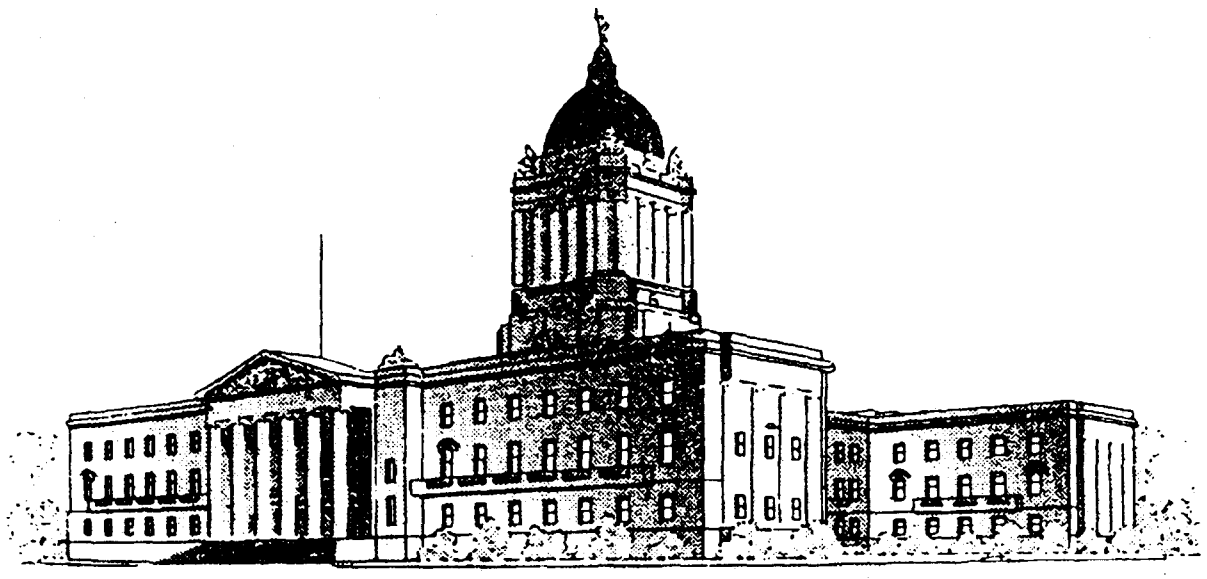
Second Session - Thirty-Sixth Legislature

of the

Legislative Assembly of Manitoba

Standing Committee on Law Amendments

Chairperson
Mr. David Newman
Constituency of Riel



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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Sixth Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA

STANDING COMMITTEE ON LAW AMENDMENTS

Monday, October 21, 1996

TIME – 10 a.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. David Newman (Riel)

VICE-CHAIRPERSON – Mr. Jack Penner (Emerson)

ATTENDANCE - 11 – QUORUM - 6

Members of the Committee present:

Hon. Messrs. Cummings, Driedger, Ernst, Hon. Mrs. Vodrey

Ms. Cerilli, Messrs. Laurendeau, Mackintosh, Maloway, Newman, Penner, Sale

WITNESSES:

Bill 60–The Law Society Amendment Act

Mr. John Neufeld, Law Society of Manitoba

Bill 66–The Boxing and Wrestling Commission Amendment Act

Mr. Bob Holliday, World Wrestling Federation

WRITTEN SUBMISSIONS:

Bill 66–The Boxing and Wrestling Commission Amendment Act

Ms. Audrey Krushel, President, Group Against Pornography
Mr. Martin Boroditsky, Private Citizen

MATTERS UNDER DISCUSSION:

Bill 60–The Law Society Amendment Act
Bill 66–The Boxing and Wrestling Commission Amendment Act
Bill 22–The Credit Unions and Caisses Populaires Amendment Act
Bill 28–The Winnipeg Stock Exchange Act
Bill 29–The Winnipeg Commodity Exchange Act
Bill 45–The Consumer Protection Amendment Act
Bill 46–The Securities Amendment Act
Bill 62–The Jobs Fund Repeal Act
Bill 25–The Jury Amendment Act

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Mr. Chairperson: Good morning. Will the Standing Committee on Law Amendments please come to order. Before the committee can proceed with the business before it, it must proceed to elect a new Vice-Chairperson. Are there any nominations?

Mr. Marcel Laurendeau (St. Norbert): I would like to nominate Mr. Penner.

