government should protect and respect the privacy rights of all its citizens and abandon Bill 57. Thank you.

**Ms. Barrett:** You state in your brief that the salaries of public school teachers are currently available through collective agreements. I assume you mean that the salaries are made available, classification and category by category, rather than individual by individual.

**Mr. Grafton:** The collective agreements that teachers work under are public information and available from school boards. School boards are also required to file extensive auditing reports under the FRAME system, and the accounting there should be suitable to satisfy any of the needs that people have regarding teachers and the total expenditure on salaries.

**Ms. Barrett:** Thank you. I am showing my ignorance in this specific area, and many others, but through FRAME, if I were interested—I am in Winnipeg School Division No. 1—could I find out just as a citizen how many teachers in School Division No. 1 were in each of the salary classifications?

**Mr. Grafton:** I do not think so. I am not sure; I would have to check on that.

**Ms. Barrett:** Thank you. You also say that you reject the social message of this bill. Could you expand on what you think the social message of Bill 57 really is?

**Mr. Grafton:** From what I think, the social message is that there are two levels of citizenship in the province, and that some people's personal lives are less protected by the government under this bill.

**Mr. Martindale:** Mr. Chairperson, I was going to ask the presenter if he could expand on the kind of fears that women teachers expressed to him personally, but I do not think that would be a good idea because we do not need more detail about that on the record, in case somebody reads the printed record of this presentation and gets an idea. It seems to me it is quite unfortunate that this bill has that kind of implication, but I would like you to talk to me or another committee member or our Education critic or Labour critic off the record and give us more information about the kinds of fears and the kind of specific concerns that women teachers had about his bill. Thank you.

**Mr. Grafton:** I would like to speak to the question. It would seem to me that the nature of the employment that teachers have offer them a very different sort of relationship with the public than many other people in public or private sectors. It may be one thing to have an encounter with a 16-year-old for 10 minutes and determine whether or not that 16-year-old gets his driver's licence and you sign the bottom of the report Inspector 49. Teachers by the nature of their jobs are often very much a part of people's families, and there is a great deal of contact between home, between teacher and there is a great deal of personalizing of relationships between teachers and their students. So I think that the level of relationship is very different with teachers and the public than most people who work in public service or private service.

**Mr. Stefanson:** Thank you, Mr. Grafton, for your presentation. You have been here, I think, for part of the discussion or some of the earlier briefs, so you are probably aware that today the government of Manitoba publishes the salaries of all employees, over \$50,000 as of this year. Prior to this it was over \$25,000, and that has been in place for some 20 to 25 years, I am told.

So I am assuming that many years ago there was a committee just like this, or there was some process that made that determination. I was not there and I do not think very many around this table were there, but as for what the rationale might have been at that point in time,

I think part of it might have been accountability and the right of the taxpayer to know and so on. I guess I am curious, looking at this issue today, and that is really the thrust of this document, is the whole issue of accountability, how many other individuals who receive the majority of their salaries from the taxpayer, whether it is school teachers or people who work in the health facilities or a series of other areas outlined in the bill, how or why they should be treated differently from people who work directly for government? What would your view be on that?

**Mr. Grafton:** I would be opposed to the public disclosure of anyone's salary who is an employee. I think that people who are in a position to set their own salaries, their salaries should be disclosed as a matter of balance, just as a check against the power that they have. But in my opinion the accountability should be built within the system, and it should not be a matter of public scapegoating in order to act as a balance or a break against people's salaries. For instance, in the public schools, trustees are elected by the public and one of their responsibilities is to maintain negotiations with their teaching force; that is one of their responsibilities. I think that in order to allow them to be accountable to their electorate, they should have responsibility for setting the wages through the collective bargaining process.

**Mr. Santos:** If accountability shall be the justification for disclosure, accountability, do you think also applies to corporate officers who should be accountable to their shareholders, to investors, to creditors, to consumers at large?

**Mr. Grafton:** If they are setting their own salaries, yes.

**Ms. Barrett:** There has been some suggestion made by a group earlier, and we are in favour of this as well, that private companies or corporations or groups or businesses that gain public monies through grants or loans or whatever should fall under the same disclosure requirements. I know you would prefer Bill 57 to be pulled from the table, but if that were not to be the case, how would you feel about expanding this so that private sector people would have the same accountability or the same requirements for income disclosure?

**Mr. Grafton:** I think that if Bill 57 is passed it should be greatly expanded, and I think that it should treat

everyone equally, and if it is passed it should apply to everyone.

**Mr. Chairperson:** Thank you very much for your presentation this evening, Mr. Grafton.

**Mr. Grafton:** Thank you.

**Mr. Chairperson:** Replacing Ken Pearce on the list is Ian Mac Intyre. Is there leave of the committee for Mr. Mac Intyre to present on behalf of Mr. Pearce? [agreed]

**Mr. Ian Mac Intyre (Manitoba Teachers' Society):** Good evening. My name is Ian Mac Intyre, and I am the vice-president of the Manitoba Teachers' Society. Just in comment to Mr. Kelcey who represents no one but himself, he is completely inaccurate with the comments that he made about the Manitoba Teachers' Society earlier.

The society appreciates the opportunity to address the legislative committee reviewing Bill 57. Manitoba's teachers are probably the single largest group affected by this proposed legislation. While we are generally supportive of the concept of disclosure of all public expenditures, we do have significant concerns respecting the privacy and safety of teachers. Bill 57 stipulates that the financial statements of publicly funded bodies be accessible to the public. In general, the society agrees with this provision. School boards have followed this practice for many years. The bill also allows the exclusion of certain public bodies by regulation. The society hopes that such exclusions are based on principles which are applicable to all bodies and not executive privilege.

\* (1940)

It would not be fair if the names and compensation of employees of one public body are subjected to publication while those of another body were kept secret. Finally, the bill allows for the exclusion of certain confidential information. The society in general agrees with such a provision but would note that the publication of the salaries of individual employees should be considered in a similar light.

We fail to see how any financial transaction can be considered to be more confidential than the salaries of



employees. In particular, the bill would allow a school board to hide from the public a transaction made at less than arm's length while employees whose salaries are determined through open negotiation are publicly identified by name.

Our major difficulty with Bill 57 is the publication of the names, positions and compensation of all teachers where the total compensation is in excess of \$50,000. The society submits that such publication is an unwarranted deprivation of teachers' rights to privacy, a right which is provided to Canadians in other financial matters including returns filed under The Income Tax Act. There is no public purpose fulfilled by publishing the names of individuals, since all the necessary financial information is already available.

The salaries of all teachers are governed by the provisions of collective agreements which are already public documents in existence in school divisions. These agreements are negotiated between parties representing the teachers and the school boards in accordance with the qualifications and experience, both of which are considered to be confidential by the Department of Education. In addition, the total salary cost of various classes of employees are published in the financial statement of the school board, as are the number of such employees. Any member of the public can therefore derive both the average and total remuneration of employees from the financial statement and the specific level of remuneration of the salary scale. We question how the publication of the names of employees helps the public in any manner to make an informed decision on the operation of the school board.

Companies in the private sector, which due to their size exert a greater financial influence on society than does any school board or school boards combined respect the privacy of their employees. They provide financial statements in sufficient detail that the operation of the company can be analyzed by the stockholders or other analysts. Why is it necessary to deprive teachers of their right to privacy merely because they work for a school board rather than a private company? The society admits that there are some situations where the publication of salaries serves the public purpose. The two major examples are the salaries of politicians and the compensation of chief executive officers of publicly traded corporations. In both of these situations, the

salary is determined either unilaterally or at less than arm's length. Public disclosure is therefore required to ensure that the privilege is not abused.

In the public sector, one could make an argument for the publication of the salaries of chief executive officers whose salaries are determined privately or at less than arm's length. In this case, one could use the Ontario model which publishes salaries in excess of \$100,000. One could also argue for the disclosure of the financial arrangements in contracts made between the government and private interests. Neither of the above arguments lend any credence for the requirement for the identification of salaried employees who happen to be professional and whose salaries are determined through collective bargaining.

The society fears that the publication of individual teacher's salaries will cause problems which are not faced by other employees. The relationship between other employees, either public or private, and citizens or customers is usually for a short duration lasting only as long as it takes for the completed transaction. In contrast, teachers have a special relationship with their public, both students and parents. These relationships last for a long time and tend to be emotional. Our children are, for the most part, the most important aspect of our lives. Contacts between teachers and parents are more intense than those between any other employees and the public. Most of these contacts are positive. Even when there is a disagreement, the situation can usually be resolved within the school system since the interests of the children are the prime consideration of both parents and teachers. In some isolated instances, however, parents are not satisfied regardless of the situation and go to the media. In such a situation, the teacher has no defence. A parent can allege almost anything without a teacher having the opportunity for rebuttal. If an unscrupulous reporter, in addition to publicizing the one-sided information provided by the complainant, can also publicly disclose the teacher's name and salary, one has all the necessary conditions for a classical witch hunt.

Teaching is an extremely stressful occupation—the increasing complexity of education, the constant changes in curriculum, the changing expectations of government and society, not to speak of the current unrelenting financial restraints. Teachers learn to live with these stresses. When, however, a teacher is exposed to public

harassment, the limit is reached and even the teacher's continued effectiveness in the classroom is in jeopardy. How can a teacher return to the classroom and maintain his or her credibility with the students after having been harassed in a public forum? The society submits that the relationship between teachers, students and parents is unique and that it is in the public interest to protect this special relationship. For this reason, the society requests that the government exclude individual teacher's names from the publication demanded by Bill 57.

Our security and safety depends to a significant degree on the confidentiality of private information. In contemporary society far too many pieces of private information are already available on computer banks. The indiscriminate use of such data has exposed many citizens to unwarranted advertisements, harassment and even criminal activity. Increasing computer crime jeopardizes our credit card and bank accounts. Whatever protection we have left is due mostly to the fact that the pieces of personal information are scattered over various data bases and are not easily linked in a manner which provides criminals a complete set of data.

Bill 57 will provide public lists of teachers, their employers and their salaries. Such lists will provide invaluable information for the criminal element, since the address, the only information which is still missing, can be easily obtained from the telephone directory. It should be noted that the federal government's proposal for a permanent voters' list considered as confidential the combination of name, address and birth date. The society submits that disclosure of such personal information puts teachers at risk and exposes them to harassment and criminal activity.

There is no governing presumption of privacy in a Manitoba statute serving to protect the rights of Manitoba citizens.

The Manitoba Teachers' Society endorses accountability to the people of Manitoba on public education matters. However, the approach toward the disclosure of personal information presently being advanced by the government of Manitoba appears fragmented among the various departments of the government. The Minister of Education and Training (Mrs. McIntosh), the Minister of Health (Mr. McCrae), the Minister of Finance (Mr. Stefanson) are each

developing particular procedures that will require the collection, holding and dissemination of personal information pertaining to Manitobans. Each minister is placing the cart before the horse.

Manitoba needs a protection of privacy statute that complements the Freedom of Information legislation enacted in 1988, and that uniformly governs the disclosure of all types of personal information by any public sector body. Protection of privacy legislation should govern the personal information of each individual citizen, which can be collected, held and disclosed by any provincial government or local government agency. Requirements for the disclosure of personal information should not be arising from individual ministers of the provincial cabinet on an ad hoc basis. It is not the singular responsibility of individual ministers to seek to legislate demands for the disclosure of personal information in the absence of a privacy protection act in Manitoba. It is not even the purview of the provincial cabinet to seek to enact regulations about the disclosure of personal information in the absence of a privacy protection act in Manitoba.

Manitobans have the dubious distinction of being the citizens of the only province in Canada not to have privacy protection recognized by statute. Omnibus legislation has been passed in all other provincial jurisdictions. The protection of privacy acts of other provinces, most notably, Ontario, Alberta and British Columbia, set out a framework of definitions, designate privacy protection rights, including the consent of persons for the disclosure of personal information, establish an obligation for the personal information which is authorized to be collected to be current and fully accurate, and appoint a privacy commission, headed by a privacy commissioner who makes decisions on the validity of the collection and the disclosure of personal information. The public school teachers of Manitoba call for an omnibus statute upholding the rights of every Manitoba citizen for protection of privacy.

In summary, the public has a right to examine the financial statements of any publicly funded body such as a school board. This is, however, in the case of school boards, already the situation. Taxpayers can examine all aspects of school financing, including the money spent on salaries. Since these financial statements much follow the criteria of FRAME, one of the most detailed systems

of financial disclosure in Canada, the public can even compare the expenditure line by line between different school jurisdictions. There is no need to identify individual employees, deprive them of their privacy and subject them to harassment or worse.

**Mr. Chairperson:** I just want to alert you. You are into your question and answer time, so is there leave of the committee to proceed? [agreed]

**Mr. Mac Intyre:** While there are situations where disclosure of information may be in the public interest, we suggest that they are limited to those in which individuals can set their own salaries and have their salaries determined at less than arm's length. This is clearly not the case with teachers. Their salaries are determined through collective bargaining and included in a collective agreement which is already a public document. Since the bill does not prohibit the improper use of information, we can anticipate that misuse will occur. When misuse of information about a teacher occurs, it is the student-teacher relationship that will suffer and with it the quality of education provided to the student of that teacher. We believe the bill will do nothing to enhance the quality of education and can have only the impact of harming it.

\* (1950)

In addition, it will create additional administrative costs for school boards at a time when financial resources are scarce and the government is requesting them to reduce administrative costs. The Manitoba Teachers' Society therefore recommends that the government of Manitoba set aside Bill 57 and respect the right to privacy of teachers and all other public sector employees. Thank you.

**Mr. Chairperson:** Thank you, Mr. Mac Intyre.

**Mr. Santos:** It seems to me that the rule of confidentiality and secrecy has been devised by the ruling elites in most societies to hide from the people financial transactions or salary agreements that could not be justified before the eyes of the masses. Do you think that all financial transactions of whatever nature that involve public funds and all salary agreements that involve public expenditure of funds should be disclosed in a discreet way, such as encoded information, to avoid undue

advantage being given to friends of those in the ruling class?

**Mr. Mac Intyre:** In terms of public education, those figures are available. Those figures are available through the collective agreements that teachers have because those collective agreements are public documents. As well, the numbers of teachers in certain classifications or in particular classifications is available through FRAME, which is the government document and again very public.

**Mr. Santos:** So if particular names are deleted, but they are identified as employee number so and so, you would be in favour of disclosure?

**Mr. Mac Intyre:** We are not in favour of any disclosure of personnel's names, of any employees.

**Mr. Santos:** I am not saying that. I am saying, instead of a name, you will use employee number 1-2-3, employee number so and so, teacher number so and so, without the names or address or any identifying information.

**Mr. Mac Intyre:** There is still information available through having the employee numbers listed. There is no need to have any identification listed. Those salaries are available through FRAME. The numbers and categories are available through FRAME. The salary classifications are available through the collective agreements. There is no need to have individual listings of salaries by name, by number, by any description.

**Mr. Mackintosh:** Just to clarify then, currently, under the collective agreement, could I, if I sought out the name of a particular teacher, discover that person's salary in some public document?

**Mr. Mac Intyre:** I do not know if it is a public document, but there are documents within the school board that certainly have teachers' names and classifications. That information is also available at the Department of Education. Now, publicly, I do not know. I do not think so.

**Mr. Mackintosh:** Are you saying that the school board would deny me access to that information, or do you know?

**Mr. Mac Intyre:** I am not sure.

**Mr. Mackintosh:** I think you are the third one tonight that has raised the issue about security of the person being affected by this legislation. We just look at the legislation, and the manner of disclosure of this information under the bill can be in any way the government sees fit, including the computer Internet, columns in the newspaper. It may be that radio show hosts can read this on the morning show. I have heard similar kinds of lists read out to the public. What kind of individuals do you think would be most vulnerable to the proactive release or dissemination of this information? How would you consider—

**Mr. Chairperson:** We are running out of time.

**Mr. Mackintosh:** —for example, are we talking, disproportionately, single women, elderly single women?

**Mr. Chairperson:** Very quickly, Mr. Mac Intyre.

**Mr. Mac Intyre:** Well certainly, in regards to teachers, the majority of people who would be affected are women. We have an aging population of teachers, so this would mean an aging group of women would—certainly the information would be available to them or to anyone who would want it. The information—for example, Hansard. Hansard from today's or yesterday's session can be pulled off the Internet. If someone was to read the information into the Hansard on the floor of the Legislature, then that information is available right off the Internet.

**Mr. Chairperson:** Thank you, Mr. Mac Intyre, for your presentation this evening.

**Mr. Mac Intyre:** Okay. Thank you.

**Mr. Chairperson:** Henri Peloquin. Welcome, sir. You may begin your presentation.

**Mr. Henri Peloquin (Private Citizen):** Thank you, Mr. Chairman, members. My name is Henri Peloquin. I am a teacher in the city of Winnipeg. I have chosen to address this issue, the proposed Bill 57, The Public Disclosure Act, because it concerns me personally and, I believe, thousands of others as well.

As I understand it, this bill is based on the concept that the taxpaying public has the right to know where government-generated monies are going. No one can fault the government in its desire to ensure public accountability of its finances. As professionals, teachers fully support the belief that we cannot act nor spend with impunity. Therefore, I applaud the government on its devotion to fiscal responsibility. Do not misunderstand me. I am not saying that citizens of Manitoba should not have the right to access the total expenditure on personnel or know that teachers' pay scale or grid of any one division. Simply, what purpose is being served by putting my name next to a specific dollar figure?

I stand before you to express my personal view that Bill 57 exceeds anyone's need for financial information. I do not believe that lists offering the annual financial remuneration as well as the name of the employee should be made available upon request to any citizen of Manitoba. I can see no good service being provided by such disclosure. I ask you, is it necessary that all public service employees earning \$50,000 annually in combined salary and benefits be subjected to this invasion of privacy? We live in a period where people are all too frequently the victims of con artists, scams, shams and out and out thievery. We live in a time of Internet access to all kinds of information, as well as massive telemarketing campaigns. I fear that once this list is published, those of us whose names appear shortly thereafter will frequently be solicited by mail, by telephone, and in person by all manner of people, those with legitimate causes and perhaps those with causes of a more dubious nature. In short, although I freely donate to worthy causes, the operative word here is "freely." I choose who will receive my donations, and I may do so anonymously.

Finally, have you also considered the impact that this freedom of information may have on those within the education system? When salaries are divulged, resentment must surely follow. One must simply refer to the NHL and the overall atmosphere of dissatisfaction amongst the players which resulted. It is also important to note that as a result of this action, salaries in the NHL in fact did not go down but rose and continue to rise steadily. Therefore, I feel strongly that the publication of this list infringes on my right to privacy and at its very worst may in fact be a threat to my personal safety.

I thank you for your time, attention and consideration in this matter and appreciate the opportunity to speak before you.

**Mr. Chairperson:** Thank you, Mr. Peloquin.

**Ms. Barrett:** Thank you for your presentation. Why do you think this legislation is being put forward at this time?

**Mr. Peloquin:** Well, personally, I believe that the government is looking at exposing a large number of public sector employees, namely, I would say, principally, teachers. As the salary scale has been established at \$50,000, we would be most obviously targeted by this legislation.

**Ms. Barrett:** The minister, in introducing for second reading the legislation, stated that it will represent another component of the strong accountability framework our government is establishing in the public sector and will increase the financial accountability of public sector institutions and organizations funded by Manitoba taxpayers by requiring greater disclosure of how public monies are expended. Do you believe that is what will actually happen here, or do you think accountability could be achieved in other ways?

\* (2000)

**Mr. Peloquin:** I believe accountability can be achieved in other ways. As I said, I really do not have a problem with grids being presented within a division or classification scales being publicly available or total remuneration within the division being accessed by the general public. I think what I personally oppose is my name or the name of any individual employee being attached to that public record. I see no good service being done even within the accountability argument.

**Mr. Martindale:** Thank you for your presentation. I hesitate to give the government suggestions or ideas for mending the legislation, but it seems to me that the purpose of this bill is to stigmatize a group of people that they consider to be high income and get the middle class and low income people to resent them, but it occurred to me that, if that is their purpose, there are other ways of doing it other than publishing the names of all the individuals. For example, could they not even, division

by division, publish the average salaries for different categories of teachers and achieve the same goal? I mean, if they want to create resentment, do it by averages instead of publishing all the names.

**Mr. Peloquin:** Absolutely, they can do that. Yes, and as you probably know there is an aging percentage of teachers within Manitoba. As a result, most have reached maximum scale so that certainly is an easily available number.

**Mr. Santos:** I take it, Mr. Peloquin, that because you favour the rationale of public accountability, you would not object to protect the personal safety of teachers. You would not object to a list of coded numbers, those numbers used in social surveys to preserve the anonymity of respondents.

**Mr. Peloquin:** I suppose the only argument I would raise in that respect is, who has availability to those numbers? If confidentiality is respected, I do not have a problem with generally salaries being accessed.