Mr. Chairperson: Mr. Penner has been nominated. Are there any other nominations? Seeing none, Mr. Penner has been elected as the new Vice-Chairperson for the committee.

This morning the committee will be considering nine bills. The bills to be considered are Bill 22, The Credit Unions and Caisses Populaires Amendment Act; Bill 25, The Jury Amendment Act; Bill 28, The Winnipeg Stock Exchange Act; Bill 29, The Winnipeg Commodity Exchange Act; Bill 45, The Consumer Protection Amendment Act; Bill 46, The Securities Amendment Act; Bill 60, The Law Society Amendment Act; Bill 62, The Jobs Fund Repeal Act; and Bill 66, The Boxing and Wrestling Commission Amendment Act.

To date, we have had several persons registered to speak to the bills this morning. I will now read aloud the names of persons who have preregistered. With respect to Bill 60, The Law Society Amendment Act, persons registered to speak are Sidney Green and John Neufeld, Q.C. With respect to Bill 66, The Boxing and Wrestling Commission Amendment Act, the person registered to speak is Bob Holliday.

If there are any other persons in attendance today who would like to speak to the bills referred for this morning and whose name does not appear on the list of presenters, 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.

In addition, I would like to remind those presenters wishing to hand out written copies of their briefs to the committee that 15 copies are required. If assistance in making the required number of copies is needed, please contact either the Chamber Branch personnel or the Clerk Assistant and the copies will be made for you.

On which bill did the committee wish to hear from presenters on first, Bill 60 or Bill 66?

Hon. Jim Ernst (Minister of Consumer and Corporate Affairs): Given the fact that there are only three presenters, I do not think it matters. So let us proceed in the order that is shown on the paper, that is, Sidney Green, John Neufeld and Bob Holliday.

Mr. Chairperson: Agreed? [agreed]

Ms. Marianne Cerilli (Radisson): I just want clarification on that, though. Will we not necessarily do the clause by clause–

Mr. Chairperson: Ms. Cerilli, please put the mike beside and then that could be–

Ms. Cerilli: Thank you. I just want a clarification on that, if we are going to hear the presenters on those bills, but that we are not necessarily going to deal with the bills in that order. As I understand it, Mr. Ernst has a number of bills.

Mr. Chairperson: Well, at the moment, I think we are just dealing with the presenters first.

Ms. Cerilli: That is just what I wanted to clarify. Thank you.

Mr. Chairperson: Did the committee wish to establish a time limit on presentations heard this morning?

Mr. Jack Penner (Emerson): Fifteen minutes.

Mr. Chairperson: Mr. Penner is suggesting 15 minutes. Is that agreed? [agreed]

We shall now proceed with hearing of presentations. Mr. Sidney Green. Mr. Sidney Green not being here, would Mr. John Neufeld please come forward? Mr. Neufeld, you may begin your presentation.

Bill 60–The Law Society Amendment Act

Mr. John Neufeld (Law Society of Manitoba): I believe written copies of my presentation have been delivered and are being circulated now.

The Law Society of Manitoba welcomes the opportunity to make a presentation to this committee with respect to Bill 60, The Law Society Amendment Act. The purpose of my remarks today is to provide you with some general information about the Law Society of Manitoba and the reasons why we have requested these amendments.

The Law Society of Manitoba, which derives its authority under the provisions of The Law Society Act, is the licensing and governing body of the legal profession in this province. As such, it is responsible for ensuring that citizens of Manitoba are served by a competent and ethical legal profession. To that end, we regulate lawyers from their call and admission to the bar, throughout their legal careers in whatever form that may take and on to retirement.

Recently the Law Society adopted the following mission statement: The aim of the Law Society of Manitoba is a public well served by a competent, honourable and independent legal profession.

The amendments to The Law Society Act contained in Bill 60 are aimed at ensuring that the Law Society can fulfill this goal more effectively and more efficiently at a lesser cost.

The amendments contained in Bill 60 address three main areas: a reduction in the number of elected benchers; the removal of the oath of allegiance as a requirement for call to the bar; and extending the time within which a client can challenge a contingency fee contract.

I should also mention that we propose the elimination of the right of life benchers to vote at meetings of the governing body.