**Mr. Stefanson:** Mr. Peloquin, thank you for your presentation. I want to assure you the intent is not to stigmatize or create resentment or any of those. It is accountability. As you would have heard earlier in the evening, we currently publish a volume of our Public Accounts the salaries of everybody. It used to be over 25,000; today it is over 50,000. I am not aware that has led to any particular problems for any individuals, but I do stand to be corrected on that.

I would be interested in your view of—again, this is really an extension of what has existed for 20 or 25 years, as I said earlier, under previous governments. So I am sure that the discussion at one point was the same kind of discussion as we are having here this evening, only we are taking it a step further and broadening it into health care areas, educational areas and so on. So I guess I would just be interested in your view of the comparison to the people who currently work for the public service directory who have their salaries published and the broadening to these other areas.

**Mr. Peloquin:** I guess my answer to that would be the question of profile, and I think that teachers are probably a fairly high-profile group in the community. There certainly has been a great deal of interest generated in the

public and towards the public in terms of the teaching profession. I think this is a time that would lend itself to—it would be a great opportunity to publish those numbers, and people would love to know those numbers in respect to, maybe, civic employees.

I am not really sure how available those numbers are. If people wanted to find them, what avenues they would go through to find them? Would there be interest? Has it already happened that these have been read over the airwaves? Is that something that has been looked at in terms of public sector employees.

**Mr. Stefanson:** I think it is worth just suggesting as we did earlier that information is readily available and you could access it, anybody in Manitoba can access it. That has happened on occasion, but you referred to I think—a reporter or two may have read a name off the list, but I do not think that is an overly significant issue. I do not think there is a great deal of that happening, nor is that the intent behind the changes here, I assure you.

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

Terry Voss. Welcome, Mr. Voss, you may bring your presentation.

**Mr. Terry Voss (Director, Human Resources, University of Winnipeg):** Thank you. I will try and be brief. I am here representing the University of Winnipeg, and the University of Winnipeg wishes to go on record as saying that we are prepared to co-operate in whatever way possible. If the government and the public believe that the disclosure of salaries is an important issue, then the University of Winnipeg is prepared to do what we can.

The university is experiencing some difficulties with respect to resources. Our staff-to-faculty ratio is one of the lowest in the country, and it is a very difficult time for support staff at the University of Winnipeg. Daily, they are concerned about whether or not they can accomplish all of the responsibilities that they have in their job descriptions, and the University of Winnipeg is here to propose some improvements to the bill from a University of Winnipeg perspective.

We see two issues in the draft legislation that concern us; one is the definition of compensation. We understand

that the definition of the compensation is not just salary but to include other items such as items which are seasonal or out of the control of the employees, such as overtime, shift premium, additional payment for teaching additional courses. We are not sure that this information is exactly what the public is looking for or representative of what the public is looking for, but we are concerned about the fact that it is not as readily available as the annual salary of our employees, which would be very simple to provide from our database. We may incur additional costs in having someone look after the information that you are requesting in the proposed bill.

The University of Winnipeg also does not have a lot of exotic compensation schemes, so we are not concerned about the particular information you are requesting, just on how it would be tabulated. We can understand, though, that perhaps the public may be concerned about whether there are additional compensation schemes that are sort of hidden from the public; and, if that is the major concern with this bill, the University of Winnipeg would like to propose a change in the disclosure period. Currently, the legislation requires that we report this compensation on a fiscal year-end basis, which, for the university, would be April 1 to March 31, and we believe that it would be more readily available to us if you were to allow us to provide the information on a calendar year basis so that we could use the existing income tax reporting systems to gather this information and not create new systems.

So the brief presentation is that we would prefer to report salaries only, not including other forms of compensation, mainly because it would be easier for the university to provide that information. Failing that, if there is concern about other forms of compensation, we would like to be able to report it on a calendar year basis taking advantage of the income tax reporting systems. That is my presentation.

**Mr. Chairperson:** Thank you for a very useful and clear presentation, Mr. Voss.

**Mr. Stefanson:** Mr. Chairman, thank you for your presentation. You raise at least one issue that has been raised by others over the course of the last few months since this legislation was introduced, and that is this issue of the reporting period because, as you say, you have to file T-4s and so on. So I guess that I as much wanted to indicate to you, asking whether or not you are aware that

we are prepared to introduce an amendment before the committee this evening that would allow organizations to do just that, to file on a calendar year using their T-4s as the base but having to adjust the T-4s for the other elements of the definition of compensation. When I look at your compensation definitions, some of those certainly would automatically be included in the T-4 as well, certainly overtime payments and some of those. So is it fair to say that would go along way to addressing certainly one, if not both, of your concerns.

**Mr. Voss:** Yes, the university would appreciate that very much if you could propose that amendment.

**Mr. Chairperson:** Thank you very much, Mr. Voss, for your presentation this evening.

Kenneth Emberley. Kenneth Emberley. Kenneth Emberley, not being here, will go to the bottom of the list.

John LaPlume. John LaPlume. I have a note from John LaPlume who indicated he may not make it. He has sent a written submission which is now being distributed, and he would like it presented as a written submission in lieu of an oral presentation and have it appear in Hansard in full.

Is that agreed by the committee? [agreed] That is agreed by the committee, and it will accordingly be put in the record as if it had been presented orally.

\* (2010)

Next, Sue Loney. Ms. Loney, you may begin your presentation.

**Ms. Sue Loney (Private Citizen):** My name is Sue Loney, and I am a teacher with the St. Boniface School Division. I am here to talk about Bill 57, The Public Sector Compensation Disclosure Act .

This act requires the disclosure of the names of employees of public sector bodies earning more than \$50,000 in salary and benefits. This is an unnecessary invasion of privacy. By bringing forward this legislation, the government is adding the names and total compensation of teachers to the debates on public education. This goes beyond the public's need to know,

and it is not relevant to the discussions about education. Granted tax dollars are going towards the funding of public education, so perhaps a better idea would be for school boards to disclose a salary distribution of all its employees. I do not understand \$50,000 as a break-off point. How often is the government going to have to amend the bill due to inflation or other economic factors?

Besides the issue of the public's right to know, this legislation does not take into account other important implications. These implications are directly related to the lack of protection against the potential misuse of the information. There are no safeguards in place to protect employees affected by this act from advertisers, the business community, or charitable organizations who may try to solicit business or donations. For a nominal charge, any member of the public will be given a printed copy of these lists. The media could publish these lists of names or individual names for no valid reason, creating uncomfortable situations for those of us working with hundreds of different people each year.

The relationship I establish with my students and their families becomes quite personal and intense. I have helped my students deal with everything from abuse to the breakup of their family. The ties I have established do not necessarily end when the school year does. Teachers are constantly visited by former students of all ages who still seek out advice and share personal information about their lives. Because of the emotional ties between families and teachers, the disclosure of our names and salaries takes on a new dimension. Most misunderstandings between parents and teachers are resolved easily and quickly. However, if a parent is not satisfied with the resolution of a problem, that person can contact the media and give a one-sided description or even false information to a media personality.

If this act is passed, my salary can now be added to that information. As a teacher, I cannot share information about my students and their families with the public. I do not have any means to protect myself and my reputation. Disclosing my total compensation adds fuel to the fire and can make a potentially bad situation worse.

Perhaps the implication that worries me the most is the lack of protection from the potential use of these lists by criminals. I am a single female living on my own. It makes me very uncomfortable that anyone could find out

exactly what I am making. People assume that, when a certain salary level is achieved, people have certain types of possessions. If I was planning to rob a house, I would certainly rather choose a dwelling where I knew the salary of its owner than one where I did not. Once a person has a name, it is relatively easy to discover an address. What protection does this bill provide me in the area of personal safety?

In this age of technology, personal privacy is already decreasing. Why make it easier for people to gain personal information about their neighbours, co-workers, or strangers which can be used in a variety of ways without safeguards? I realize that the government has been disclosing the names and salaries of people employed in the civil service for a number of years. While I do not agree with this practice, there is one overwhelming difference between the civil service and teachers. Teachers have very high-profile jobs and personal relationships in and with their communities. Civil servants do not. The only group of individuals in the public sector who should and do have their names and salaries disclosed are members of the Legislative Assembly, for one simple reason. MLAs set their own salaries while other public sector groups do not.

Please ask yourselves this question, is it really necessary and in the public interest to disclose the names of all public sector employees making over \$50,000 a year total compensation? When you take into account the loss of an individual's privacy and the possible misuse of such information, the only logical answer to this question is no. If you believe the answer to this question to be yes, please consider the option of omitting the names of people when disclosing the information. This way the public's need to know is satisfied, and personal privacy and safety is more protected. Thank you.

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

**Mr. Mackintosh:** Thank you for your presentation, Ms. Loney. I wonder if you are aware that it is the government's stated policy to look at the nondisclosure of the names of, particularly, women who feel vulnerable and are afraid for their safety in areas such as The Elections Act, the posting of voters' lists, changes to the land titles procedure, and then along comes this bill which flies in the face of the stated policy. I was just wondering if you might be aware of that.

**Ms. Loney:** No, I was not aware of that.

**Mr. Chairperson:** Thank you very much for your presentation, Ms. Loney.

**Ms. Loney:** Thank you.

**Mr. Chairperson:** Gail Atkins. You may begin your presentation, Ms. Atkins.

**Ms. Gail Atkins (Private Citizen):** I appear before you this evening to speak against this bill. I am a teacher and a vice-principal in the St. Boniface School Division, and I would be affected if this bill should pass.

I resent this bill because it would make public my name and my salary to any number of persons or organizations. I feel vulnerable enough already in this era of information accessibility. For this government to add to that vulnerability is meanspirited and an abuse of power and trust. According to the act, my name, position, and compensation is to be disclosed on request to any person, without charge, during the normal office hours of the body. This means that any parent or perhaps, since I teach in a high school, any student can access this information.

Quite frankly, I do not want the parents and especially the students in my building having the right to this information. I should not be subjected to ridicule or derision because of the salary that I earn, a salary that has been negotiated through a fair collective bargaining process. I believe that my salary or compensation is an agreement between my employer and me.

What is the rationale for this act? If it is to make publicly funded bodies accountable for how they spend public money, then this is a poor way of assuring accountability. I can only speak with regard to school divisions and not any of the other publicly funded bodies. School divisions are required to share annual budgets, FRAME reports, and audits with their employee groups and with the public. In the budget planning process in St. Boniface School Division, figures are shared with employee groups, parent councils and our open meetings for the public. Surely a process such as this, where people can ask questions and receive explanations, allows and promotes accountability far more than simple disclosure of select personnel and their compensation.



The public has a right to know how their tax dollars are being spent. They already have that right in the public school system. They elect school trustees, they have the right to attend school board meetings, and in our division at least, they can attend the budget meetings. They can challenge trustees and present briefs and petitions. They can participate through parent association groups. The public can, indeed, have the right to know and ensure accountability.

This Bill 57 in no way enhances either the public's right to know or enhances the accountability of the system. If indeed these are the goals of the government, then it should be drafting more appropriate legislation. This legislation falls far short of the mark. If the public wants to know how the public money is being spent, the audited financial statements describes in detail where money was allocated and what monies were spent. If this piece of legislation makes sense, would it then not have been appropriate for publicly funded bodies to be required to have open meetings where the public may ask questions and receive explanations on the audited figures? The audited statements include total monies spent on employee salaries. If these figures were not specific enough, the legislation could have included publication of the salary schedule, an explanation as to the classifications and possibly the number of teachers at each level. This gives information without exposing any individual personal data.

\* (2020)

Government has the power and the responsibility to act responsibly for all its constituents. It has no right to play off some segments of employee groups against society as a whole. Governments are elected to make policy decisions, enact legislation and ensure that legislation is being properly administered. In the areas of education, government should be making policy decisions to ensure that all the children of Manitoba have access to a good education. They should be providing support so that students and teachers can go to school knowing that they have a solid curricula, the materials necessary to teach that curricula and the wherewithal to implement that curricula. Instead, this government seems intent on drafting what some may view as frivolous legislation that in no way speaks to the needs of students, teachers or schools.

This legislation makes me angry. It does not help me in the classroom. It does not help me in my job as an administrator. It helps to put up roadblocks to do my job effectively. Surely, government has better things to do than to put forward legislation such as this. The energy that is being expended this evening by all the people in this room could be far more productively spent trying to do our jobs. Mine is to teach; yours is to be leaders and provide good government. Do your job so that I can do mine. Thank you.

**Mr. Chairperson:** Thank you, Ms. Atkins, for your presentation.

**Mr. Santos:** I understand that in St. Boniface the budget meeting is open to the general public, but in other divisions, whenever it comes to that portion of the meeting, it is usually held in camera, in other words, excluding the public. Do you agree or do you not agree that making all budget meetings of school boards involving salary negotiations of teachers open to the general public is a better way of promoting public accountability instead of disclosing the individual salary of particular teachers?

**Ms. Atkins:** May I ask a question of clarification?

**Mr. Chairperson:** You may do so, yes.

**Ms. Atkins:** Because, if you are asking whether budget meetings and that whole process be open to the public, I agree completely. If you are asking if bargaining negotiations between an employee group and the employer be open to the public, I would say, no.

**Mr. Santos:** What is the difference?

**Ms. Atkins:** The budget meetings, as they are constructed, certainly in our division, lists the various categories where monies are being spent. Whether that is for classroom instruction or whether that is for employee salaries or whether it is to buy textbooks, all of the categories are listed. That is a quite separate function from a negotiation process between the employer and employee group.

**Mr. Chairperson:** Thank you very much for that presentation, Ms. Atkins.

Peter Narth. You may begin your presentation.

**Mr. Peter Narth (Manitoba Association of Principals):** Good evening. My name is Peter Narth. I am here presenting on behalf of the Manitoba Association of Principals.

The Manitoba Association of Principals thanks the legislative committee conducting hearings on Bill 57, The Public Sector Compensation Disclosure Act, for the opportunity to make known our response to this proposed legislation. It is our belief that this bill has particular implications for members of our profession because of the unique nature of our jobs. These implications, unfortunately, are primarily negative. Let me put this into some kind of context for you. A lot of this material you have already heard. Clearly, there is absolutely nothing wrong with the public knowing how their tax dollars are spent. In fact, that is as it should be. Access by the public to the financial statements of publicly funded bodies is entirely appropriate. School boards, as you well know, make their financial statements available to the public and have done so for many years. As you may also know, teachers' salaries can be determined, can be found out by the public by asking for them according to class, years of service, et cetera.

As indicated here, it includes information on teachers' salaries but not the specific salary of an individual teacher or administrator covered by the collective agreement which is in place for that school division. In other words, any member of the public can already find out if interested what the salaries of teachers at various classifications and levels of experience are. Copies of collective agreements are available. The same is true for administrative allowances for individual schools or classification of schools. Bill 57 proposes to take this access to information further by publishing the names and total value of compensation packages of individual employees, thus removing the last vestiges of confidentiality from those employed in the public education sector.

School-based administrators are particularly visible in relation to this proposed act. It makes them potentially greater targets for scrutiny and repercussions by and from the community as a result of their more pronounced profile within the school and community. This is likely to be even more so the case for administrators working in

rural areas, where disclosure of specific value of their compensation may cause them to be perceived in a particular, and quite likely, negative light.

Consider also the fact that school administrators are the ones who usually carry out the main communication between the school and the community, administer and impose disciplinary action on students when necessary, deal with often unhappy or confrontational parents or guardians in relations to those matters, that is, matters of discipline. They play a key role in dealing with parent advisory councils and generally deal with any client group, happy or hostile, on the front line of contact. In fact, teachers have that additional buffer. Clearly these peculiarities create an employment context that is quite different from that of most other professions or, indeed, occupations. The nature of interaction with our clients, that is, students, parents, community, business, and so on, puts us under unusual public scrutiny. Moreover, it does so for extended periods, sometimes years on end. The interaction with students, parents and other stakeholders in relation to the school is not concluded in a matter of minutes or hours, as might be a commercial transaction.

Another aspect is the fact that children and adolescents, who interact with us on a daily basis, and their parents as well, want to find out about us. What do we think about issues? Where do we live? What kind of a car do we drive? Where did we go for holidays and so forth? For the most part, it is healthy and harmless curiosity, an interest in the people to whom we entrust our children and who play a significant role in society. This is also information that we may disclose at our discretion as we deem appropriate to the circumstances.

It also still allows us to maintain the distance on a personal level necessary to objectively and effectively deal with students, parents and stakeholders. Bill 57, if passed, would contribute to the erosion of this relationship. Furthermore, as we all very well know from events that happened throughout this province and particularly in the city, we live in an unprecedented, volatile, violent and meanspirited society, with great potential for abuse. Except for law enforcement officers, no one is probably more aware of this or has to deal with it on a daily level than public school teachers and administrators. Publishing the salaries of teachers and administrators increases that potential for abuse.

Now we have some very specific concerns, namely, that Bill 57 would primarily affect educators and health care professionals, two sectors engaged in providing absolutely essential functions within civilized and progressive societies in which the concept of social compact still means anything. Robbing individuals engaged in such vital functions of the last shreds of privacy and of a degree of dignity seems to be gratuitous, since access to this information, as indicated, already exists. One may ask, rhetorically mind you, what purpose is really being served. I mean, one can easily speculate.

School administrators and teaching professionals generally are also concerned that placing a total compensation package value number next to an individual's name further exposes that individual to a variety of potentially negative and even harmful activities, including criminal acts. If our families, we as individuals—and it does not matter whether you are a 30-year-old male or 50-year-old single female—or our property, for that matter, become the target, or victims of criminal activity, because we are now being identified by name as affluent or haves, are those intent on passing this unnecessary act going to accept some responsibility for those outcomes, even moral responsibility? I think the answer is fairly obvious.

\* (2030)

Other factors also need to be mentioned. Publication of an individual's salary without placing that salary into context, that is to say the professional training required, the average hours spent on the job and job-related activities, job stress specific to that profession, that can very easily and likely will create a distorted perception. Also, publication of an administrator's salary without clearly indicating that such compensation, though in excess of \$50,000, is the absolute maximum attainable in that individual's public education career life, and that is inappropriate. Very few, if any, other professions are similarly limited in ultimate earning power. So after nine years or whatever you reach your cap, that is it, game over.

So in summary, it is clear by now that the Manitoba Association of Principals is unequivocally opposed to this act, and the reasons are clear. Bill 57 serves no practical purpose. It does not enhance accountability, but rather represents somewhat of a potentially harmful

redundancy. Let me just come back to this point about accountability. If it is a question of accountability, I am interested in accountability and having good teachers teach effectively in the classroom. Disclosing people's salary by name is not going to bring me that accountability. My assessing those people, my coaching those people to be more effective teachers will provide positive results with commensurate outcomes to the students. So this harmful potential redundancy of this act relates to the fact that it further erodes individual privacy. It singles out specific groups for no practical purpose other than possibly political. In the case of educators, it has the very real potential for greater negative outcomes than for most other groups because of the peculiar and ongoing relationship between the employee and members of the public. It will lead also to even greater employment related stress than is already the case.

Finally, and probably most importantly, it definitely will inject more tension and unhappiness into the workplace, that is into our schools, and this will be negative for our children. Is that what we really want? I guess an even more relevant question, since we are always talking bottom line this day and age, is can we really afford to have that kind of outcome?

So consequently we ask the question: What is to be gained from this proposed legislation, and for what purpose, and at what real cost to us all? Thank you very much.

**Mr. Chairperson:** Thank you, Mr. Narth.

**Ms. Barrett:** Well, I would like to ask you that question, back at you, what do you think is to be gained from this legislation? You earlier asked what was the purpose of it. Can you speculate?

**Mr. Narth:** Yes, I can. I think what is to be gained is some possibly expected political mileage. I think it is a nice time with Bill 72. In practical terms, for enhancing a profession, for enhancing education for students, it does absolutely nothing. It is negative. It is going to invariably, I can guarantee you, create more resentment. It is going to create greater stress, and it is going to drive people out of the profession.

We already have, as some of you may be aware, a situation in this province which is rather woeful. We

have administrators who are leaving school administration because the stress for the pittance that they get as an admin allowance and the responsibilities associated with that just is not worth it in terms of stress and the toll it takes.

We are also having a sizable number of administrators retiring or about to retire. People are not taking those jobs. They do not want the jobs. It is not worth it, not for \$50,000-plus. That is not the only factor. The other thing of course is the jurisdictions right now—and some of you might represent those constituencies—where there is such a shortage of administrators that people with less than a year's teaching experience are being put into administrative positions. There are other places where it is even worse, where people are put into administrative positions directly out of the Faculty of Education. Now you tell me what kind of educational leadership those people are going to be able to provide.

**Ms. Barrett:** So, in other words, you are saying not just about the implications about Bill 57 but other pieces of legislation before us this session are helping to deprofessionalize the profession of teaching?

**Mr. Narth:** I think it is a matter, to some degree, of that. I think there are a whole number of factors that come into play, and one would need more time than we have available to discuss those obviously. We did not just all fall off the back of a cabbage truck, so most of us are fairly aware of what is going on.

**Mr. Stefanson:** Mr. Chairman, and thank you for your presentation. I just have one question. I am not sure you are aware that prior to our community colleges falling under separate governance model, they of course were directly under government and the people teaching at our community colleges, at Red River, at Keewatin and Assiniboine then were covered by this legislation that has been in place for 20 to 30 years of listing the salaries.

I guess what I know during that time, I am not aware that has led or did lead to any elements of stress between teachers, lecturers, students, parents. Now I realize that is at the post-secondary level, so there might be a point or two you want to raise there. I guess I am just saying, as we are looking at more accountability, that did exist in those areas for many, many years, and I am not aware that

caused any problems in terms of students, teachers, families, parents and so on.

**Mr. Narth:** I think, in part, you have answered your own question. It does pertain to post-secondary, so you do not have to deal with parents. The relationship with your so-called client group is totally different. Secondly, if that legislation came in 20, 25 years ago, let us not forget those were different times. It was totally a politically different, social and economic climate. There was not the kind of resentment, the sort of dog-eat-dog tenor, rampant throughout society.

As you probably are aware, Manitoba is essentially a have-not province. If you show up with a salary of \$50,000, you are perceived to be pretty well off. It is not a bad living, granted, but people are resentful of people who make more than they do. If they have a means of getting at them, particularly as has been pointed out various times before, through a kind of personal relationship, that has a potential to be very unpleasant. It is going to drive people out of the profession, I guarantee it.

**Mr. Chairperson:** Mr. Santos, very quickly. You have about 20 seconds.

**Mr. Santos:** I desist.

**Mr. Chairperson:** Thank you very much for your presentation, Mr. Narth. I will now go back to those people who were called and did not respond, and I take it we will follow the normal procedure that, if you are called twice, you will be dropped off the list. Is that the will of the committee? [agreed]

Valerie Price. Randy Bjornson. Randy Bjornson. Randy Bjornson, not here, is dropped off the list. Valerie Price. Valerie Price, not being here, is dropped off the list. Trevor Lines. Trevor Lines, not being here, is dropped off the list. Kenneth Emberley. Kenneth Emberley, not being here, is dropped off the list.

Thank you for your presentations. Are there any other persons wishing to speak to the bills before the committee this evening? We certainly have the list available for the other, Bill 58, so I am referring specifically to Bill 57.

There being none, is it the will of the committee to proceed with clause-by-clause consideration of the bill now or to defer until after the other presentations?

**Mr. Ernst:** Mr. Chairman, I suggest we conclude public representations on Bill 57 and then proceed to representations on Bill 58 in order to not delay the presence of the public here. They have been good enough to come down here to offer their opinion; I do not think we should hold them up any longer than necessary.

**Mr. Chairperson:** Good. Agreed? [agreed]

### **Bill 58—The Parental Responsibility Act**

**Mr. Chairperson:** We will now then proceed with the presentations on Bill 58, The Parental Responsibility Act. The honourable Minister of Justice (Mrs. Vodrey) will now take the chair at the front here.

The first person registered to speak, Glynis Hart. Glynis Hart, please come forward to make your presentation.

\* (2040)

**Ms. Glynis Hart (Manitoba Association for Rights and Liberties):** Good evening, honourable members. I am here this evening to address Bill 58 on behalf of MARL, the Manitoba Association for Rights and Liberties.

MARL respectfully must oppose this bill. We believe it is inappropriate in principle and might prove unduly harsh in practice. Furthermore, in some circumstances, it might be counterproductive to the goals of strengthening parental control or reducing unlawful activity by young people.

It is at least generally inherently unfair to hold an innocent person responsible for the actions of another individual. The law does, of course, sometimes depart from this principle. For example, the common law provides that an employer is vicariously liable for the torts of an employee in the course of employment. However, the law ought to be very reluctant to extend concepts of vicarious responsibility, and, in this case, we suggest that it would be particularly inappropriate.

We note that in some cases the common law of negligence could render parents liable when their failure to provide adequate supervision of a child in a foreseeable dangerous situation causes harm to a third party. However, we believe that it would be most unfair to extend or expand this concept to a general or presumptive liability of parents for the wrongdoings of their children.

It is true that Section 7 of this bill provides a limited defence to parents. However, this defence could be inadequate or unfair for several reasons. Placing the onus of proof on the defendant parents departs from the general rule even in civil matters of requiring the plaintiff to prove wrongdoing or fault. Additionally, it involves the court in evaluating parenting and family life, something that should be avoided except in cases of clear necessity, and an example would be in child protection proceedings.

The act is especially unfair that applies to private persons, but exempts agencies and the government, which may be in a better position to bear the loss and/or control of the child. Obviously, the proponents of the bill hope to strengthen parental control and reduce harmful activity by children. In some cases, however, this bill might cause the opposite effect. Often children in trouble, and their families are already in very stressful circumstances. The additional financial and psychological strain engendered by these proceedings might cause a complete breakdown of the family situation and exacerbate rather than improve the child's behaviour, and perhaps reduce any chances the child might have for rehabilitation.

Blaming parents for the misdeeds of their children is consistent with the ideology and emotional reaction of much of the community. Yet it is not always consistent with reality. Families need and deserve the support and co-operation of the community, not oppressive and punitive treatment. The community requires creative and progressive solutions to complex problems, such as youth crime, not retrograde and unjust responses. We respectfully subject that Bill 58 is a retrograde and unjust measure that will do little or nothing to solve the problem. We respectfully request that it not be enacted. Thank you.

**Mr. Chairperson:** Thanks, Ms. Hart, for your presentation. Mr. Mackintosh?

**Mr. Gord Mackintosh (St. Johns):** Thank you for your presentation. I can tell you that we have also thought long and hard about the onus issue, aside from the general principle of the bill, and how the onus provision can be made fairer—in other words, how we can put some greater onus of proof on the plaintiff to show negligence or a lack of reasonable care and control of the child on the part of the parent. I am wondering if the organization has considered whether there is a fairer way to express an onus on the plaintiff.

**Ms. Hart:** I think our general objection would be to the bill itself. I am looking further at another problem with the bill being the onus on the parent. It is our submission that the bill not be enacted in itself.

**Mr. Mackintosh:** You say that the community requires creative and progressive solutions to complex problems such as youth crime. I am sure you accept the principle of parental responsibility in the general sense in our community. I think that is hard to argue against, certainly. How do you feel that government at the provincial level can enhance parental responsibility for youth?

**Ms. Hart:** I think in a much more supportive environment as opposed to the punitive regime that we seem to be putting forward here, holding parents accountable for the activities of the children. I think it is through the support that we provide families who are in crisis, who are experiencing difficulties. That is how we go about the problem, helping parents to have a better family situation, whereby family accountability, responsibility will be something that they will be able to work on.

**Mr. Mackintosh:** Do you see any initiatives coming from the provincial government that would, in your view, enhance parental responsibility in Manitoba?

**Ms. Hart:** I cannot think of any at this point, but I possibly am not aware of some things that might be happening.

**Hon. Rosemary Vodrey (Minister of Justice and Attorney General):** I just want to say thank you very much for your presentation. I hope that, in some of the discussion that will follow this evening, or if you are interested in calling my office and we can talk further about the basis of this bill, you will find some of your

questions have been answered. Time does not permit us a very long conversation this evening, but I would like to make it clear that I would be more than willing to talk with you further about the basis of this bill, how we intend to make it operational, and also support families.

**Mr. Chairperson:** Mike and Joanne Peterson. Mike and Joanne Peterson. They, not responding, will be put to the bottom of the list. Ray and Shirley LaRonde. Ray and Shirley LaRonde. Patti Hildebrand. Ray and Shirley LaRonde, to the bottom of the list. Patty Hildebrand will go after them. Marvin Mirochnick.

**Mr. Marvin Mirochnick (Private Citizen):** Good evening, ladies and gentlemen. I thank you for the opportunity to speak to the committee this evening on Bill 58. I am speaking as a private citizen, although I have recently retired from 30 years of working in the Manitoba Justice department as a probation officer with teenage delinquents, for 20 of those years in Winnipeg.

Probation officers are not well known in the community as to what they do, so I am just going to take a moment to explain what the job is about. It is basically a social work job which has a lot of authority behind it. Very briefly, the job comprises, particularly for young offenders aged 12 to 18, presenting life histories called predisposition reports to the presiding judges in the Youth Court in Winnipeg. These reports are compiled by the probation officer by interviewing the family and the youngster and school officials and other agencies that may be working with the offender and his or her family in Winnipeg. We also make recommendations to the court as to what type of assistance or rehabilitative measures would enhance the functioning of the particular teenager. We also work with the parents very closely, doing kind of family therapy interventions to help the parent and child function in a more adequate, familial setting and try to help the youngster function in the community to the utmost of their ability. So, in that regard, we enlist community organizations and agencies such as schools and special educational organizations to help youngsters to attain a functional level in society.

\* (2050)

The other part of our job, and I am oversimplifying very much, is that when an offender is placed on a period

of supervised probation, say for a couple of years, the probation officer sees the person regularly in our office. It is a counselling kind of a job, and we try to work through the youngster's problems and get them functioning in school and community and the work setting, and we will refer them to organizations such as psychiatric organizations, drug and alcohol treatment programs, Child and Family Services, for those that need special additional help, perhaps even apprehension and be made permanent or temporary wards under the Child Welfare Act.

So, with that background, I would like to say that I am opposed to Bill 58, and I do not think parents should be made to pay for the offences that their children may commit. It is not fair. The Young Offenders Act, the federal piece of legislation, says that 12- to 18-year-olds should be held accountable or responsible for their offences. So this bill actually contradicts what the federal government, what Allan Rock's legislation—I call it Allan Rock's although he was not there when it was passed back in 1984. That legislation says very clearly that 12- to 18-year-olds should be held accountable for their breaking of the law unless they are mentally ill or severely mentally challenged.

Most parents do the best job they can in trying to raise their children, whether it is a single-parent family or a dual-parent family. They teach their children right from wrong, and most parents provide the necessary developmental, psychological environment for their children. This includes being firm, fair, warm and supportive parents.

I noticed in the paper recently some research done of the old nature-nurture controversy of whether offenders are born that way or whether the environment turns them into offenders. This current research seems to say that 70 percent of a personality make-up may be genetically based. So that is just something to consider.

The other part of Bill 58 that I find very unfair is the reverse onus aspect. My understanding of Canadian Criminal Code laws and other statutes is that it is usually the case that the Crown attorney or the state has to prove that somebody has done something wrong or has not done a proper job in some respect, so I think reverse onus is just terribly unfair.

In 1984, the Young Offenders Act replaced the Juvenile Delinquents Act. The Juvenile Delinquents Act was the federal legislation that dealt with so-called juvenile delinquents between 1908 and 1984. Now a youngster between 12 and 18 breaking the law is called a young offender rather than juvenile delinquent. Some of the features of the Young Offenders Act, in my opinion, are not as helpful in dealing with offenders as the old Juvenile Delinquents Act was. For example, under the old Juvenile Delinquents Act, parents could be charged with contributing to the delinquency of their children who broke the law. So this was an actual charge. They would appear in court. They would have a lawyer representing them to maybe argue against that charge, and if they were convicted, they could be ordered to pay restitution to victims. So my suggestion should be that this Legislature speak to Allan Rock or the Justice minister and ask that the Young Offenders Act should be amended to allow parents to be charged with contributing where it is felt that they may be contributing to the offences of their children, and therefore they would have a chance to defend themselves properly in court.

Another point I would like to make, if parents fail to provide the necessities of life to their children, they can now be charged under the Criminal Code of Canada, so there is already a means for dealing with parents who do not do their job. It is a legal means, and it is not reverse onus.

Another point I have to make is that children who are abused physically or sexually are protected by The Child Welfare Act and the Child and Family Services of Manitoba, so that is just another way that the youngsters are helped.

I would like to also mention an interesting statistic. Five percent of teenagers in North America break the law. This figure has not changed since 1800. One percent of that five percent of delinquents or young offenders are what are known as the hard-core recidivist, or repeat offenders. So to me that means that 95 percent of teenagers in Canada or in Winnipeg are behaving themselves, and their parents or parent is presumably doing an adequate job of rearing them.

Bill 58 could cause parents to be blackmailed by offenders who would punish their parents by committing offences and then having the parents pay the damages for

these offences. This bill would also, as I repeat again, contradict the Young Offenders Act which says that youngsters should be responsible for their offences, not the parent. I happen to know personally of some cases, when I was still on the job in probation—I am now retired actually from that job after 30 years, but I know of cases where some of my teenagers on probation were also wards of Child and Family Services and the parent or the foster parent was having trouble providing reasonable discipline because the youngsters would threaten the parents that they would call the police and have them charged with assault, make false charges of physical or sexual assault or abuse charges in order to control the parent or the foster parent. So Bill 58 will allow those kinds of youngsters who are already severely disturbed to threaten their parents by saying, I will commit an offence, and you will have to pay for it, unless you raise my curfew hour, or whatever it is that they are complaining about.

A final point on this part of what I am saying is that a 17-year-old youngster and an 18-year-old adult, there is not much difference between the two. If we are going to hold parents accountable for the actions of their 12- to 18-year-olds, why not hold 18- to 65-year-olds accountable or have the parents be accountable for their behaviour, too? I do not see much difference between a 17-year-old and an 18- to 19-year-old adult in that regard.

Recommendations I would like to make quickly are that the provincial government petition Allan Rock to restore the contributing to juvenile delinquency aspect of the Young Offenders Act, so then parents could be charged if it is felt that they have really encouraged their youngsters to break the law. Secondly, the Young Offenders Act should allow convicted offenders to be sentenced to Child and Family Services and be made wards of the agency, as was the case under the Juvenile Delinquents Act. So this gave the young offender court the authority to commit the child to Child and Family Services without having a custody hearing.

The Young Offenders Act should also be able to charge seven-year-olds with crimes, as was the case under the old Juvenile Delinquents Act. Some recidivous offenders should be off the street for a long time. This is less than one percent of the chronic offenders. They should be locked up for quite a long time.

Just a few other little points here. Ask the Department of Education to reopen the upgrading programs to accept 15-year-olds, as they once did, so that kids who are stuck in Grade 7 or 8 for years, and their low self esteem causes them to start breaking the law, can go to upgrading school and get their Grade 10 equivalent in a few months, and then go to Red River College. That used to be the case until Lionel Orlikow cancelled that program in the '70s, and now you have to be 17 in order to go to upgrading.

**Mr. Chairperson:** I should point out, you are past your 10 minutes on your presentation, so this is encroaching on your question and answer time. I just want you to be aware.

**Mr. Mirochnick:** I do not mind that. I just have two more points, if I may. Another suggestion is that welfare rates in Manitoba should be increased for the needy families so that the youngsters will have adequate food and clothing in order to attend school. Hungry kids and kids without clothing cannot concentrate. The food banks should not be relied on to feed them.

Victims of crimes can already sue offenders in civil court. I believe that youth should pay restitution when they turn 18 for crimes they have committed between the ages of 12 and 18. It is kind of like steal now and pay later; it is like a credit card thing.

Finally, free recreational opportunities should be provided, particularly to the poor youngsters in the inner city, in order to keep the kids off the street and in constructive endeavours. Thank you very much.

\* (2100)

**Mr. Chairperson:** Thanks for that presentation, Mr. Mirochnick.

**Mrs. Vodrey:** Thank you very much for your presentation. You certainly have retired from a very onerous and complex profession, and yet one that you obviously worked at for some time, so you believe is an important one and worth the effort.

I have just a couple of comments on your recommendations because I think they are important for you to know. You have suggested amendments to the



Young Offenders Act. We have asked for some of those amendments. In fact, our government has been asking for those amendments that deal with parents and young people, through the Young Offenders Act, since March of 1994. We are approaching 1997, and we have not had that included, nor have we any indication that the federal government is willing to even consider the provisions that were previously in the Juvenile Delinquents Act that now be put into the Young Offenders Act.

Our government felt that it was a very important point to make, and very important to put victims also back into the system. That is the purpose of this legislation. So we have acted on the civil side to allow for victims to recover and to gain some restitution. I just wanted to also mentioned to you, you mentioned Child and Family Services. Their act is currently in the process of being reviewed. There are public hearings, I understand, going on weekly, and in some of the areas you mentioned, you might be quite interested in attending those hearings, perhaps presenting on some of the issues you have raised tonight.

I would also be interested in your comment on Young Offenders Act and lowering the age at which young people could be brought into the justice system. That is another point that we have made to the federal government. We have not used an age floor, but we have said there must be a mechanism to do so. Victims, you say that they currently can sue. That is true, but through the civil system, even with some of the recommendations of the review just completed by my colleague, it is still possibly expensive and also takes a little bit longer, so we have added to the menu of options for families through this bill in terms of allowing this to take place in Small Claims. I also accept your concern about making sure that young people have things to do other than falling into bad ways, and I will be providing—

**Mr. Chairperson:** I am afraid your time has expired.

**Mrs. Vodrey:** Well, thank you. I am happy to talk with you later.

**Mr. Mackintosh:** I wonder if I can have leave to ask—

**Mr. Chairperson:** Does Mr. Mackintosh have leave to ask a question or two? One question.

**Mr. Mackintosh:** I understand that under the Juvenile Delinquents Act, Section 22 there, did allow the court to impose a penalty, whether by a fine or otherwise, against a parent where there was some complicity with the parent and the wrongdoing of the child. Are you aware whether that provision had ever been used in your experience as a probation officer?

**Mr. Mirochnick:** I think on rare occasion it was used. I can think of one example, interestingly enough, in 20 years where a parent proactively recruited their 15-year-old youngster to go out and steal from homes while the parent drove the car and waited as they went in and took television sets and things of this sort. I think that parent may have received a jail sentence, in fact, after due process in the courts, but there were not too many, almost none, in 20 years of my experience working in the core area and the north end of Winnipeg. It is quite interesting.

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

**Mrs. Vodrey:** Mr. Chair, I think there was agreement that I could say one final thing then with the agreement of the extension.

**Mr. Chairperson:** Is there leave? [agreed]

**Mrs. Vodrey:** Thank you. It will take me less than 10 seconds just to say that I agree with you, most young people are good. That was your point, too. Thanks very much.

**Mr. Chairperson:** Rosella Dyck. She has changed.

**Ms. Norma McCormick (Coalition of Custodial Parents of Manitoba):** My, how you have changed. Hi. Nice to see you. I am not Rosella Dyck, but Rosella has a class that is going to go until ten o'clock so I have brought the brief from the Coalition of Custodial Parents.

**Mr. Chairperson:** Do you want leave to present on her behalf?

**Ms. McCormick:** That is one option. The other option is that—

**Mr. Chairperson:** Her brief could be read into the Hansard. Alternatively, she could be put to the end of the list and we could see whether she is here at that time.

**Ms. McCormick:** Okay. Then perhaps I will go on to the end of the list as well and offer my comments at that time?

**Mr. Chairperson:** I did not know you were on the list.

**Ms. McCormick:** No, I thought I would not put my name on the list until I saw if Rosella was going to make it.

**Mr. Chairperson:** I understand. It looks like your wish is to have your name put at the end of the list then. That will be done. So Rosella Dyck or Norma McCormick will be put at the end of the list.

Russ Wookey. Now Russ Wookey left a message with the clerk indicating if he was not in attendance, he has a written submission which he would like leave to have appear in Hansard. Is leave granted? [agreed]

Jim Clark. You may begin your presentation, Mr. Clark.

**Mr. Jim Clark (Private Citizen):** Mr. Chairman, as a parent in today's society I wish to express my opposition to Bill 58. The provincial government's idea of making parents fiscally responsible for the actions of their child is completely off the mark. Yes, I understand that if a parent proves that they have taken certain measures to correct their child's behaviour and that has failed, then there could be a way for the parent to avoid a costly defence of themselves.

Where does the government get off on the tangent that if a child knows that if their parents might have to pay this may change the child's mind? Obviously the Justice minister, Mrs. Rosemary Vodrey, has never had a child in conflict with the legal system, otherwise this legislation would have never reached this point. A case in point is the fact that my wife and I do have a son who has clashed with the law often. We, as concerned parents, have exhausted all avenues to try and correct his behaviour.

We started with the resources in the junior high school, the principal, the division psychologist, endless meetings, even with CFS in attendance. At one point as parents we could clearly not control him. We have attended many courses on parenting, also courses by CFS, and after

failure of our son in school by not attending, and attendance at the Health Sciences Centre to family counselling. Our son's participation level was nonexistent. We turned the responsibility of our son over to CFS. He was no sooner in their care that it was apparent to us that this was not the answer either. While in care he committed more crime and was subsequently arrested and detained. We as parents were not even notified until two days later after numerous requests asking about our son's welfare. This was obviously not the answer to our child's problems. That was close to five years ago and today we are still very familiar with the court system.