First of all, reduction in the number of benchers. Throughout the act you will see reference to the governing body. This is a group of members of the practising bar who are elected every two years from the Winnipeg, northern, Dauphin, eastern, central and western electoral districts to carry out the responsibilities of governance under The Law Society Act. We call them benchers.

In addition to these elected representatives, the benchers also include two student representatives, one from the Faculty of Law at the University of Manitoba and one from the bar admission course. It also includes the dean of the law school and a professor from the Faculty of Law and four lay benchers. The current number of benchers, which constitutes the board of the Law Society, is 43.

In June of 1994, the benchers struck a special committee to consider whether the current number of benchers and their distribution throughout the province was appropriate and, if not, to make recommendations as to what might be done. The committee was co-chaired by two former presidents of the Law Society, Mr. Justice Alan MacInnes of Winnipeg and Donald Little, Q.C., of Brandon.

* (1010)

A number of factors contributed to the formation of this committee. First, in the benchers election of April 1992, two vacancies, one in the Western Electoral District and one in the Dauphin Electoral District, had to be filled by appointment.

It is interesting to note that in the recent bencher election this past May, acclamations were declared in the Northern, Central, Eastern and Western Electoral Districts. In fact, two vacancies were left in the Western Electoral District and one in the Eastern Electoral District. By-elections were held last summer to fill the vacancies. Although the vacancy in the Eastern Electoral District was in fact filled, no one was prepared to run for either of the two vacancies in the Western Electoral District.

An additional factor was a growing frustration that the Law Society's committees, due to their size, were unable to deal with policy issues effectively and efficiently. Data was obtained from other Canadian law societies which disclosed some interesting information. For example, except for the province of Ontario, which in 1994 had 44 benchers representing 21,610 practising members, Manitoba had the largest number of benchers, namely, 43 representing a significantly smaller group, only 1,670 practitioners.

In addition to numbers and related costs, the special committee also considered the changing demographics of the legal profession in Manitoba. When the formula for representation had been determined years before and enshrined in The Law Society Act, no one had envisaged that the legal profession would become as concentrated in the city of Winnipeg as it has become. Although this has resulted in the ratio of benchers per member being disproportionately low in Winnipeg relative to rural Manitoba, the committee concluded in its report that this was appropriate and did not recommend a change.

Prior to finalizing its report, the special committee consulted widely with lawyers throughout the province. A copy of their draft report was made available to all practising members, and a summary of it was published in the Law Society's communique. That is the publication that we circulate to all of our members. The report was also discussed at two benchers' meetings, one of which was held outside the city of Winnipeg to accommodate the rural bar. Members of the profession were invited to attend these meetings or provide the committee with their views in writing.

Following this consultation, the committee presented its final report to the benchers, which approved it in principle in November of 1995. The benchers agreed that in order to govern the legal profession in Manitoba more efficiently, effectively and less expensively, the number of benchers should be reduced. Accordingly, they recommended a reduction of the number of benchers from 43 to 22 as follows: In the Winnipeg Electoral District, which currently has 20 benchers, we propose it be reduced to 10 benchers. In the Northern Electoral District, which currently has three benchers, we propose one bencher. In the Dauphin Electoral District, which currently has two benchers, we propose one; in the Eastern Electoral District, from three benchers to one; in

the Central Electoral District, from two benchers currently to one; in the Western Electoral District, from the current five benchers to two. No benchers are proposed for the bar admission course. One student bencher from the Faculty of Law, as currently; we also propose one bencher from the Faculty of Law, from the professors that is, rather than the two current ones. We draw your attention to the fact that we proposed the number of lay benchers or community representatives remain the same at four.

These changes are reflected in the proposed amendments to Sections 6, 7, 11 and 13 of The Law Society Act. It is important to note that the effect of these amendments would reduce by one-half the current bencher representation, with the exception of lay benchers who would remain four in number. Effectively, this means that lay benchers would have twice the voice that they have had until now. The Law Society of Manitoba is very proud to have been one of the first governing bodies in Canada to introduce lay benchers onto its board. Over the years, the society has benefited greatly from the advice and guidance of lay benchers who have provided a window for the community into the internal workings of a self-governing profession. It is for this reason the benchers embraced this proposed amendment without hesitation, recognizing the value of enhancing the role that lay benchers play. It also affirms our wish to increase our accountability to the public that we serve.