The problem today is the fact that parents' hands are tied in many cases. If, for instance, we discuss with our son that because of his actions he would lose his privilege of going out that night, he would thumb his nose at us and leave, sometimes for many days. How in reality can a parent today stop his child from doing what he wants? There is a feeling I believe among young people today, a feeling that the law is a big, slow-moving machine that they can manipulate to their liking.

Our son was recently released from the Manitoba Youth Centre under the intensive support and supervision program. This is a program where the young offender is monitored closely by a worker. He has to phone in regularly and is also called at home at night by the worker to make sure that he is in by his curfew. In the initial meeting we were told of the outline of the program by his worker. It was explained to us that there is not any leeway to his actions, and that he would wind up back in the youth centre should he not follow direction. In less than a month, his probation officer had breached him because of so many infractions. It then took more than two more months before any action happened. The only reason any action happened then is because our son was arrested on new charges. During the time that they had breached him, his worker stopped calling, stopped following up on him, so what impact is the system going to have on any young offender?

\* (2110)

This whole problem of youth trouble today will never be repaired until the government starts listening to parents who can speak from experience. The lawmakers are listening to the clamouring of people who do not have

any practical, personal idea of the trauma and the heartache and the frustration felt by parents who are genuinely concerned about their children and are extremely frustrated by the system that exists today. What we need is a government who will have enough guts to give the children back to the parents, and to start listening to the people involved, not the high-priced lobby groups who wish to band-aid the problem and say, make the parents pay.

Mrs. Vodrey is a person who obviously is swayed by political pressure to find a solution to youth crime and youth gangs quickly, and that is what this piece of legislation is supposed to do. Nothing is farther from reality. I understand that today some parents do exhibit a problem with parenting, and abuse and neglect is wrong, but there are laws today and a place to deal with those types of problems. Making the parents who are trying to make a difference in their child's behaviour exempt from this legislation is another attempt at trying to satisfy people such as my wife and me. We feel that to defend our position would require the services of a solicitor, thereby causing a financial commitment on the innocent parents. What sense does that make? A child who has taken it upon him/herself to commit an illegal act does not bother thinking first about what fiscal responsibilities his or her parents might face. This is the crux of the legislation.

This legislation is an ill-conceived attempt at making the young offender change his ways. It will not work in its present form. By no means do the parents want the young offender not to be responsible for their actions. On the contrary, the fullest extent of the law should be applied. There are many problems that the government has to face in dealing with a young offender today, but please listen to parents who have been there and are the best sounding boards and source of help, not the people who have a lack of personal experience but have somehow caught the ear of both the government and the media.

Every weekday at either the Manitoba Youth Centre at 1:30 p.m. or the Law Courts on York at 2:30 p.m., Room 303, and in numerous court rooms around the province, there are people, common people attending court because their child is involved. These are the people who should have input into the problems faced

today in the environment the government has created, not the inexperienced, ill-informed lobbyist of today.

The justice system today is a big machine that does not accurately serve the problems faced by parents today. On one hand, the media report about the out-of-control youths. On the other hand, the Justice department's own employees, Crown prosecutors, to be exact, feel that this bill does not accurately reflect the problems today that are faced daily. Get to the people involved. Get an action plan that accurately reflects the people from accused to parents involved to lay people who as a group could come to agreements. Forward their recommendations to the Justice department. This is the only way to come to grips with an ever-increasing problem facing the young offender and their families today, not by a bill without forethought such as Bill 58.

I urge the Legislature wholeheartedly to discard this bill and call in the people whom they would most affect to step forward and let their feelings be known. The bill in its present form is wrong. We as concerned parents wish to offer our expertise to make a change in society, a meaningful and purposeful change. To make the young offender aware that his or her actions rest squarely on their shoulders, not the parents, and make our province one whom we will recognize for the forethought and positive action taken, not the province who listened to the ill-informed action groups and passed meaningless, hard-to-enforce legislation that is before this committee today.

Let the people make the difference, not the lawyers who would relish an opportunity to tie up the legal system with parents defending what happened to their offspring. Let the people with experience develop a change that would be good for both society and the young offender. Societies looking in could view the bill as a positive move in changing today's youth.

Make the parents pay—well, this sounds wonderful. The child would change his ways. Society would be better off and everything would be perfect. Well, that is wrong. Please understand that most of the parents today care deeply about the welfare of their offspring and do not need the added burden of the government's misinformed intervention. We need to have a bill that would accurately represent the needs of the young offender, their parents, and the victims, not the voice of the misinformed.

Thank you for your time this evening, and I stand before you to volunteer my time on an action committee to make a real difference, not Bill 58.

**Mr. Chairperson:** Thank you for your very responsible submission, Mr. Clark.

**Mr. Mackintosh:** Before we get to the bill, I just wanted to follow up on some information you give in your brief. You say that the youth had breached probation, and so presumably a consequence was to follow, but you say none followed?

**Mr. Clark:** No. The police will not follow up on a breach. That is a very, very, very low priority. A breach can be put in place, and if my son or any young offender happens to come in contact with the law and they put his name into the computer, then an action would happen. It is such a low priority that they just think, oh, sure, I got breached. I do not believe you, because nothing happens. Nothing at all happens to them until they come in contact either with the police or—he stopped attending his probation officer, nothing happens.

**Mr. Mackintosh:** I find this interesting because he was in this new intensive support and supervision program. I wonder if you know whether there was a warrant ever issued by the probation office for the arrest then or whether there was any paper that followed the breach.

**Mr. Clark:** Yes, there was certainly a warrant issued, and again a warrant receives very—it is low priority. It receives no attention from the police at all.

**Mr. Mackintosh:** I think Manitobans would be interested in learning about that. We have been taking the position that, as I am sure you have through your presentation, consequences to be meaningful must be swift.

Just on the position on the bill, you speak about the defences that are available under the legislation. Regardless of the defences and whether you can meet them, you would still be required to come before the law, so the reverse onus was very unfair in your view. Would you say that is the most reprehensible part of the bill, or are you concerned about the bill existing at all?

**Mr. Clark:** I am concerned with that aspect of it that we have no control over our children today. If, for instance,

my son wanted to leave the house and we did not want him to, he could do anything he wants. We have no way of detaining him. There is nothing to stop him from going out, being mad that night, and committing another crime, maybe to get back at us or because that is the lifestyle that he has chosen. Then it is up to me to go before the court, through the services of a solicitor, to defend my position. I cannot see the sense that a person should have to do that. It should rest squarely on the shoulders—sure, like I said, if there is abuse or something, that is one thing. There are laws in place today.

For me, or anybody like me, who has done absolutely everything they can, or feel that they are doing everything they can, should not have to stand up in court, pay a lawyer to defend their position with their son.

**Mrs. Vodrey:** Mr. Clark, first of all, I would like to thank you, and I think family members who are here with you, for the information that you have brought this evening, obviously a very personal and emotional issue to stand up tonight and speak about. I want you to know that I do appreciate that part. I am more than prepared to arrange—I have to be careful about offering a personal meeting in case there is an issue still before the court, and I am on the record of Hansard at the moment. I certainly am prepared to offer representatives in my department to meet with you and other parents that may be known to you then who believe that there is something in addition. We do not think that we have accomplished a complete solution yet by any means. So I offer that to you and am prepared to act on it at whatever time you would like to phone my office, and I will follow up on that.

I also would like to remind you that The Child and Family Services Act is being reviewed at this time. Some of your comments relate to the question that parents have in terms of how are we able to discipline our children. That may be some areas which you may also like to cover under the review of that act which is having public hearings.

I would say to you, we are also acting on the views of other parents, not necessarily special interest groups, but those people who are victims. In coming up with a holistic solution, we have tried to pay attention, are trying to pay attention—it is ongoing—to the general needs.

Then I would just like to say in terms of coming to court, you do not need to come with a solicitor in Small Claims Court, you are able to attend and to provide the

information yourself. We have chosen that route, as I was saying to a previous presenter, another option, part of the menu. Though there is an opportunity now to go to court, this is Small Claims Court and offers perhaps an easier route in terms of being more accessible. I leave you with the option certainly of further contact with myself and my office, myself if I am able to.

**Mr. Conrad Santos (Broadway):** You felt that your hands are tied as a parent?

**Mr. Clark:** Yes.

**Mr. Santos:** Could you elaborate how your hands could be untied?

**Mr. Clark:** I feel that, as I indicated in my brief, we should get together as a group of victims of parents in the same position, as what I am in right now, and come to some solution for that, come to an agreement that is workable and is livable in today's modern society. What we have today is not workable.

\* (2120)

**Mr. Santos:** The previous presenter who was a retired probation officer said it could expose parents to blackmail by their children. He also favoured a situation of steal now or destroy now, but pay later. Do you or do you not favour any of these ideas?

**Mr. Clark:** I agree that the parents are held for ransom, and also I do agree that children should be held totally responsible for their actions, and they should not be made to pay for what they have done. Thank you.

**Mr. Chairperson:** Thank you very much for your presentation, sir. Sandra De Laronde. Sandra De Laronde, not being here, will be put to the end of the list. Victoria Lehman.

**Ms. Victoria Lehman (Private Citizen):** Good evening. I am pleased to see you all and I welcome this opportunity to speak extemporaneously if I may with regard to this bill. I also mention that I am very pleased that we have been able to get through this so quickly. My nine-year-old son has me on a curfew and it looks like I will be able to get home.

I am speaking to you as a lawyer, as a private citizen. I will be speaking on the CFS public consultations. I believe they have been extended, and I do thank you all for extending those. I am speaking on the 12th. In the meantime, I have had very short notice to take a look at this bill, as a matter of fact, just very briefly over the weekend. I have some concerns that I would like to share with you.

If I were the Hudson's Bay Company or insurers, I probably would be very happy with this bill. I believe that this bill would really truly should be striking terror in the hearts of particularly single parents with very few resources, particularly mothers who may be trying to get off welfare, or the working poor, working mothers particularly, and those particularly who have very few resources.

I am speaking to you as having worked 15 years in the community on behalf of families largely, and youths under the Young Offenders Act, in custody, CFS investigations. I have worked with The Family Maintenance Act, The Child and Family Services Act, the Young Offenders Act, and Small Claims Act. I would just like to point out, first of all, that I have worked with Small Claims officers, and truly they are not in a position, if my interpretation is correct of course, because none of this has been tested and the interrelationship of the clauses—I hope that I am on the right track, but it is difficult to say, I am sure the minister appreciates that.

If this act is going to be in accordance with the Court of Queen's Bench Small Claims Practices Act, that would mean that you would not really have a magistrate, you would not have a provincial court judge who is dealing with young offenders, or you would not have a Queen's Bench judge who is dealing with family matters, custody matters, or Child and Family Services matters. You would be dealing with basically an elevated clerk who is accustomed to dealing strictly with property matters, small claims matters, people have a dispute over a tree in their yard, damage done to their car, Autopac, that type of thing, not someone who is accustomed to dealing with extremely difficult dynamics of troubled families.

If there is something that I know, it is to confirm what has been said by Mr. Mirochnick, the probation officer, and the family member who just spoke here today, that these are tremendously complex and difficult matters for

judges who have training, and hearing officers who have training in family dynamics, I would suggest. To have Small Claims officers dealing with this, quite frankly, does boggle the imagination. I cannot see how they would get that kind of training when, in fact, the largest part of their work so far—and I would hope still continues to be—in minor property matters specifically.

I am also concerned about the definition of parent. The case where a biological parent, and I do not know, I do not have a half an hour here, but I will just get as far as I can with what I feel are my concerns, the ambiguities, and difficulties with this act. It says, person responsible for the care and control of the child and declared to be the parent of the child under Part 2 and so on, well, it was really cute because over the weekend I was listening to This Hour Has 22 Minutes, I believe it is. You know, it is the comedy show on the CBC, and I believe it was Mary Walsh stands up and says: Well, it must be the mother's fault, because it cannot be the father's fault; he is not there.

You know, the fact is that is a problem that we do have, that there are many people who should be involved in the disciplining and in the involvement of the development of the child who are not there, and these children are often crying out to be noticed, and if it means doing property damage to be noticed, to get what they feel is the attention of their remaining parent or to get back at the remaining parent, because that parent is often the target very often for physical and emotional and verbal abuse, particularly for children who are over 12, but very often for younger children, because that is the dynamics of a troubled child.

I can see that basically, as I say, Hudson's Bay and the insurance may be happy, but anybody having to work with and to try to discipline and get a child on the right path is going to have their hands tied once yet again. So I am concerned about the definition of "parent," to start with, and, again as I indicated, the fact that it is under the Queen's Bench Small Claims Practices Act. I would agree that it would appear with Mr. Mirochnick that it may be in conflict with the Young Offenders Act. I am also concerned about the civil proof. Now, I do recognize that under Clause 3 it does say, I believe it is Clause 3—no, it is not Clause 3. It is another clause—was it possibly 6?

They were referring to the fact that a child, having gone through the Young Offenders Act and there being a certificate that the child had offended under that would be proof here. But it also appears that the proof is also civil under 3, because it says: "The parent of a child who deliberately takes, damages or destroys a property of another person is liable for the loss . . . ." That strikes me as a civil standard, not just a criminal standard, and I am concerned about that because anybody, try it, with malice towards that parent, and I would think particularly in terms of, shall we say, public housing where very often people in various families have almost like blood feuds against each other, you are going to be potentially fuelling the fire of that in those types of situations.

While the subjugation, as I say, will make potentially the insurers probably quite pleased about this, I really hardly see that this does any good in terms of the mandate that we have not only under The Child and Family Services Act but also as a community to strengthen families. I am not here to strengthen Hudson's Bay and the insurers. If they have security concerns, I believe that we cannot therefore allow them to be slack on their security concerns and throw the responsibility over onto the parents.

I am also concerned that this may empower embittered spouses, where you have got a court that has made a determination that one parent has a care-and-control custody of the child—very often it creates some very strange reactions in the noncustodial parent. I will give you an example. Recently I had a client lady who came to me and said her six-and-a-half-year-old son was very upset because Daddy, when he phoned for his daily phone call, which almost was like an emotional and verbal abuse just to continue to harass these children, in effect, tear them away from what they were doing very often, was telling the little boy that he should go upstairs—now this is a property where the gentleman has joint ownership of it—and fill the bath tub and flood the house. Anything to make problems, emotional and financial hardship on the custodial spouse. It is not very hard to imagine someone who has that attitude, and believe me these things just as any nine-year-old, eleven-year-old knows that they cannot be caught under the Young Offenders Act, these types of things develop a certain currency. People talk about them; they learn how they can use the these things, unfortunately, to potentially

inflict damage. If they are abusers, they are looking for more ways to inflict damages.

It is not very far to imagine a child trying to please a parent by inflicting damage, if not on their own home, on someone else's home, and who would be called to account? It would appear to me, under this legislation, that if the person responsible is the person who has the primary care and control, the person responsible for the care and control of the child, it would seem to me that the onus—again, that would be one more thing that, in this particular case, the mother would have had to deal with if in fact that child had gone next door and turned on the bath tub at the neighbour's place.

\* (2130)

I am concerned that what would be a Child and Family Services matter devolves, in effect, to a civil matter. I am concerned that once we have this in place, we may think, well, therefore, we do not have to bolster those resources for families; after all, the family should be responsible themselves for the damage that children do.

I would have to agree and share the concerns with Ms. Hart from MARL, whom I just heard this evening—I was not aware that she would be here, that MARL was presenting—that the law may feed into the dysfunctional dynamics of a troubled family and in fact ultimately encourage property damage.

I am concerned also that just as having children who are under 12 being aware that they are not responsible under the Young Offenders Act and then the young offenders feeling that they are not in adult court, this act would discourage the potential young offenders from being responsible for themselves and for their action. In fact, we then play into becoming part of that dysfunctional family ourselves, and we are enabling these young offenders to feel buffered from the consequences of their actions and also truly to potentially hold terror over their parents. Presently, we do have dysfunctional kids threatening their parents or their step-parents, or someone who has care and control over them, with false allegations of abuse. That is how some parents are afraid to engage in disciplining their children at any level. Sadly, if you have a child who does not have the right idea, who gets hooked into the kind of frame of thinking, it is extremely difficult to dissuade them.

**Mr. Chairperson:** You have approached the 10 minutes.

**Ms. Lehman:** Now all they have to do to terrorize their parents is to threaten to do costly damage again and again.

There was one other point that I had made a brief note on, but I may have to let that go.

**Mr. Chairperson:** Leave to encroach on her question and answer time, or do you want to start questions and answers, and then maybe it will come to you?

**Ms. Lehman:** That is fine, if there are any questions and answers.

**Mr. Chairperson:** Any questions?

**Ms. Lehman:** I am just concerned that the family balance will be further altered. I am concerned—that was the note that I had that I recall—that I appear before a judge, and the parties are fighting over primary care and control over a 13-year-old child. The court's response is that children over 12 can vote with their feet. You know, they can, and there is nothing that the courts can do about it. We have 11-year-olds, we have 10-year-olds on Austin Street selling themselves.

My concern is that if we are not able to reach children by community resources, by working together to make sure that, for instance, our Police Service has the money, the time, the people to be able to follow up on these breaches, if we are not even doing that as a society, to then say to the parents, well, you know, your child has just done \$4,999 worth of damage, as well as having to see him through the young offenders, et cetera, you are going to have to pay that as well, I do not think that this sends the right message to children. That was the point that I was trying to make, and thank you for the time to make it.

**Mr. Chairperson:** Thank you for that.

**Mr. Santos:** One question. You said that you feel that this legislation may feed into and aggravate the already dysfunctional relationship in the family. Could you elaborate on that more?

**Ms. Lehman:** Well, as I tried to explain, by passing legislation such as this, we basically extend the personal nuclear family, in my opinion, to the community, you know, as it takes a village to raise a child, and we then engage in that enabling that dysfunctional family to play out their very sad tragedy on a larger scale and to basically have them go down in flames. They are now going to potentially go down in flames financially as well as in their feelings of frustration and shame at not being able to reach their children, because their children know out there they can walk. There is really not much in our community left, our community resources, to tie them into their families. As a gentleman said, even the police do not follow up on the breaches.

**Mr. Mackintosh:** I am interested in your comments about any potential harm, obviously, and not from any other presenter. You know, I have said that at best this legislation is one raindrop on the fire of youth crime. I am just wondering if this, in your view, is actually one drop of gasoline, maybe.

**Ms. Lehman:** Lighter fluid.

**Mr. Mackintosh:** Well, my final question then with regard to the role of noncustodial parents, because I certainly agree that a noncustodial parent may not be the individual in care and control of the child as required by the legislation but may be, in fact, the one individual who has triggered a series of events leading to the misbehaviour on the part of the youth, and yet the noncustodial parent will escape any responsibility under this legislation. Can you see any way of bringing in the noncustodial parent here, and how can the noncustodial parent be liable to damages or liable in a finding of responsibility?

**Ms. Lehman:** Very often that is why they are not the custodial parent, because they are people who are not considered by the courts, for instance, to be responsible enough to take responsibility for the discipline of their child. So it all falls back on the one person who is left, who is, unfortunately in our society, very often the mother who needs our support. I do not think there is a way of making that—I was thinking about that, and I thought perhaps one way of doing it was to say both parents. Watching them fight it out and see whose fault it is—and recognizing the desire to solve a problem that this bill represents, but unfortunately, I do not believe that this is

the route to go. I believe the route to go is to look at the resources we have and reinforce those resources and put our money there.

The other point that the gentleman made about hiring lawyers—I would certainly not advise a person in a complex matter such as this, particularly dealing with a Small Claims officer who probably has no clue about family dynamics, to go to court without a lawyer. I know I am a lawyer, and I sound like I am trying to create business for myself, but look what I have just said. I have just said I do not think it should be happening to start with.

**Mr. Chairperson:** Thank you very much for your presentation, Ms. Lehman.

Now we will be going back through the list for those that have been called and have not appeared. Mike and Joanne Peterson. Mike and Joanne Peterson, not being here, will be dropped off the list. Ray and Shirley LaRonde. Ray and Shirley LaRonde, not responding, will be dropped off the list. Patti Hildebrand. Patti Hildebrand, not being here, will be dropped off the list. Rosella Dyck. Norma McCormick. Did you wish to come forward, Ms. McCormick, then? The brief of Rosella Dyck has been distributed.

**Ms. McCormick:** It was Rosella's intention to speak to the brief, and I am not sure whether her course will allow her, but I will make my comments first, and if she does show up, she—

**Mr. Chairperson:** One way of dealing with this is to have her brief recorded in Hansard, and then you can highlight it or speak to it, using the time perhaps more effectively.

**Ms. McCormick:** Okay, thank you very much.

**Mr. Chairperson:** Is it leave of the committee to have this then recorded in Hansard? [agreed] Leave granted, proceed then, Ms. McCormick.

**Ms. McCormick:** Basically, just as an orientation to the brief, we have described to you who we are. We have appeared before you before on a number of family-related bills over the last few years. We are specifically opposed to Bill 58, The Parental Responsibility Act, and we are



concerned that it does not do very much to meaningfully address the issues of youth crime. It is our position that the bill is ill conceived, seriously flawed and downright meanspirited. We want to begin by pointing out that the definition of the parent in this bill points directly and solely to the custodial parent when it may well be the other parent who is modelling and teaching irresponsible behaviour to the child.

Many of us in our coalition have raised children on our own with either no help from the other parent or in fact damaging interference. The definition of parent as set out specifically says the parent, in terms of The Family Maintenance Act, carrying on the definition, also speaks to the case of an adoptive parent who is responsible for the care and control of a child. This is particularly counterproductive, because we know that there are many very damaged children, children who have fetal alcohol syndrome, children who are the throwaway victims of abuse and neglect who wind up either rattling around in the Child and Family Services system or being put out for adoption.

We must commend and admire those parents who come forward and open their homes and their hearts to these children. If then, when you have gone to the step of taking that child into your home, at some later point, the child's experience of abuse manifests by way of criminal behaviour, that same parent who has invested the resources of their family to take the child into their home then becomes the person who is responsible financially for the damage that may not have been out of their own misdemeanour. So we are very concerned about this not only being a raindrop or a bit of gasoline, but it can be absolutely counterproductive.

The purpose of the bill states that parents are to be held reasonably accountable for the activities of their children. It is very difficult to enforce the concept of reasonability and what is reasonable. It is not a very good legal principle, and I think we need to decide the ways in which this reasonable accountability can be assigned.

With respect to the parents' liability, three and four are very difficult to sort out. I have talked to several people who believe that the certificate of proof is a necessary thing to assign the responsibility, but I just heard the response to Ms. Lehman which makes me think that there are other standards. So I would be very concerned that if

the certificate of proof is necessary what you are going to do is criminalize a lot of things. If it is not necessary, then that is a wide open, just anything goes. So this means that, for example, if a child is alleged to have done something, somebody says they did something, I do not now have the opportunity to go into court and establish my child's innocence. I only have an opportunity to go into the small claims situation and not argue that my kid did or did not do it, that seems to be prejudged, but go and argue that I should not be financially liable for it. So I think that this is pretty loosey goosey and quite frightening.

The other thing that is really interesting is that we are saying that it is property damage and not personal injury. So if somebody knocks somebody's teeth out and there is a cost to replacing the teeth, that does not count, but if somebody keys a car or breaks a window, it is the property. So, I mean, I am not endorsing you broadening this, but I think it is kind of weird that the compensation is for property damage.

Carrying on, when you come to the defence, this is particularly vague and somewhat concerning. The parent is obviously supposed to establish before the court, and actually, I think that Ms. Lehman made quite a good case of, is this the right place? Is this Small Claims Court administrative tribunal the place where you want to have these family matters adjudicated? If you decide that, then presumably you are going to have to do some fairly heavy-duty education of those Small Claims Court individuals who are going to decide.

So then the court must be satisfied that the parent was exercising reasonable supervision at the time the child engaged in the activity. Now, again, at the time, does this mean specific? If the kid did this offence at seven o'clock at night and, instead of being home with my kid, I happen to be standing before you, does this mean I am not exercising reasonable supervision because I should have been home looking after my kids rather than coming and talking to you, or does it mean more generally that I was home today, I did feed my kids supper, I did understand that they were going to the community centre, but who knows, they went and ripped off somebody else instead? So I think that my defence is somewhat ambiguous here, because I do not know what it means to engage in supervision specifically.

As well, reasonable efforts to prevent or discourage the child from engaging in the kind of activity. Well, again, how in the context of the Small Claims Court situation do you establish that? Are you going to do a home study? No, I do not think so. I think you are trying just to take somebody's word.

So then we get to the next section, which is the onus on the parent. I mean, I have the burden of proof. I have to go and bring people who say, I am a good parent. I try my best. So I think that there are some very serious concerns that many of us have about this whole section on defence and onus.

The other thing, carrying on to 7(3) that really is troubling, is the factors to be considered. The age of the child, what does this mean? Does it mean the older the child, the greater the culpability, or the younger the child, the greater the culpability? If it is a little kid who did something, should the little kid have known better? Or, if it is an older kid who did something, should that be considered from my perspective of the parent, which is, gee whiz, my kid is seventeen; he is almost an adult, and he is acting on his own volition? So you are saying the age of the child is a factor, but how is it a factor? What do you mean by taking that into consideration?

On prior conduct of the child, if the child has shown evidence of incorrigibility in past—you know there are kids who just have problems—if a kid has a history of problems, does that mitigate against me being held liable for this specific problem, or does it mean that the child is demonstrated to be bad and therefore I have a higher level of accountability? So I think that you have to be more clear in terms of your direction to the people who are going to be adjudicating these matters as to what you mean by these factors.

Similarly, a psychological or mental disorder, the same case can be made. Is that a defence if the child has, for example, attention-deficit disorder and is hyperactive? Does this mean that medical condition is a defence for the child's behaviour? Are we all going to have to get certificates from our doctors that our kids are medically disabled and therefore doing what they are doing? So these are the kinds of things that, in terms of considering the factors, they are not clear cut. We do not understand what you are intending to give as direction to the people adjudicating it.

Now, where this thing gets particularly concerning to us is whether the parent made arrangements for the child in a temporary location. Again, what kind of arrangements does one make for a 16- or 17-year-old kid? The idea here is that these kids are close to adulthood. They do not necessarily have to be babysat. You cannot get somebody to babysit an almost adult child, but if they get into difficulty, does it mean that we are them culpable for not providing supervision?

Going on to 8(1), this one I think of all the elements of this bill which I personally find objectionable, it is this section. You say that where paying the money would impose a financial hardship on the parent, you are going to allow for it to be paid on a time payment basis. This comes from a government that refused to amend The Family Maintenance Act to make it so that people could not get their child support forgiven, right? If a person paying child support goes before the court and says, I do not want to pay that money, the court has the right to say, okay, you do not have to pay it. Now, you take into consideration here an impoverished single parent, whose maintenance is not coming, now being told you cannot afford to pay this; we understand that, but we are not going to forgive it the way we forgave the maintenance for your kids. We are going to make you pay it on time. There is a fundamental and profound contradiction by allowing for maintenance default and for maintenance arrears to be forgiven and not forgiving the pressure on the parent to pay for the liability of the child's actions.

I think that, just to wrap up, if you are determined to go ahead with this bill, then we are asking that you track the outcome carefully to determine the impact on low-income custodial parents who are doing their best to raise their children against terrible adversity. Everything that you do which cuts out the support for families to raise their children; every time a program is cut at a community club; every time the cost of hockey goes up for a kid; every time you cut out the supports, you put kids and families at greater risk.

We anticipate that this bill, like many others authored by this government to appear to be tough on kids and tough on crime, will have a far-reaching, negative consequence to families who are struggling to do their best. This bill proposes far too blunt and ill-defined measures which will do little to sort out what is just in the way of having parents be accountable. You will

determine whether the problem is good parents and bad kids or bad parents and bad kids, and if you have got a bad parent and a bad kid, then maybe it is not the kid's fault that they are bad. All I can say is that I hope that those who will hear the case in Small Claims Court will show more wisdom than is evident by the authors of this bill.

**Mr. Chairperson:** For your information, Ms. Dyck has attended so she has been here to hear part of your presentation, or her presentation.

**Ms. McCormick:** I will take questions, and then let Rosella take over and speak to the brief.

**Mr. Gary Kowalski (The Maples):** You mention that under this legislation you see a great need if this is going to be heard in Small Claims Court by the adjudication officers for training. What kind of training do you envision and how many hours and what type of training would they require?

**Ms. McCormick:** I think tonight I learned a lot listening to a probation officer, listening to a parent who has gone through a difficult time interfaced with the court process.

I think people need to understand family dynamics. They need to understand child psychology. They need to understand the impact of children on marriage breakdown and divorce. All of those things need to be taken into account when you are trying to assess whether or not the parent has a defence. I am not sure that court is the right place to do this.

\* (2150)

I know a lot of Family Court judges who anguish over their decisions, and yet they have chosen this as a profession and they hear these matters day in and day out, and they are expected to have the wisdom of Solomon. Now, you are going to ask people who, as Ms. Lehman pointed out, have the responsibility for adjudicating dings in fenders and whether you can cut down trees, trying to decide whether or not a parent has done their best and has a defence against being held liable.

**Mr. Kowalski:** The other point that you made during your presentation is for people who are considering

adoption. The last children often that are chosen for adoption are those that come from homes where there has been abuse. Now, for those people considering adopting those children that have behaviour problems and that, now they are looking at the possibility of a financial cost for lawyers to go to Small Claims Court. We have heard the previous presenter recommend that if someone is going to go and put up a defence against this that they would in fact need a lawyer.

What effect do you think it would have on the willingness for people to adopt older children, children with behaviour problems or developmental problems?

**Ms. McCormick:** This is in fact one of the things that terrifies me most is the concept of unintended consequence. I think that this bill is fraught with difficulties like that. The other thing just—I did not mention it in my brief but your question really twigs me to point out that parents can avoid this potentially by asking for a voluntary placement agreement through the Child and Family Services, right?

My kid did something; I am worried he is moving into delinquent behaviour. I cannot imperil the safety and the well-being of my other children or our financial well-being, so therefore I guess I would better go and ask Child and Family Services to take my delinquent kid because otherwise my family will face financial ruin, right? So you can go and ask for a voluntary placement agreement to protect yourself because, guess what, the Child and Services system is not liable.

**Mr. Chairperson:** Thank you very much for your presentation, Ms. McCormick. Thank you.

**Ms. McCormick:** Thank you.

**Mr. Chairperson:** Sandra De Laronde, Sandra De Laronde. Sandra De Laronde, that being the last call is now dropped off the list. Are there any other persons wishing to speak to this bill, No. 58? [interjection] I am sorry—okay. Your submission was read into the record. Would the committee like to ask any questions of Ms. Dyck?

**Mr. Mackintosh:** Thank you, Rosella. I am sorry you were not here to present. I would like you to present now, but I have a sense that there is not—

**Ms. Rosella Dyck (Coalition of Custodial Parents of Manitoba):** I am sorry I was not here either. I had to go to a class that I just could not miss. It was very important. I am sorry. I do not really think that you have had the benefit of having this brought to your attention other than being read into the record, and I do not quite think—

**Mr. Chairperson:** Actually, we all have copies of your submission and all 13 pages of it will be recorded in Hansard. It is certainly available for committee members to read.

**Ms. Dyck:** I am not certain that you will have time to read it, though, before you deliberate over the bill.

**Mr. Mackintosh:** I am wondering if there is leave of the committee to allow Ms. Dyck to make her presentation. She has a lot of unique perspectives to bring to members of the Legislature. She made a real effort tonight to come down here on two occasions. She had a course. She put together a brief like none we have seen tonight on this issue, and I think that we should allow her the courtesy, if not, receive the insights of Ms. Dyck, and I wonder if there is not leave just to let her make her presentation and then allow for questions.

**Some Honourable Members:** Leave.

**Mr. Chairperson:** Leave is granted.

**Ms. Dyck:** Thank you.

**Mr. Chairperson:** The understanding of the committee, the agreement is—and it has applied to everybody else before you—10 minutes for your presentation and five minutes for questions and answers. So condense your presentation to 10 minutes, if you will, or less.

**Ms. Dyck:** Okay. Thank you. First of all, this document that you have before you has been prepared by the members of the Coalition of Custodial Parents, and some of you are familiar with our coalition. We have been active before in some other areas. We are a loosely knit organization of custodial parents established in May of '94, and we all have a very common background in problems with ex-spouses who do not pay support.

We have reviewed Bill 58, and we are concerned that in the rush to pass this legislation some vital issues are

being forgotten and believe that these issues must be addressed before we can significantly reduce the occurrence of juvenile crime. I do hope that is the intent behind this bill. The fact is that many legitimate victims of crime will not be compensated through this act since many juveniles who commit crimes are wards of the state.

In other cases, financial compensation demanded will greatly intensify the financial crisis in which many families are forced to live. Five thousand dollars may not seem like much to you, but I will tell you that for a lot of parents that is half a year's wages, six months wages.

Bill 58 will punish the siblings of accused juveniles by imposing further financial hardship upon them. Bill 58 will also punish the parent or parents with whom the accused juvenile lives. In fact, it can be used effectively as a weapon against a parent by a rebellious teen or by an opposing irresponsible parent. I think you really have to watch this as well. I know that we are supposedly trying to reduce the incidence of spousal abuse, and we know that spousal abuse increases following marriage breakdown. Yet this is another weapon in the hands of somebody who wants to abuse their spouse.

Bill 58 does not promote the responsibility of teens for their own actions, and thus it does not encourage them to become responsible citizens which, I hope, is the other main reason for the existence of this bill. What it does for many teens is it simply reinforces a notion that it is not their fault when they misbehave. The parent who has always taken responsibility for everything and everyone can take responsibility for them too. That is what the law says. Bill 58 also reinforces a notion that noncustodial parents are not responsible for the well-being of their children. While there is a provision that will allow a judge or master to consider which parent was supervising the child at the time of an incident, then it is in fact no obligation to do so. The definition of "parent" in this bill points directly and solely to the custodial parent in a case of marriage breakdown when it may well be the other parent who is modelling and teaching irresponsibility to the child.

This government has an obligation to the people of Manitoba to ensure that the root causes of juvenile delinquency are addressed, particularly the causes and effects of abuse, poverty and neglect. Cutting social services and community supports, forcing single parents to be out working instead of attending their children and

forcing children to see parents they fear are not effective weapons in the battle against juvenile crime.

\* (2200)

This government has an obligation to ensure that all parents are treated fairly and equitably under law. If the custodial parent is held liable for the child's misbehaviour, then surely the other parent should be held liable as well. The positive or negative actions of noncustodial parents greatly influence the child. Children in 66 percent of custodial families live in poverty, most often due to the abrogation of adequate financial responsibility by noncustodial parents, and I would say that this is a rather poor model for our children. How do you expect them to behave with that kind of a model?

This government also has an obligation to abide by the same rules that apply to other Manitobans, and therefore it should also be liable for the crimes of wards of the state.

Bill 58 attempts to make parents accountable for the deliberate destruction or damage of property by their children by allowing victims to sue parents. We understand the anger and frustration of victims of criminal actions and injustice. We have all been victims of crime at some point. When what little property we have is damaged by an irresponsible person, whether that is an adult or a child, we generally do not have the money to replace what is damaged, and we cannot afford to buy insurance. When our children are harmed by the actions of an irresponsible parent, we also have no option but to live with our children in their angry state as they struggle with the wrong that is done to them and to attempt to mold them into responsible citizens in spite of their unfortunate experiences. We are not always successful. To train children in the right way from Day One is difficult enough when parents are in agreement. However, it is much more difficult when one parent must counteract the harmful parenting practices and attitudes inflicted upon children by the other parent.

The news release of May '96 speaks of the necessity of providing proper discipline and supervision for children. The assumption is that parents are the most important factor in a child's life. This concept is not fairly represented in the bill once again because the actual wording of the bill indicates that in the case of separation or divorce, it is assumed that only one parent, that is, the

custodial parent, is an important factor in the child's life. That is a ludicrous assumption, if I may say so. Our present family law system gives a custodial parent no control over visitation rights of the noncustodial parent. We cannot control what happens on these visits, and if a child refuses to visit, we are blamed. When we fear that our children are being subjected to abuse or harmful practices when with the other parent, we are not allowed to do anything to protect our children.

We are penalized for reporting possible abuse, and we face a real risk of losing custody of our children due to what is called the friendly parent rule. We are not believed when we report alleged abuse because there is a tremendous bias in the courts against believing allegations of custodial parents that arise in cases of separation and divorce, and if you do not believe that, have you heard the news lately. Over and over and over again, I have heard that 96 percent of abuse allegations in divorce cases are false, and I find that quite amazing, because the federally commissioned Basley report stated that 33 percent of children in the general populace are abused. My understanding is that in 30 percent to 40 percent of divorce cases, there are allegations of abuse. Now, in my mind, those two figures match up very well, but anyway.

The assumption is that custodial parents are malicious towards ex-spouses and cannot be believed. The truth is that any group in society has some bad apples. However, the vast majority of custodial parents are much more concerned with the well-being of their children than with getting revenge on the other parent. Judges who impose the friendly parent rule forget that custodial parents have both the natural instinct and the legislative responsibility to protect their children against abuse, and that includes the abuse perpetrated by the other parent. And we are required to report abuse whether we know it happened or not. If we suspect it, we must report it.

Further legislation is now being contemplated by the Family Services minister (Mrs. Mitchelson) to punish custodial parents who allege abuse but cannot prove it. The persons recommending this legislation forget that child abuse, though it is very difficult to prove, is very prevalent in our society, and it is not automatically cured by divorce.

I know that I do not have very much more time, and I know that there were other speakers who most likely

addressed some of the issues that I would like to address. Unfortunately, I was not here to hear what they had to say, so I will just briefly take you through the brief. On page 4 it says, why do children commit vandalism and other crimes? I will just say that there are a number of reasons, but some of the most common reasons are—let us not forget that in a lot of cases these are adolescents we are speaking of, and they do have a natural psychological need to emancipate from their parents and to become their own persons.

Another reason is that often children are confused because, hey, they see adults doing a lot of wrong things, and those adults get away with it. They do not face adverse consequences, so why should they not do whatever they want? Another matter is the relentless poverty which robs children of their parents because the parents must preoccupy themselves with the endless struggle of trying to improve the economic picture for the children, and the hopelessness of continuing abuse and/or neglect by a significant adult in the child's life, whether that is deliberate or due to ignorance. The incessant pressure from peers to join gangs, especially in our poorest areas—and it is there—and the example of noncustodial parents who shirk their responsibility for the financial, physical, psychological and emotional well-being of their children.

**Mr. Chairperson:** Ten minutes has now expired. Do you wish to continue, or do you want to have questions and answers begin now? This will encroach on your question and answer time.

**Ms. Dyck:** Right. I will just take a couple of minutes, and then we will have a couple of minutes for the question and answer.

**Mr. Chairperson:** Okay, is that with leave of the committee?

**An Honourable Member:** Leave.

\* (2210)

**Mr. Chairperson:** Leave has been granted.

**Ms. Dyck:** Thanks. Would you please tell me when it is time? Okay.

On the next page—I do hope, though, that you will take a few minutes to read some of this because obviously I cannot go over it all—there are a number of faulty assumptions in Bill 58, and that is on page 5, assumptions such as, when children get into trouble, it really is their parents' fault, and their parents have done something to deserve being punished in this way. I would like to also go ahead to page 6, where we speak of impoverished parents; page 7, the abrogating parent, which I have already spoken to; the abusive parent is on page 8, and there is quite a lot about that. There are a lot of studies that have gone into that kind of thing. Then there is the failure of noncustodial parents to support their children. Going to page 11 and 12, we have a number of recommendations which I hope that you will read.

It is not acceptable, I would say, to nail only one parent, the one who is present in the home rather than the absconding parent, particularly since the absent parent is often the one who has caused or exacerbated the problem, be it child neglect and/or child abuse.

Now I will entertain any questions that you may have.

**Mr. Mackintosh:** Well, I think the most difficult area, and we have addressed this with an earlier speaker, is the financial responsibility of a noncustodial parent in the event of defining of liability against a custodial parent. I know on page 11 you say any awards processed under the bill could be added to the support obligation of the noncustodial parent and collected by the Maintenance Enforcement Program. I am just wondering how—because I agree with the principle that you are talking about here—can a parent who has not been found liable by the court be made to pay? I mean, are you suggesting that all noncustodial parents should be made liable for the court payment?

**Ms. Dyck:** I would say definitely. If all custodial parents are liable, then certainly all noncustodial parents should be liable. I think the problem is with the definition of “parent” in the act. Obviously, it needs to be changed to include all parents.

**Mr. Mackintosh:** Are you saying then that the noncustodial parent should be made to just pay, or should the noncustodial parent also be allowed the right to attend at court and defend?

**Ms. Dyck:** I think that he or she should be allowed to attend the court, but I think it will depend on the situation. Sometimes special circumstances exist. In a case, for instance, where there has been spousal abuse, perhaps what you need to do is have video conferencing or have separate court rooms for the two parties instead of having them together. But, yes, if the other parent is to be held liable, he ought to be able to have the opportunity to speak, I would think.