With regard to the oath of allegiance, in October of 1995, the benchers approved a recommendation that the requirement of the oath of allegiance to Her Majesty the Queen as a condition precedent to be called to the bar as provided for in Section 44(a) be removed. I hasten to assure you that in requesting this amendment, the Law Society intends no disrespect to Her Majesty nor any diminution of the role of the Crown, the Constitution, the law or the courts.

We are of the view that the requirement to swear the oath of allegiance may violate the Charter of Rights and Freedoms and, instead of promoting adherence to the Constitution, may in fact deny the very rights and freedoms the Constitution guarantees.

By way of background, the committee should be aware that approximately one year ago the Law Society was put on notice that, for cultural and historical reasons, certain student members of the Bar Admission course did not feel that they could properly take the oath of allegiance on the occasion of their call to the bar and indeed, if required to do so, intended to challenge the Law Society's right to insist on that requirement. Mindful of our changing society and that the tradition symbolized by the oath of allegiance may no longer reflect the diversity of the community from which the Law Society derives its membership, and with the benefit of a legal opinion obtained by the Law Society of Upper Canada which had previously considered this issue, the benchers in Manitoba determined that in all likelihood the requirement would not withstand a Charter challenge and should, therefore, be removed. We accept the view that one's obligation of allegiance is independent of any oath and that allegiance is owed by all who reside within the sovereign's realm whether the oath of allegiance has been sworn or not. We also note that the same requirement has been removed or made optional in all other Canadian jurisdictions, except Prince Edward Island and the Northwest Territories.

In recommending the removal of this provision from our act, the benchers were also concerned, given Canada's participation in NAFTA, recognizing that members of other countries who legitimately may be qualified for and called to the bar in Manitoba may be precluded from swearing allegiance to a foreign sovereign.

Since our initial request to have this requirement deleted, the benchers have indicated a willingness to consider an alternative oath which would require a candidate for call to the bar to swear or affirm that he or she would uphold the Rule of Law and the rights and freedoms of all persons according to the Constitution and the Laws of Canada and Province of Manitoba. This option has been put forward in recognition that on this issue, not surprisingly, there are divergent views, and indeed these have been reflected throughout the discussions within the Law Society and with government.

Contingency Contracts, under the provisions of The Law Society Act, a lawyer can enter into a contract with a client which allows the fees to be paid to the lawyer and to be based on a portion of the proceeds of the action or proceeding. This is referred to as a contingency contract and is provided for in Section 58 of The Law Society Act. Certain requirements as to the making of the contract are set out in that section as well as a provision in Section

58(4) which allows a client who wishes to challenge the contract to apply within three months to the Court of Queen's Bench for a declaration that the contract is not fair and reasonable.

It has come to the attention of the Law Society that the three months provision does not allow a client sufficient time to consider whether they wish to have such a contract reviewed by the courts and act upon that decision. Accordingly, the society has requested an amendment to Section 58(4) of the Law Society Act increasing the time within which a client can challenge such a contract from three months to six months recognizing our responsibility to the public.

* (1020)

Removal of a Bencher, the Law Society had requested that Section 34 of The Law Society Act be repealed and a new section substituted to allow the benchers to remove an elected bencher or appointed bencher who has failed to perform his or her responsibilities as a bencher.

On further reflection we have questioned the propriety of benchers having this power over, in the case of an elected bencher, a member of the profession who has been elected by his or her peers for a two-year term and, in the case of an appointed bencher, having the power to remove a person who has been appointed by the Minister of Justice and Attorney General for Manitoba. Accordingly, we are requesting that this amendment, which is set out in Section 8 of Bill 60, not proceed.

This is a brief overview of the main components of the proposed amendments in Bill 60. The other provisions of that bill are amendments which are required to ensure that related provisions of The Law Society Act accord with the amendments as described and, in addition, as I mentioned earlier, the removal of the right of life benchers to vote at meetings of the governing body.

Mr. Chairperson: Thank you very much, Mr. Neufeld. Do members of the committee have questions they wish to address to the presenter? We have a minute and a half left for questions.

Mr. Gord Mackintosh (St. Johns): Welcome, Mr. Neufeld, and congratulations on your recent election. I wish you the best during your term of office.

I have some questions of background. First, with regard to the oath of allegiance, by the way, I do not understand why the Queen is on all the change in my pocket still. So I think we have to start rethinking the role of the monarchy in Canadian life. But certainly, with regard to the oath of allegiance, I understand there are some differences of opinion among First Nations people as to the significance of that oath.