**Mr. Santos:** Since the government agency acting for the state had taken custody of the child, do you feel that they should also be held liable if the person under the custody committed crimes?

**Ms. Dyck:** Yes, I do, definitely.

**Mr. Chairperson:** Thank you very, very much for that presentation.

**Ms. Dyck:** Any other questions?

**Mrs. Vodrey:** Not a question, just a comment, Rosella, thanks very much for your presentation and also for some of the recommendations that you have added. I will certainly pay attention to your brief. As other presenters have said, we want to watch this bill now in its first year of operation, and we may have an opportunity to speak again.

**Ms. Dyck:** I believe I have one minute. Are there any other questions?

**Mr. Santos:** Right now some parents are complaining about lacking parental authority to monitor and discipline their child.

**Ms. Dyck:** Right.

**Mr. Santos:** Do you think this is adding another cross to this parent because their hands are tied already, and now they are being held financially liable for the behaviour of the child they cannot discipline?

**Ms. Dyck:** Definitely, definitely, it is adding another cross to parents who already have their hands full, parents whom we are expecting to do everything and not giving them the tools with which to do it.

**Mr. Chairperson:** Time is up, Mr. Santos. Thank you very much, Ms. Dyck.

**Ms. Dyck:** Thank you.

**Mr. Chairperson:** I will now canvass the room to see if there are any other persons wishing to speak to the bills before the committee this evening. There being none, is it the will of the committee to proceed with clause-by-clause consideration of the bills? [agreed]

Which bill does the committee wish to consider first, Bill 57 or Bill 58?

**An Honourable Member:** 58.

**Mr. Chairperson:** Bill 58, we will then proceed with by agreement of committee, that is, The Parental Responsibility Act. Did the minister responsible wish to make an opening statement?

**Mrs. Vodrey:** Mr. Chair, just a few brief comments. Bill 58, The Parental Responsibility Act, will provide a means for victims of a crime to obtain redress. It recognizes that the criminal process often leaves the victim out of the picture as the wheels of justice deal with the offender. Understandably, victims of deliberate damage done by young people ask themselves, what were the parents doing while their child was stealing a car, throwing a rock through a window or spray painting a house? The Young Offenders Act, unfortunately, makes no provision for the parents of the youth to be made a part of the case so that they can be a source of compensation for the victim.

Recently, I addressed a parliamentary committee, and I urged them to put back into the Young Offenders Act provisions dealing with the responsibility of parents for their children's criminal acts. We do not believe that the province should simply throw up their hands while we are waiting for Ottawa to move. So we have introduced this legislation to provide a quick, small-claims hearing where property damage has been deliberately done by a child residing with its parents. The bill also assists the victim by putting the onus of showing that they acted reasonably on the defending parent. The existing common-law right to sue the parent places an almost insurmountable burden on the victim who is required to bring evidence of negligence. The bill establishes a

defence for parents where they have taken reasonable steps to dissuade their children from doing damage to the property of others and have reasonably supervised their children. The bill recognizes that parents cannot be everywhere and have to give their children more independence as they grow older. During the debate on the bill, I believed that all parties expressed support for the concept of parents being responsible for their children and compensating victims where they did not meet their responsibility.

There were some questions about the mechanics of the bill and many comments about providing support for parents, and I will be dealing with some of those comments further on. I will also have some announcements to make within the next few weeks, but there does appear to be some confusion in the minds of at least some people, and I know my critic has expressed some questions.

The member for St. Johns (Mr. Mackintosh) expressed a concern that this act can only be relied on once a certificate of guilt has been obtained from the Youth Court. In fact, this legislation is completely independent of the Youth Court proceedings. A certificate of conviction is only one means of proving that the child committed the act complained of.

The member for St. Johns also expressed a concern that this bill could lead to pressure on Crown attorneys not to refer cases to youth justice committees. This government is committed to youth justice committees. We have expanded their numbers. We lead the nation in using them. We have more than 70 in operation.

While I find the suggestion that Crowns would be pressured to be offensive in itself, the separation of this bill from the criminal process ensures that youth Crowns and indeed everyone in the youth justice system can proceed to consider the best means of dealing with young offenders.

This bill assists victims who seek redress from parents who have not acted responsibly in raising and supervising their children. As members know, there certainly are defences which parents can raise and bring forward, as they explain how they have in fact acted responsibly for the court to consider.

Thank you very much, Mr. Chair.

**Mr. Chairperson:** Thank you, minister. Does the critic from the official opposition wish to make an opening statement?

**Mr. Mackintosh:** Mr. Chair, it is our view that this bill is at best tokenism. This bill is not going to make any significant dent in the rise in youth violence in Manitoba as far as we can see. What this is, as we have said before at best one raindrop on the fire of youth crime. It is based on a principle which is certainly sound, and that is that parents have responsibility for their children, for their youth, but how that principle is put into effect by this bill is certainly of concern to us.

This is the government that has done virtually nothing to deal with youth crime, except complain about the Young Offenders Act. It goes on about the Young Offenders Act every time we raise issues about backlogs in the Youth Court, about the cuts to families, whether that be welfare cuts, whether it be cuts to families that are in need and have special needs, whether it is turning a blind eye to needs in the community such as the closure of the North Y, whether it is the pulling away of every nickel from the friendship centres of Manitoba, which provided a place for aboriginal youth and provided mentors and leadership opportunities.

This bill is not accompanied by any new era of family and youth supports in this province. In fact, it is accompanied by an era of pulling back those supports that enable parental responsibility. I do not see any action, even within the Ministry of Justice, to provide supports for families to deal with gangs, for example. Why is there not dissemination of information, whether in video form or written form for parents who want to know what to do, how to deal with gang activity that they suspect their child is engaged in—for enhanced gang awareness, for example? That is just one example of the kind of supports that could be coming from the Minister of Justice, but there have to be supports from the broader ministries, particularly from Family Services. So what this bill does, it attempts to divert attention from inaction on the rising problem of youth crime and gang violence by having a bell and a whistle waved in front of the public, but what is worse is that the bill flies in the face of action by the government, positive action, to worsen the conditions that breed crime in this province.



We brought forward an 18-point plan that we hope the government and the Minister of Justice, in particular at least with regard to the short-term objectives of that plan, would steal from us. We bring it forward at a time when there is a frustration expressed to us by Manitobans from border to border, from every walk of life in this province, urging that the province of Manitoba take affirmative action, plant the seeds, bring the parties together, so that we can have a comprehensive, community-based response to rising youth violence and particularly gang activity. The Gang Action Plan, 18 points, is pushing for a Justice department gang unit for specialization, for gang surveillance agreements, for young offender mentoring program, for community policing grants, prison gang suppression team, an aboriginal corrections program, crimes of children legislation—you do not have to wait for the Young Offenders Act; you can deal with crimes of children right now—for a federal gang laws package. I am glad to see the minister for the first time did adopt that, so they are starting to steal these ideas. Of course, that is an easy one because they can just look to the federal government.

We are looking for more systemic change where there would be job prospects, youth places fund, the families first plan, parenting skills programming which is absolutely critical. If you are bringing in legislation like this, to require parental responsibility, you darn well have an obligation to enable parental responsibility by comprehensive parenting skills programming, and that even includes mandatory programs. The child and parent centres which were shut down by Mr. Gilleshammer, I believe it was, shortly after the election of this government, which provided great support, respite for children and parents. Family counselling enhancement is needed. We need a safe schools charter for codes of conduct throughout this province, and we need gang awareness in the curriculum. We need police officers in schools where schools want that. It has been shown to be an effective program in the city of Winnipeg in School Division No.1. We need enhanced literacy programs based on the minister's own recommendations.

\* (2220)

We need the gangproofing we have talked about with a booklet, for example, a guidebook for parents, a video. We need special training for people who work with youth. We need a gang hotline that works, that is staffed

for immediate response, not just for tips, but for counselling particularly for youth and parents, who want to get kids out of gangs.

**Mr. Chairperson:** Mr. Mackintosh, are you intending to cover the whole gamut of social policy or are you going to get back—

**Mr. Mackintosh:** No, I just have two more points. I appreciate the indulgence of the committee. I just have two more points and I will conclude. We also want to see a community revitalization program focused on a particular community based on initiatives in the United States; for example, well, just say we call it the communities alive program based on the weed and seed program in the United States, and also an aboriginal urban living skills program.

What we are saying, Mr. Chair, is if we are going to deal with gangs and rising youth crime, we have got to deal with this comprehensively, so I move

THAT this committee urge the government to implement a comprehensive action plan to counter criminal gangs and youth crime based on the NDP's 18-point Gang Action Plan.

#### Point of Order

**Hon. Jim Ernst (Minister of Consumer and Corporate Affairs):** Mr. Chair, while I appreciate the extensive speech made by the member for St. Johns, the fact of the matter is that we are dealing with Bill 58, and that his motion, I submit, is out of order. It is unrelated to the bill. It may be very nice for him to move such a motion, and it may be politically wise for him to do that, but the fact of the matter is it is out of order, does not deal with the bill, and we should proceed after indulging his speech.

**Mr. Chairperson:** I would agree with that submission and rule the motion out of order. It does not address the bill before the committee.

**Mr. Mackintosh:** Well, if I may speak to the point of order, Mr. Chair, I think that is appropriate before there is a ruling.

**Mr. Chairperson:** I thought you were. You may speak to the point of order.

**Mr. Mackintosh:** If, indeed, this was not germane to the bill, then our point has been made by the government House leader that this bill does not deal with youth crime because he has just admitted that, and if the amendment is out of order, then it is out of order because this bill misses the point.

**Mr. Ernst:** Mr. Chairman, do not let the member for St. Johns put words in my mouth. The fact of the matter is I said it was unrelated to the bill. I did not comment on the content of either the bill or his speech, so let him not put words in my mouth.

**Mr. Chairperson:** Any further discussion on the point of order? My mind is not changed. I believe that there indeed is an appropriate point of order, and the motion does not relate to the bill in question and is not in order.

\* \* \*

**Mr. Chairperson:** May we now proceed with the clause-by-clause review of Bill 58. During the consideration of the bill, the title and preamble are postponed until all other clauses have been considered in their proper order by the committee. Shall Clause 1 pass?

**Mr. Mackintosh:** I have a series of questions on the content of the bill, and I thought it would be best that we do that under the title of the bill perhaps or at the outset of the discussion of the clause by clause.

**Mr. Chairperson:** The title of the bill, of course, will be dealt with at the end. We will be proceeding clause by clause, so perhaps you can raise your points clause by clause, and at the extent they embrace more than one clause we can see whether or not that is appropriate.

Clause 1—pass. I believe there is a possible amendment respecting Section 2. I have a note about that.

**Mr. Mackintosh:** I have a question on Section 2. The purpose of the act as stated is to ensure that parents are held reasonably accountable for the activities of the children in relation to the property of other people. An issue that I raised at second reading and earlier was why, for goodness' sake, if the government was serious about this legislation and was serious indeed as the minister has

said about respecting the needs of victims, are damages in respect of personal injury omitted? Why is this government perpetuating this subservience and this respect for property loss while ignoring what I think is even more heinous and that is personal injury, violent crime? By that, I wonder if the minister can tell the committee why she has not included the ability to claim special damages, in other words, pecuniary or specific damages that are liquidated damages due to personal injury whether that be medical bills, wage loss, other damages to the person that can be quantified.

**Mrs. Vodrey:** Mr. Chair, it is nice to now have a focused question from the member considering answers were given to the diatribe he raised earlier several weeks ago.

In terms of our decision to move ahead with the property damage area, we have found that that is an area that is easier to quantify. The inclusion of the personal injury claim we think would make the process a much more complex one. It is much more difficult to quantify the personal injury claims. The purpose of this bill is to put the victim back into the system, back into the process, to provide them with a quick and simple process, again for the victim, so that they can gain some restitution. They still have an appropriate circumstances access to the regular civil process including action against the parents for negligence, and then they can obtain compensation from the Criminal Injuries Compensation Board.

**Mr. Mackintosh:** Is the minister not open to amending the bill to include damages for personal injury where those damages can be quantified easily? That happens on a regular basis with special damages in the courts.

\* (2230)

**Mrs. Vodrey:** At the moment we are not going to entertain such an amendment. I understand that the Supreme Court has said that in cases which would be dealt with in a bill such as this that they must be in fact very easy to quantify, very quick to quantify. The member has had now some five months or so to bring forward that issue to government, to me as minister. As he reviewed the bill, if he wished to discuss that, as he has done in many other bills, it might have been possible, but that is quite a change to the bill and at the moment we are not prepared.

**Mr. Mackintosh:** I think, for the information of all members, is it the view of this government that no amendments will be considered by them if the opposition has not brought forward amendments well in advance of the public hearings, well in advance of the summer recess? Is that what she is saying right now? That is ridiculous, what she just said.

**Mrs. Vodrey:** I think the member understands fully what my comments are, and where he has concerns about bringing forward a change, which is fairly significant, obviously it would be helpful to have had some indication of that change by him earlier. I have explained the reasons that our government has not decided to proceed. The member may wish to consider that with government following the passage of this bill as we watch the bill in the first year.

**Mr. Chairperson:** Whatever views have been expressed, you of course are entitled to bring forward any amendment you wish this evening that is within scope, and if it is not within scope I have the obligation to rule on that. So you have now put forward an amendment.

Mr. Mackintosh, you have advanced an amendment?

**Mr. Mackintosh:** Just so the minister is reminded that the issue of restricting damages to property loss, and our disappointment in that was expressed in a newspaper article in the Winnipeg Free Press sometime I think the day after the bill was introduced. I know members on her side quoted from aspects of that article that suited their purpose, so she certainly was aware of our concern. It is not to say that we think this is good legislation to the extent that we would like and therefore we are putting this forward. We are saying that there is a principle here that personal injury and violence has to be acknowledged—

**An Honourable Member:** A point of order.

**Mr. Chairperson:** A point of order has been raised, Mr. Mackintosh. You have not put forward the motion yet either.

#### Point of Order

**Mr. Ernst:** That is my point of order, Mr. Chairman, that it would be appropriate for the member—and he

should know this from his experience here as a clerk as well a member of the committee—that, if he is going to speak to a motion, he should put it first.

**Mr. Chairperson:** Would you please put forward the motion, Mr. Mackintosh. The point of order is—

\* \* \*

**Mr. Mackintosh:** I move

THAT section 2 be amended by adding “and personal injury caused to other people” after the word “people”.

**[French version]**

*Il est proposé que l'article 2 soit amendé par adjonction, après “d'autrui”, et les lésions corporelles causées à autrui”.*

**Mr. Chairperson:** I also confirm at this point that any amendment put forward will apply to both English and French, and that will be deemed in every amendment that is presented this evening. Correct? [agreed]

There is a question about the scope of this, and it has been indicated to me through Legislative Counsel that this is beyond scope of the legislation. Accordingly, my ruling will be to that effect. However, unanimous consent can be sought, and if not granted, that will be my ruling. Is there unanimous consent for this particular amendment?

**Some Honourable Members:** No.

**Mr. Chairperson:** Unanimous consent is not granted. That is my ruling. This particular proposed amendment is out of scope.

Clause 2—pass.

**Mr. Kowalski:** In regard to this section, about the purpose of this act that it is to ensure that parents are held reasonably accountable for the activities of children, as the minister knows, I do a lot of work as a volunteer probation officer working with young offenders, and by putting this down, is there going to be a message sent to young offenders that they are not responsible for the consequences and the financial loss that they do and that

the parent is responsible, the child is not? Is that a message that is being sent?

**Mrs. Vodrey:** Mr. Chair, no, that is not the message at all, and that the Young Offenders Act certainly does hold the young person responsible, and we would like to see the young person made responsible as well. But we also believe that it is very important for the victim to believe that parents will be involved along with their child. The purpose of this bill is to put the victim back into the system, to provide the victim with a way to be provided with some compensation, and parents may in fact work out with their young person how in fact this restitution may be paid. It does not say to the young person that they are not also responsible, but this bill does speak very strongly to victims and a mechanism for victims to allow them to gain some restitution or some compensation for damages. This bill operates on the civil side.

**Mr. Kowalski:** The minister's comments, I do not remember them verbatim, but to put the victims back in the system. I know, with alternative measures on every file that is handled that the victim is contacted. The victim is asked for the damages, and they are very much part of the system. In courts, quite often when predisposition reports are done by probation officers, probation officers contact the victim. So why is the minister saying that this bill is required to put the victim back into the system?

**Mrs. Vodrey:** Mr. Chair, this is a mechanism; it is a simple mechanism. It adds to others which are available, but it does put the victim back into the system. The member has referenced mechanisms on the criminal side, criminal procedures. This operates on the civil side. This allows through Small Claims Court a victim to gain some compensation. So it is another mechanism that operates outside, not through the criminal procedure side, but on the civil side.

**Mr. Kowalski:** I do not know about in Youth Court, but for alternative measures where justice committees are handling these cases, is the minister concerned that justice committees will not request restitution of young offenders because there can be double jeopardy here, that there could be restitution ordered by the justice committees? I guess the same thing could happen in Youth Court, and this bill says that the previous restitution orders may be taken into consideration, not that they will be, but they may be taken into

consideration. So, in fact, there could be double jeopardy here.

**Mrs. Vodrey:** Mr. Chair, this was one area that we did consider quite carefully. We did not want to make this in any way an either/or for referral to reduce justice committees or unnecessary addition when referred to youth justice committees. They operate separately. They operate under the youth justice system, the criminal side.

There is a section in the bill, 10(2), which says, "Restitution may be considered." In considering the amount of damages, I am quoting from the bill now, "the court may consider any amount ordered as restitution under the Young Offenders Act." So, if in fact some restitution has been ordered, the court can take this into consideration.

**Mr. Kowalski:** I may be out of order because we are talking about that clause as opposed to Clause 2. Again the wording is "may"; it is not "will." That is a concern, because the adjudicator is not obligated to take into account restitution made by the child. So that is a concern. The other part of it is if restitution is ordered by either the Youth Court or by the justice committees to the child—often I know what happens in justice committees is that if there is a means by the child, they do community service work in lieu of that. That is devaluing that consequence to the child. The message is that has no value if the parent has to pay anyway.

\* (2240)

**Mrs. Vodrey:** Mr. Chair, no, that certainly is not the message at all. I understand that this simply adds to the number of mechanisms that victims may use to reach what they consider to be a level of satisfaction in terms of dealing with an offender, or an offence, or a loss which they have experienced. So certainly the message that the member suggested is not the message. This government, as he well knows, is very supportive of youth justice committees. We continue to support alternative dispute resolutions. We continue to support ways in which victim and offender may in fact be brought together and to avoid some of the win-lose of other types of mechanisms.

Those are not always successful, not always the route chosen, and very often the victim feels that they have not adequately been compensated, or been heard, or have

been a part of the process. This adds to the list of mechanisms for the victim. This government makes no apologies whatsoever for its concern about victims, absolutely none.

**Mr. Kowalski:** I am not a member of this committee, so I cannot make amendments, but I would ask the minister if she would consider changing the wording of that to the adjudicator "will" take into account restitution, as opposed to "may." As I said, it could then be double jeopardy, and there is no obligation by the adjudicator to take in the restitution made by the young offender.

**Mrs. Vodrey:** I appreciate the issue the member has raised. I am not prepared to make the amendment at this time, but as I have said to presenters through the evening, we will watch this bill in its first year, we will watch its application, and then where necessary, if necessary, look to other possible amendments.

**Mr. Chairperson:** Clause 2—pass. Shall Clause 3 pass?

**Mr. Mackintosh:** Three questions under this section. First, I would like to know, since parents may very well be entirely innocent and diligent in raising their children are required to attend at the court, whether it be because of peer pressures or cultural pressures that are being put on youth—there are many other factors that go into creating youth crime—yet they would be well advised, as Ms. Lehman said, to have legal representation. What assurances can the minister give that The Legal Aid Services Society Act will accommodate the needs of parents who are required to attend court with legal representation under this bill?

**Mrs. Vodrey:** As the member knows, Legal Aid does not generally become involved in small claims matters because of the nature of the court, because of the way that the court operates. Though we have heard from one presenter this evening, I think that most people are aware of the fact that people do appear in Small Claims Court without counsel. They prepare their arguments and are able to deliver them because of the informal nature. There is not a series of a large number of civil procedures which are required, and it is still open to an individual should they wish to go to the Court of Queen's Bench, where in fact they could obtain legal aid. That option is still open to them.

Mr. Chair, I would also add that where people feel dissatisfied with the decision in Small Claims Court, as the member knows, they can appeal to the Court of Queen's Bench, and at that point, in appealing to the Court of Queen's Bench, may in fact qualify for legal aid.

**Mr. Mackintosh:** At the first instance, since the minister has confirmed that parents would not be entitled to legal aid for an appearance in Small Claims Court, I ask how can this, particularly the reverse onus, be placed on parents? As one who has been an advocate for individuals in the Small Claims Court, I know there is a disability on parties who do not have legal representation, particularly when the other party does. I ask whether the minister will, as an assurance before this bill passes, ensure that legal aid will be available to any parents in the Small Claims Court? Second of all, can she assure this committee that legal aid will be available to anyone who meets the financial criteria for representation on appeal in the Queen's Bench?

**Mrs. Vodrey:** Mr. Chair, as the member knows, the Legal Aid board operates independently, and I do not provide them with that specific direction, but the deputy minister may raise this point. I will ask him to raise this point with the Legal Aid board in terms of their consideration of when they may be required or when a request such as this may come forward.

**Mr. Mackintosh:** The second area of questioning was related to a concern we have and expressed at second reading. We certainly do not want this bill to become known as a Zellers bill. We know, for example, that retail chain has had some difficulty collecting under the common law, and I do not want to see this bill used to benefit victims as they are, but victims with deep pockets.

I ask the minister whether she thinks it is appropriate that this bill apply to retail theft, for example, under \$1,000 or retail theft involving a corporation, or is she not instead concerned about individual victims?

**Mrs. Vodrey:** Mr. Chair, I understand the member did raise this in relation to the Zellers case, and this bill really does not have anything to do with Zellers. This bill, as I understand it, would not in the least assist Zellers in the circumstances of the case that they have brought forward since they had recovered the property without damage, and Zellers was in fact trying to collect

from the parents the costs of security, which are clearly not a part of this bill.

**Mr. Mackintosh:** Well, again, I ask the question, though, would the minister please respond to my question as to the appropriateness of this bill applying to retail theft, particularly in the theft from a corporation and perhaps theft under \$1000?

**Mrs. Vodrey:** Mr. Chair, the point that I was making is that this would not apply to the costs of security, but is the member saying that there should be some kind of two classes of thefts, two different types of thefts, two different types of damages, where a young person is free on a business to go ahead and inflict any kind of property damage they wish and that there should be nothing required of the families? Is the member now giving a young person a free-pointing his finger and saying, here is the place to go ahead and inflict your property damage, do not do it here on an individual, but go ahead, you have free rein on any kind of business, small business, large business and corporation? That is certainly not what we intend in this bill.

\* (2250)

**Mr. Mackintosh:** My question to the minister is: Is this bill designed for the interests of the likes of large corporate retailers and insurance companies under Section 9? Is that whom this bill is designed for? Is this designed for their buddies in the corporate sector?

**Mrs. Vodrey:** Mr. Chair, this bill is designed to assist victims, and the member has a view of victims that is a very select one. Our view is this bill is designed to assist victims. If he wants to reference Section 9 when we get to it, I would be happy to answer his questions on Section 9 at the time.

**Mr. Mackintosh:** Mr. Chair, my third question is relating to the situation of noncustodial parents. Just following on the presentations here tonight, I think Section 3 is the place to raise that question. There is a recommendation coming, for example, from the Coalition of Custodial Parents of Manitoba that the noncustodial parents should have liability for payment of damages under the legislation, and I recognize the difficulties of that, but I also recognize the importance of the principle that a custodial parent may be the one who is held liable,

yet it is not most likely her doing. If there is liability found or lack of a proper defence put forward, it may well be that the noncustodial parent is the bad egg here.

But I am wondering what the minister's response is to the concerns that have been expressed here tonight, both by Ms. McCormick and Ms. Dyck.

**Mrs. Vodrey:** It is contemplated within the bill that the noncustodial parent would at some times, or could at some times, be held liable, instances such as where the noncustodial parent incites or encourages the child to damage, and I think that was one of the examples raised. I would reference Section 7(3)(k) of the bill, where the noncustodial parent previously had custody and instilled the wrong values or decision-making process in the child. I would reference Section 7(3)(b), and Mr. Chairman, those are two examples where, in fact, the noncustodial parent could be held liable. I think that this does answer to a reasonable point the issue that was raised earlier.

(Mr. Vice-Chairperson in the Chair)

**Mr. Vice-Chairperson:** Clause 3—pass. Clause 4.

**Mr. Mackintosh:** One question under this section relates to the concern I raised in second reading and the minister answered in part tonight. We are concerned that there be no pressure brought to bear on the Crown, for example, to produce a certificate of guilt rather than going through the course of a youth justice committee. I would like hear from the minister assurances that in no way will any victim be allowed to put pressure on a Crown attorney or on any officials in her department to obtain a certificate in order to make the proof under Section 4 a little easier for the plaintiff.

**Mrs. Vodrey:** In prosecutions we deal with principles and guidelines. I believe they are very well established, and I do not believe that the Crowns would be in a position to take specific direction from a victim in terms of a direction of how to proceed. So I think that the member can be confident in the process that is currently there.

**Mr. Vice-Chairperson:** Clause 4—pass; Clause 5—pass. Clause 6—pass.

**Mr. Mackintosh:** I move

THAT the following be added after Section 6:

### Mediation

6.1 Prior to commencing the hearing of a claim, the court shall inquire as to whether or not the parties have attempted to mediate the claim, and where the parties have not attempted mediation, the court shall advise them of available resources for mediation.

### [French version]

*Il est proposé d'ajouter, après l'article 6, ce qui suit:*

### Médiation

6.1 Avant l'audience, le tribunal se renseigne quant à la question de savoir si les parties ont tenté ou non de régler la demande par voie de médiation; dans la négative, le tribunal les informe des ressources qui sont à leur disposition dans ce domaine.

### Motion presented.

**Mr. Vice-Chairperson:** I shall rule that the motion is within scope. What is the wish of the committee?

**Mr. Mackintosh:** Mr. Chairman, just briefly to the point, I know the member for Riel (Newman) recently submitted a report to the minister and it contained many recommendations which we support. One of them, and I think it is an important recommendation and an important view shown in other parts of the report, that the public should be encouraged to resolve more disputes outside the courts. So, on the one hand, we have the government, or a backbencher, certainly saying do not go to court, and then we have the government at the same time coming in with a bill that says, go to court, in fact creating a new or an enhanced civil liability and more pressures on the Court of Queen's Bench.

We think this is not appropriate. In fact, I think that the kind of issues that we are dealing with here of youth crime and parental involvement are better dealt with, whether it is in circles, whether it is in family group conferencing or in youth justice committees, but the confrontational aspect of the civil court process I do not think is the way to go on this one. Without gutting the entire bill on this aspect, I think it is important that at a minimum the judge be able to ask the parties if they have considered mediation and provide them with some sticks

or carrots to do so, and I put that forward. I hope the minister will receive that amendment favourably.

**Mrs. Vodrey:** As the member knows, nothing precludes individuals from seeking mediation now. In terms of a further amendment, I would not be accepting of that amendment at the moment, but we will be considering the issue of mediation, how it can be applied, as government reviews the whole civil justice taskforce review. So we would not be accepting of that amendment at this time.

**Mr. Vice-Chairperson:** Any further discussions? Shall the amendment pass?

**Some Honourable Members:** Yes.

**Some Honourable Members:** No.

**Mr. Vice-Chairperson:** I shall rule that the amendment has been defeated.

**Some Honourable Members:** Could we have a count on that one?

### Formal Vote

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

**Mr. Vice-Chairperson:** Okay, it is a tie vote. The amendment is therefore defeated.

\* \* \*

**Mr. Vice-Chairperson:** Clause 7(1)—pass. Clause 7(2).

**Mr. Mackintosh:** This is, I think, where we should raise the issue of the onus going over to the defendant here. This is, I think, the most serious aspect of this bill, and I think it is a flaw. I can understand why it took the minister as long as it did to try and come up with the bill, but I think she should have looked at it a lot longer. When we have a plaintiff merely having to show that an offence had been committed and then the onus shifting to the defendant, says that there is an assumption on the part of the minister that youth crime is caused entirely by parental neglect or lack of reasonable care by a parent.

\* (2300)

Now, we know that in this society we have a very violent popular culture, whether it is in movies or video games, video games that enlist violence against people even, violence on television. We have peer pressure, and especially with the advent of gangs, people are doing things that they would not do on their own. I think the presumption is wrong, and I think putting parents in the position of having to defend their actions with regard to their child or their youth just because a crime has been committed is not a fair assumption, and I ask the minister to reconsider the onus. Surely, there must be an onus that more closely resembles the common law, and I ask the minister why she concluded that the plaintiff only need show that an offence has been committed for the act to be triggered.

**Mrs. Vodrey:** Mr. Chair, in Section 3 of the bill, the elements of what the plaintiff must prove are listed clearly before that onus then shifts onto the parents, and just to quote from the bill, the plaintiff would have to show that "the parent of a child who deliberately takes, damages or destroys the property of another person . . ." So that is required to occur first, and then the onus shifts to the parents to show why in fact they should not then be held liable.

**Mr. Santos:** Mr. Chairperson, thank you for giving me the opportunity. It is a settled principle in both criminal and civil law as well: *El incumbit probatio qui dicit, non qui negat*—the burden of proof is upon him who alleges, not upon him who denies.

I believe that it is wrong for any legislation to depart from such settled doctrine in our criminal system, in our justice system.

**Mrs. Vodrey:** Mr. Chair, that is why I answered in my last answer that the person who makes the allegation has to start by proving those points that I spoke about and then the onus shifts to the parents to provide their defence.

**Mr. Mackintosh:** Mr. Chair, the minister did not answer the question, though. I mean, why does the plaintiff not have some burden, why does the plaintiff not have to show some evidence, some prima facie case, if you will, of parental neglect or lack of reasonable care?

**Mrs. Vodrey:** Mr. Chair, we were focusing in this bill on the deliberate conduct of the child. We were moving away from the issue of negligence, which is what is dealt with in the Court of Queen's Bench and tort. We were dealing, again, with the deliberate conduct of the child, the prima facie case being evidence being available by the damage which has been done. The plaintiff then has to establish the deliberate conduct of the child, and the parents who know the child best then are the ones who will have the opportunity to speak about how they know this child and have they sought help for this child and to raise issues surrounding the child. So that is the purpose; that is what differentiates this bill from what would occur in the Court of Queen's Bench.

**Mr. Mackintosh:** I want to ask the minister if she thinks it is fair, for example, Wal-Mart has, I do not know how many, shoplifting cases they might have in a month. Let us just say, you know, there are 50 shoplifting cases in a month. So what they do is they send each one of them down to the Small Claims Court, and without having any idea at all whether the parents had any responsibility, not knowing anything of the relationship of the parent, the parent has to now come to court and establish the defence set out in Section 7(1), and considering the factors in 7(3). Since when did a legal system require someone to attend court and answer for the wrongs of their child without any evidence being adduced that the parent was in any way responsible?

**Mrs. Vodrey:** I am amazed. I am going to have to read *Hansard* tomorrow for the member's comments which are just shocking, unbelievably shocking to the people of Manitoba. It is our view that parents should be responsible, along with their child. Now, clearly, the member's comments indicate that he does not share that view, that parents should not be responsible. His comments clearly have said that—I find that amazing—the signal through this bill is that parents are responsible and, along with their child, should be; in fact, most parents would like to be.

**Mr. Mackintosh:** There goes the minister again. I wonder if she has lost the confidence of Manitobans. We are talking about responsibility, liability and law here. Morally, parents have responsibility for their children. We are talking here about civil responsibility, civil liability. That is what we are talking about. How can she assume that parents should be civilly liable for the



wrongdoings of their child without any evidence being adduced to that fact? That is the question. If she finds that amazing, then go back to law school. Talk to people on the street. Get a reality check.

**Mr. Vice-Chairperson:** I call the member to order.

**Mrs. Vodrey:** The member has got to calm down. I would take him back to Summit on Youth Crime and Violence where Manitobans clearly said at that time that responsibility does begin at home. Responsibility begins at home, begins with families, and that is the signal that this bill sends. It is amazing, incomprehensible to Manitobans, that he would not think that was important. In fact, Mr. Chair, that is exactly what we are seeking to have put back in the Young Offenders Act as well. It is because the federal government has failed to move, that we are acting now in the area of our capability.

**Mr. Mackintosh:** I think we have a late night here, Mr. Chair. We have a minister who is so wonky, brings in a wonky bill, and now is talking that somehow we do not recognize parental responsibility when all along we do.

**Mr. Vice-Chairperson:** Your question?

**Mr. Mackintosh:** My question for the minister is, would she get a reality check, not understand that she is now imposing on parents a legal responsibility, a legal liability when there has been no evidence whatsoever adduced that there is liability? Does she not understand that question? If she does not, she should not be bringing in this bill. She should let that responsibility rest with some other person.

**Mrs. Vodrey:** It is clear to me that what the member objects to is that parents have to come to court at all. That has been his point. That is what he is afraid of. That is what he objects to.

Mr. Chair, this government believes that parents should be responsible along with their child. The plaintiff will have the opportunity and has to show that there was a deliberate action on the part of the child. Parents then have full opportunity to bring forward evidence or defences about their child. This is an important piece of legislation for victims. It also sends a message, a message that comes from the Summit on Youth Crime and Violence, that responsibility does begin

with parents, that parents must be responsible along with their young person. The NDP have not been supportive of that. We see it again tonight. This government is.

\* (2310)

**Mr. Mackintosh:** I asked the minister not about whether parents should be coming to court. We did not oppose this bill on second reading. She knows that full well. She is probably embarrassed by that. There is indeed a role for parental responsibility in civil law. We have said it so many times. I want the minister to get away from the PR hype and deal with the real issue before this committee and before Manitobans, the issue that is posed by this bill. That is her rationale, and I just want it on the table so that we can have a fair debate.

What is that rationale for first time, to my knowledge, a civil statute being brought forward requiring someone's attendance at court without any evidence whatsoever of liability, of wrongdoing, of a lack of reasonable care, all those standards that are set out in this legislation being exhibited or not being exhibited by the parents? Why is it that a parent must come and defend, answer the question whether the parent was exercising reasonable supervision without there being any evidence to support that, not even a prima facie case?

**Mrs. Vodrey:** Mr. Chair, I have answered that question.

**Mr. Mackintosh:** Well, the minister has not answered that question. She has come back with some political rhetoric that does not serve the purposes of this committee at all. We asked the minister what legislation is this modelled on? Can she give other models, for example, of where someone is dragged into court without there being so much as a prima facie case of lack of reasonable supervision, for example, exercised by someone who will be found liable if they do not defend?

**Mrs. Vodrey:** Mr. Chair, I have given the answer; the member does not like the answer.

**Mr. Mackintosh:** I asked the question, what other models are there? I am sure she had people that looked at this over the course of I do not know how long, since this promise was made, I think, even before the election campaign. What model is there? What legislation is it based on? Is it based on a Canadian model? She said

this was the first of its kind in Canada. I think she neglected to look at the Province of Québec's legislation actually which goes back a long way. Has she based this legislation on some American legislation? I understand there are about 43 states that have enacted parental responsibility laws. Where has she got this idea from? Is there some Canadian or British statute that she relies on?

**Mrs. Vodrey:** Mr. Chair, this is made-in-Manitoba legislation. I have given the rationale for the legislation. I have explained the basis of the legislation, the message that it will deliver to parents and the effect of putting victims back into the justice system.

**Mr. Mackintosh:** Mr. Chair, if she wants to put victims back into the justice system, she could actually start doing that.

I ask the minister: Is there not some model that she looked to to come up with this reverse-onus clause? Not any model? Was there not one of the American jurisdictions that she looked to?

**Mrs. Vodrey:** Mr. Chair, I have explained fully. I have explained fully that this is a made-in-Manitoba model, and I have explained fully how it will operate and the purposes for its operation.

**Mr. Vice-Chairperson:** Clause 7(2)–pass; Clause 7(3)–pass; Clause 8(1)–pass; Clause 8(2)–pass; Clause 9–pass; Clause 10(1)–pass. Clause 10(2)–pass.

**Mr. Mackintosh:** I have a question for the minister as to whether she thinks it is appropriate, that in addition to any award of damages under the act, that the court be allowed to make an order that can assist any parents that may be found to have not exercised reasonable care and supervision, for example, through parenting skills programming.

(Mr. Chairperson in the Chair)

**Mrs. Vodrey:** Mr. Chair, I am wondering if the member could clarify, is he suggesting that the court in this case should order parental counselling?

**Mr. Mackintosh:** I am asking the minister if she has considered that. In other words, that we should not just be awarding damages, but also looking at the parental

situation and seeing if there is something that the court system can do. I am not entirely convinced it can, but has the minister considered that as one of the options under this legislation?

**Mrs. Vodrey:** That might be a very helpful recommendation for the YOA, but we were very conscious of not wanting to stray out of our area of competency in this bill, and so at this point, we have not concluded that that could be a part of this piece of legislation.

**Mr. Chairperson:** Clause 11–pass; Clause 12–pass; Preamble–pass; Title–pass. Bill be reported. That concludes clause by clause on Bill 58.

#### **Bill 57—The Public Sector Compensation Disclosure Act**

**Mr. Chairperson:** Did the minister wish to make an opening statement?

**Hon. Eric Stefanson (Minister of Finance):** Mr. Chairman, I will make a very brief opening statement.

Bill 57 represents yet another component of the accountability framework our government is establishing in the public sector by requiring the disclosure of the annual compensation for individuals in the broad public sector who received \$50,000 or more. This bill increases the financial accountability of public sector institutions and organizations funded by Manitoba taxpayers. This legislation ensures that Manitoba taxpayers are provided with the information they require to hold their publicly funded entities more accountable. The disclosure requirements under Bill 57 are also consistent with the disclosure requirements set out for unions under Bill 26, The Labour Relations Amendment Act.

Mr. Chairman, when we get to the appropriate section, I do have one amendment that I will be proposing, and it was an issue that was raised by at least one presentation here this evening. An amendment will be tabled which will allow disclosure to be based on the calendar year or a fiscal year, and I will certainly briefly speak to that when we reach that point.

The other issue I wanted to very quickly just touch on, is there were some issues raised relative to disclosure of names and the whole issue of some protective measures.

Mr. Chairman, upon looking at those issues, I believe that Section 10 gives government the opportunity, through the regulations, to address those issues. One example might be, when it comes to designating how the names will be published, that a decision might be to publish just a surname and the initial, as opposed to the full name, and then the whole issue of any factors related to protective measures can also be addressed. I do not need to read all the sections or subsection under Section 10, but they clearly, through the regulations, give government the opportunity to address some of the concerns that were raised before the committee here this evening.

So with those brief opening remarks, Mr. Chairman, we are ready to proceed.

**Mr. Chairperson:** Thank you for that. Does the critic for the official opposition have an opening statement?

**Ms. Becky Barrett (Wellington):** Yes, Mr. Chair. I, too, will be brief. The public presentations were very interesting tonight, and they led to a couple of concerns, one of which we had already identified and another of which we had not. The two main areas are the—actually the minister has spoken of them in his opening statements where he says the bill increases the financial accountability of institutions and organizations funded by Manitoba taxpayers. He says public sector institutions. We are going to make a series of amendments that will ensure that all organizations, whether they be in the traditional public sector or not, come under the accountability provisions of Bill 57.

The second area that was raised by a number of the presenters tonight dealt with the privacy and safety of individuals, and the minister has also spoken about that and states that he believes under regulations those issues can be addressed. While technically that may be the case, we feel it is important to have amendments in the bill itself to deal with those, and we will be making a small series of amendments in that regard. So, with those brief comments, I am prepared to go clause by clause.

\* (2320)

**Mr. Chairperson:** During the consideration of the bill, the schedule, title and preamble are postponed until all other clauses have been considered in their proper order by the committee.

Shall Clause 1 pass? There is an amendment proposed here by Ms. Barrett.

**Ms. Barrett:** I move

THAT the definition “public sector body” in section 1 be amended in clause (e) by striking out “does not carry on its activities for the purpose of profit and”.

[French version]

*Il est proposé que la définition de “organisme du secteur public”, à l'article 1, soit amendée dans l'alinéa e) par suppression de “n'exercent pas leurs activités en vue d'un profit et qui”.*

**Motion presented.**

**Mr. Chairperson:** Discussion on the amendment, Ms. Barrett?

**Ms. Barrett:** This is the amendment that we have referred to in the House in second reading and in discussions about this as the Shenkarow amendment. It basically, in effect, says that any organization that receives funding from the provincial government should be held accountable to the public of Manitoba in the same way that the more traditionally named public sector bodies are held accountable.

Manitoba taxpayers paid \$50 million, more or less, to the Winnipeg Jets since the 1991 operating-loss agreement was signed, and we have no way of knowing as taxpayers, as residents, as citizens of Manitoba, what the recompense out of that \$50-million-plus was given to Barry Shenkarow as president of the Winnipeg Jets. The government has access to that through their interim steering committee which has quarterly reports given to it. The people of Manitoba do not have access to that.

Our position is—well, this is an extreme case, I would hope, of any one organization or group that is not a traditional public sector body, in the amount of money that has been given to it. In principle, as the Manitoba Taxpayers Association said this evening in their presentation, in principle, if an organization is given money by the provincial government, then for the period of time that it takes that money, that public money, it

should be, for the purposes of Bill 57, treated as a public sector body, and this amendment makes that point.

**Mr. Chairperson:** Any further discussion on the amendment?

**Mr. Stefanson:** I would suggest we do not support the amendment. The member for Wellington is right that the Winnipeg Jets' arrangement was a very unique situation here in Manitoba. The proposed amendment that she is making goes well beyond that, that it would require all kinds of organizations that receive a portion of their revenue from government to then have to abide by all of the terms and conditions of this bill. Clearly, that would be going well beyond the intent. The intent here is organizations that receive the vast majority or the majority of their income from the taxpayers. That is the issue of accountability. Many of the organizations that would be caught would only be receiving a small percentage of the revenue.

As well, there are other issues related to that in terms of the payments potentially being for, again, more than just services, potentially including goods and so on. So there are various problems with the amendment proposed by the member for Wellington, and I would suggest it be defeated.

**Mr. Conrad Santos (Broadway):** In this day and age, the traditional distinction between public service organizations in the traditional terms and private organizations is vastly diminished now because of this tendency and pattern that we observe now about privatization, creation of special agencies, contracting out of public services to private organizations. Given this pattern, it will be very difficult to justify that public monies that are passed through private organizations through contracting out will not be held financially accountable by those who use them.

Therefore, the amendment is in order, I believe, because we are after public accountability of public money, whoever is exercising the public service function, whether it is the tradition of a government service or the private organization who had contracted with the government to perform public services function.

**Mr. Chairperson:** Call for the question? Shall the amendment pass?

**Some Honourable Members:** No.

**Some Honourable Members:** Yes.

**Mr. Chairperson:** The amendment is defeated. You want to do it on division?

**Some Honourable Members:** On division.

**Mr. Chairperson:** On division.

Clause 1—pass; Clause 2—pass. Shall Clause 3(1) pass?

**Some Honourable Members:** Pass.

**Mr. Chairperson:** Clause 3(1) is accordingly—

**Mr. Stefanson:** Mr. Chairman, I apologize but—

**Mr. Chairperson:** Revert back to Clause 2?

**Mr. Stefanson:** Clause 2, please.

**Mr. Chairperson:** Is there leave to revert back to Clause 2? [agreed]

**Mr. Stefanson:** This amendment was provided earlier today to opposition, and I would move

THAT section 2 be amended:

(a) by adding “or calendar year” after “each fiscal year”;

(b) by adding “or in the calendar year” after “provides in the fiscal year”; and

(c) by renumbering the section as subsection 2(1) and by adding the following as subsection 2(2):

**Consistent reporting required**

2(2) A public sector body that discloses the information required under subsection (1) on a calendar year basis shall continue to disclose the information on a calendar year basis.

[French version]

*Il est proposé que l'article 2 soit amendé:*

a) par substitution, à "chacun des exercices", de "chaque exercice ou année civile";

b) par adjonction, après "de l'exercice", de "ou de l'année civile";

c) par substitution, à son numéro, du numéro de paragraphe 2(1), et par adjonction de ce qui suit:

#### **Continuité**

2(2) Les organismes du secteur public qui divulguent les renseignements visés par le paragraphe (1) en se fondant sur l'année civile continuent de le faire de la même façon.

**Motion presented.**

**Mr. Chairperson:** Discussion on the amendment?

**Mr. Stefanson:** Mr. Chairman, as mentioned, I did provide a copy just earlier today, but really what this does is it gives the organizations the opportunity to either provide the information on their fiscal year or on a calendar year. We heard a presentation from at least one today that organizations do prepare T-4s on a calendar year and this would make it a lot more straightforward, simpler, easier to compile the information already available, and it still meets the overall objectives of the bill.

**Mr. Chairperson:** Amendment—pass; Clause 2 as amended—pass; Clause 3(1)—pass; Clause 3(2)—pass.

**Mr. Gord Mackintosh (St. Johns):** I move

THAT the following be added after section 3 of the Bill:

#### **Personal security protection in disclosure**

3.1 Despite any other provision of this Act, the name and other personal information of an individual in respect of whom a disclosure of compensation may be required under section 2 shall be omitted or obscured from a publication or record required under this Act, if the individual applies in writing to the public sector body to have that information omitted or obscured to protect the individual's personal security.

#### **Public to be advised of right to protection**

3.2 The minister shall take such steps as he or she considers appropriate to inform the public of the

protection for personal security that is available under this section.

#### **[French version]**

*Il est proposé d'ajouter, après l'article 3 du projet de loi, ce qui suit:*

#### **Protection de la sécurité**

3.1 Malgré les autres dispositions de la présente loi, est omis de tout document exigé en application de la présente loi, ou est masqué, tout renseignement personnel, y compris le nom, des particuliers dont la rémunération peut devoir être divulguée en application de l'article 2 et qui en font la demande par écrit à l'organisme du secteur public afin de préserver leur sécurité.

#### **Droits du public**

3.2 Le ministre prend les mesures qu'il juge appropriées pour aviser le public du droit à la sécurité qui est conféré en vertu du présent article.

**Motion presented.**

**Mr. Chairperson:** Further discussion?

**Mr. Mackintosh:** This is in accord to what is the government's stated policy. I know a ways back we had asked questions about the posting of voters lists in conspicuous places in polling subdivisions and the government responded by moving an amendment to The Elections Act which is almost identical wording to what we have in front of us here. The wording has been changed of course in order to fit within this legislation.

\* (2300)

Subsequently, the government announced changes to the procedural Land Titles Office where someone can apply to have better protection of privacy, and in all of these cases the main concern is stated to be that of women, in particular, or people who may be trying to escape stalkers or who are running from former partners but are seeking safety. We certainly think that it is important that the government in all ways, and a comprehensive way, do whatever it can to ensure the safety particularly of women who may be vulnerable. So this is moved in accordance with the government's stated policy.

It is an issue that we feel very strongly about. Certainly the response from the minister, I do not think it is appropriate that this matter can be dealt with simply by way of regulation. There is no assurance for the women and children of Manitoba or for this side of the House that the regulations will cover this. Indeed, Section 10(d) talks about information that must remain confidential, and it appears from that section that that is talking about types of information that must remain confidential rather than particular instances where someone can apply. We do not think it is the ideal situation where someone actually has to be proactive and come forward, but we think given the scheme here and in the absence of a more detailed comprehensive approach to matters involving protection of privacy of vulnerable Manitobans that this is the best way to proceed.

**Mr. Stefanson:** Mr. Chairman, we certainly are prepared and will address issues of safety and various protective measures, but as I indicated that can clearly be done through the regulations as outlined in Section 10. If you read the various sections under Section 10, that authority and ability is there and those issues will be addressed as part of the regulations. I believe the amendment introduced here goes well beyond issues of safety and protective measures and allows an outright removal for what do not appear to be any other reasons beyond those or for almost any reason. So this amendment goes beyond safety and protective issues. We feel they can and will be addressed under the regulations, as I indicated.

**Mr. Chairperson:** No further questions. Call for the question. Shall the amendment pass?

**An Honourable Member:** Yes.

**Some Honourable Members:** No.

**Mr. Chairperson:** The amendment is defeated on division.

Clause 4—pass; Clause 5—pass; Clause 6(1)—pass; Clause 6(2)—pass; Clause 7—pass; Clause 8—pass. Clause 9.

**Ms. Barrett:** Mr. Chair, I move

THAT section 9 of the Bill be amended by adding "except a protection of privacy statute" at the end.

**[French version]**

*Il est proposé que l'article 9 du projet de loi soit amendé par adjonction, après "à une loi,", de "à l'exclusion d'une loi sur la protection de la vie privée."*

**Motion presented.**

**Mr. Chairperson:** Discussion on the amendment?

**Ms. Barrett:** There was a fair bit of discussion in the public hearings about the concern about the fact that this act takes primacy over virtually any other act currently in existence or potentially in existence well into the future, and again as Mr. Mackintosh stated in his earlier amendment, this is an attempt to put back into this legislation the primacy in this regard of a privacy statute.

I understand that there is a group of people from the government looking at implementing or bringing forward a protection of privacy statute, and we would like to see this amendment put in so that people will have that protection. I know the statute is not available, but we would like to, in effect, ensure that people have the comfort of knowing that they will be covered by that statute.

**Mr. Chairperson:** Any discussion on the amendment?

**Mr. Stefanson:** Mr. Chairman, I believe this amendment is somewhat premature. If we get to the stage that a privacy act is ultimately introduced, we can certainly relate it back to the bill we have before us through consequential amendments if any of them might be required at that time. As well, I think there is added protection for this issue again under Section 10(d), "respecting information that must remain confidential notwithstanding the disclosure scheme of this Act." So it certainly is an issue that should be addressed if a privacy act is introduced, but we believe it should be addressed at that time.

**Ms. Barrett:** Just one brief other comment. My reading—and I think this was spoken of by Mr. Mackintosh—10(d) does not give us that much comfort in our reading of it because of the word "must." That sounds to me like it is information that is of a global nature that must remain confidential. It does not give individuals the right to state what they feel must remain confidential for themselves, and is a concern that I have

about that reading of that particular part of the legislation. Again, I will reiterate that we think these are issues that are of prime importance and should be in the legislation, not in the regulations, because they are more open to scrutiny by the public and they do have the force of law which regulations do not.

**Mr. Stefanson:** Mr. Chairman, I am informed the key word is "respecting" and that respecting is very broad. Certainly the capability that I outlined is permissible under this section of the act, so that it is of a broader nature, as I have described.

**An Honourable Member:** Question.

**Mr. Chairperson:** A call for the question. Shall the amendment pass?

**Some Honourable Members:** Yes.

**An Honourable Member:** No.

**Mr. Chairperson:** Can we have that again? There is some mixed-up member out there. Shall the amendment pass? The amendment is defeated.

**An Honourable Member:** On division.

**Mr. Chairperson:** On division.

Clause 9—pass; Clause 10—pass; Clause 11—pass.  
Clause 12—pass.

**Ms. Barrett:** Mr. Chair, I move

THAT section 13 of the Bill be struck out and the following substituted:

**Coming into force**

**13(1)** This Act comes into force on a date fixed by proclamation.

**Proclamation only after protection of privacy act**

**13(2)** This Act shall not be proclaimed until the coming into force of a new protection of privacy act.

**[French version]**

*Il est proposé de remplacer l'article 13 du projet de loi par ce qui suit:*

***Entrée en vigueur***

**13(1)** *La présente loi entre en vigueur à la date fixée par proclamation.*

***Restriction***

**13(2)** *La présente loi ne peut entrer en vigueur avant l'entrée en vigueur d'une nouvelle loi sur la protection de la vie privée.*

**Motion presented.**

**Mr. Chairperson:** Discussion?

**Ms. Barrett:** Again, this goes back to the concerns that were raised tonight by the public presenters and our concern that issues of privacy for safety and other issues that were raised by presenters tonight were not just issues of personal safety but were more broadly discussed than that needs to have the protection of the legislation, that this act should not come into play until there is a protection of privacy act which clearly outlines the rules and the regulations and the rights of individuals to privacy, issues that were raised by many of the presenters tonight. We feel that this may engender quick work, you know, speeding up the work on the protection of privacy act, and we feel that this is something that is very important, that individuals have a basic right to privacy. We would like to see this act not come into play until the privacy act has been implemented.

**Mr. Stefanson:** Mr. Chairman, any review of privacy legislation, obviously, includes a whole range of issues and I am sure they will be addressed as part of that review. As I said earlier, if we get to the stage that a privacy act is in fact introduced and there is any relationship back to this bill that we have before us, we can certainly deal with the consequential amendments at that particular point in time, but, again, this is similar to the previous issue.

**An Honourable Member:** Question.

**Mr. Chairperson:** Shall the amendment posed by Ms. Barrett pass?

**Some Honourable Members:** No.

**Mr. Chairperson:** The amendment is defeated on division.

Clause 13—pass. There is a renumbering motion from the honourable minister.

**Mr. Stefanson:** Mr. Chairman, I move

THAT Legislative Counsel be authorized to change all section numbers and internal references necessary to carry out the amendments adopted by this committee.

**[French version]**

*Il est proposé que le conseiller législatif soit autorisé à modifier les numéros d'article et les renvois internes de façon à donner effet aux amendements adoptés par le Comité.*

**Motion agreed to.**

**Mr. Chairperson:** Motion—pass; Schedule—pass; Preamble—pass; Title—pass. Bill as amended be reported.

Committee rise.

**COMMITTEE ROSE AT: 11:39 p.m.**

#### **WRITTEN SUBMISSIONS PRESENTED BUT NOT READ**

Re: Bill 57—The Public Sector Compensation Disclosure Act

The MMA is concerned that this bill will result in greater scrutiny of the billings of individual physicians as compared with the existing scrutiny of payments to corporations as disclosed by the published public accounts. While Section 5 of this bill will require the Minister of Health to disclose “the name of every person who receives \$50,000 or more in the fiscal year for providing services to insured persons,” the names of individuals are not disclosed in the public accounts where the payment is made to a corporate entity.

The 1994-95 Public Accounts lists payments in excess of \$5,000 to corporations, firms and individuals. Among corporations and firms, significant payments are received from the government of Manitoba, but the names of such an entity's directors, officers, partners or senior employees who actually performed the work are not disclosed. A sample of these significant payments follows:

Corporate body	Amount received in 1994/95
American Practices Management Inc. (New York)	\$806,746
Arthur Andersen & Co.	\$247,812
D.S. Lea Consultants Ltd.	\$325,803
Doray Enterprises Inc.	\$200,112
Foster/Marks Advertising Inc.	\$377,991
I.D. Engineering Canada Inc.	\$534,123
KPMG Management Consulting	\$346,083
Pitblado & Hoskin	\$698,339
Pratt McGarry Inc.	\$416,616
Price Waterhouse	\$337,999
Thompson Dorfman Sweatman	\$409,011
Wardrop Engineering Inc.	\$349,775
Winnipeg Jets Hockey Club	\$5,604,250

If the public's right to information is to be expanded by Bill 57, there must be a level playing field so that no individual who benefits from government business is shielded from public scrutiny. Disclosure ought to apply to all individuals regardless of the amount of payment made. An arbitrary threshold of \$50,000 already conflicts with the \$5,000 threshold used in the public accounts.

The MMA is concerned that the disclosure of individual physicians' gross billings will mislead, rather than inform, the public. A physician in private practice is a professional who operates a small business. As such, the physician receives neither a “salary” nor the various benefits usually associated with employment. On average, 40 percent of a physician's billings are spent on office overhead expenses, and the physician must pay out of his/her own pocket for annual vacation; life, LTD and office overhead insurance; and sick days. A private practice physician receives no pension, thus is responsible for his/her own retirement savings. And, of course, the physician does not have a 40 hour, or less, work week. There is no additional compensation for working evenings, weekends or statutory holidays; there is no overtime pay. It can readily be seen that Section 5 as drafted will not help the public to understand that a physician's net income before taxes is much, much less than gross billings.

Where a physician is a geographic full-time member of the University of Manitoba Faculty of Medicine, a “GFT” disclosure of gross billings will cause another distortion. There are approximately 400 GGTs out of 1,800 fee-for-service physicians in Manitoba.



Typically, a GFT is paid a base salary for teaching and/or clinical research conducted in a university-affiliated hospital. But most GFTs also provide insured services to patients and submit billings to Manitoba Health. The GFT is assigned his/her individual annual income threshold, and fee-for-service billings above that threshold are reduced by 60 percent, that major portion being retained by the Faculty of Medicine for university purposes. This arrangement is intended as a disincentive to ensure the GFT does not neglect his/her teaching and/or clinical research duties in favour of fee-for-service work. The bottom line is that the Faculty of Medicine receives millions of dollars each year under this arrangement, yet the gross figures disclosed by Bill 57 will misinform the public about an individual's earnings.

Manitobans also will be misled where a physician's billings are on behalf of a privately owned diagnostic facility, i.e., a laboratory or radiology clinic. Such facilities may be owned by corporate bodies or partnerships, the principals of which may or may not be physicians. Yet each facility's billings are attributed to an individual facility director, who must be a physician to comply with the diagnostics and quality of care standards enforced by the College of Physicians and Surgeons of Manitoba. As a result, the facility director in most cases is merely an employee of the facility, or under contract to the facility, but is not the person who actually earns the payments made by Manitoba Health. This situation contrasts with disclosure of payments through the public accounts where the person who submits the bill remains anonymous. There will be a double standard, which discriminates against individual physicians.

Though Bill 57 is intended to sharpen the focus on individual physician's billings, it will seriously lead astray the public and cause considerable mischief. The MMA does not think the government of Manitoba intended this kind of harmful result; therefore, we have brought these problems with the bill to your attention so that appropriate amendments may be made.

The MMA respectfully requests your further consideration of this bill to achieve better understanding on the part of Manitobans, rather than confusion.

A reply would be appreciated.

Les Ullyot, M.D., C.C.F.P.  
President, Manitoba Medical Association  
Winnipeg, Manitoba

\* \* \*

Re: Bill 58—The Parental Responsibility Act

I have had serious concerns for some time about the proposed legislation to impose liability on parents for the acts of their children. I feel obliged to write this letter to you as my MLA in the hopes that you will bring those concerns to the attention of the appropriate parties.

I am a lawyer who has practices in the civil litigation field for approximately 18 years in Winnipeg. I do not have children of my own, but I helped raise a child for approximately 10 years. In my view the proposed legislation will create more financial and social problems than any perceived benefits.

I have been involved on both sides in numerous claims involving minors as the party at fault, particularly arising out of motor vehicle accidents. I cannot think of a case where I would have sympathized with a financial claim being made against the parents. I am certain that in virtually all of the claims I would have been offended at the prospect of the claimant bringing a claim for a \$5,000 judgment against the minor's parents.

There is provision in the law as it exists now to sue parents where it is appropriate. If the parents have been negligent in the care of their children, they can be sued. Such claims are seldom, if ever, brought. No doubt that is either because the parents are not sufficiently at fault in the supervision of their children or claimants are unaware of, or not prepared to pursue, such legal rights. The lack of such claims to date, however, does not mean the law has to change.

Under the proposed new law lawyers will be obliged to advise claimants to include the parents in claims against minors, and court proceedings will be filed according. Claimants will see an opportunity to include parents and obtain financial recovery. The parents ought to seek legal advice and will have to produce evidence to establish that they are not responsible. Any given judge will have his or her particular view as to what evidence will satisfy the onus that the parents should not be responsible. It will be a somewhat arbitrary process based on the facts of each case to determine when parents are responsible and when they are not. There will be more work for lawyers and more anxiety and financial

strain for far too many parents whether they are successful in defending a claim or not.

I would also expect that the courts will regretfully feel obliged to give the reverse onus provision some meaning and establish liability on parents unless they lead convincing evidence that they are not at fault. I can foresee many situations where it will be difficult for innocent parents to lead such evidence or to convince a judge of their innocence after the fact. I can also foresee many situations where innocent parents cannot afford to seek legal advice, are not aware of their rights or simply allow claims or judgments to be entered against them without a fight.

In essence I see the legislation as bringing too many innocent parents into the litigation process and generating liability unnecessarily on innocent parents. I also seriously question the ultimate impact that the legislation will have on the behaviour of children.

I also have several specific concerns which are as follows:

(a) The proposed legislation involves a \$5,000 limit. Virtually all of the cases that I have been involved in are cases where damages are greater than that amount. In many cases under the proposed legislation, parents will be faced with claims and judgments for \$5,000. Such a judgment against many parents will present a serious financial hardship and a serious financial drain on monies otherwise needed for their families.

(b) The legislation will, for all intents and purposes, discriminate against parents who have the means to pay. Parents with the means to pay will no doubt be quickly claimed against. Those parents without the means to pay may be ignored or may simply be unable to pay the claimants.

(c) I believe that the process will increase the amount of violence and abuse by parents toward their children. I am sure that many parents will be angry when they are presented with claims or court papers, and I believe that physical or otherwise abusive altercations will occur after the fact.

(d) The process will also, in my view, operate to a large extent merely as a windfall to large corporations and insurers. I would expect that many of the claims that will be brought against parents will be brought by subrogated insurers, department stores, the Manitoba Public Insurance Corporation and the like.

I would urge the appropriate legislators and civil servants to reconsider the proposed legislation. In my view, stronger measures should be taken to see that children themselves are held responsible, civilly and criminally, for their acts. I would appreciate your forwarding a copy of this letter to the appropriate parties or department.

Thank you for your consideration.  
Russ Wookey  
D'Arcy & Deacon  
Winnipeg, Manitoba