On the one hand I hear arguments about the importance of the relationship between the Queen and First Nations people, a fiduciary relationship. On the other hand I hear arguments that some find it an affront. I wonder if that debate has been canvassed in the Law Society when recommending this change about the oath of allegiance.

Mr. Neufeld: Yes, we have considered that, and we recognize that between First Nations and the Queen there is a very close relationship. They feel very strongly about our sovereign, and for good reason and for good historical reasons. On the other hand we believe that their view is that at least many of them see themselves as a sovereign nation, or maybe I am going too far when I say that, but they have the right to self-govern, and it gets into many complicated constitutional and political issues that, frankly, we did not want to get involved in if we did not have to.

Mr. Mackintosh: Had there been any consideration–

Mr. Chairperson: Last question.

Mr. Mackintosh: Last question?

Mr. Chairperson: Unless there is leave of the committee.

Mr. Mackintosh: I thought the presentation was a limit of–

Mr. Chairperson: No, presentation includes questions and answers. Will the committee grant leave for more time?

Mr. Mackintosh: That was not clear at all. I understood the presentation was limited to 15 minutes.

Mr. Marcel Laurendeau (St. Norbert): How many committees have you been to?

Mr. Mackintosh: Pardon me. Do you want to talk?

Mr. Chairperson: Leave is granted, Mr. Mackintosh.

Mr. Mackintosh: Perhaps the member for St. Norbert (Mr. Laurendeau) would like to have the microphone for a while.

Mr. Laurendeau: Sure. Mr. Chairman, the member has attended many, many, many meetings, and at these meetings we have been proceeding with 15 minutes including questions. There is no leave by me. Thank you very much.

Mr. Chairperson: Mr. Mackintosh, leave has been granted by the committee. Would you proceed. We have a dissenter.

Mr. Mackintosh: It is quite a spectacle for the public of Manitoba, Mr. Chair.

My next question is, the change of the time period for challenging contingency agreements has been extended from three to six months. Certainly we agree that that is a positive move. I am just wondering, though, if there was some debate in the society as to extending that beyond six months, and I recognize that this is not the same test as challenging a contract, it is whether the contract is fair and reasonable in the circumstances, but had there been considerations? I guess specifically my question is, why is it six months?

Mr. Neufeld: We at the Law Society felt that doubling the time was adequate and reasonable to the public. The provision had been three months for many, many years. Frankly, we had not had a lot of trouble with it, but from time to time, we had learned that three months was not adequate, and we felt that changing it to six months would be more than adequate to protect the public.

Mr. Mackintosh: So I take it, then, there are circumstances that you are aware of where six months would have been sufficient for the clients to come forward. I assume that, unless you say otherwise.

Mr. Neufeld: Yes.

Mr. Mackintosh: Mr. Chair, my final series of questions regards the number of benchers. We have had correspondence, for the information of the committee, on the topic of the amount of northern representation, representation for the northern district. While the number of benchers from Winnipeg we see is reduced by one-half, the number of benchers for the northern district is reduced by two-thirds, from three to one, and I understand that comparing Manitoba to Ontario you have rallied an argument for the reduction as set out.

I am wondering if a better analogy has been considered; that is, looking at the distribution of northern seats in the Legislature, which are four out of 57, the benchers would be one northern out of 22 total, which compares roughly 7 percent to 4.5 percent.

Mr. Neufeld: I would like to point out that we do not believe that comparing the Legislature to the Law Society is a fair comparison. We believe that, first of all, every elective bencher represents all the citizens of Manitoba. They do not represent members in a particular area; they represent the public. It just so happens that the lawyers in a particular area get to vote for a certain number of benchers.

In addition to that, the proportion of representation–I do not like to use the word "representation"–but the number of benchers in the North, even under the proposed amendment, would allow them to have three times as many benchers from their area per practitioner as the city of Winnipeg, and we feel that is more than fair and reasonable.

Mr. Mackintosh: Has there been any consideration of perhaps if the numbers must remain the same in the view of the Law Society, the distribution, that is, that the boundaries change, given concerns expressed from northern members that the practices up there are so diverse, the territory is so large, there simply is not a commonality of interest, if you will, in the northern district, which, I think, makes a good argument for expanding the number of benchers?

Mr. Neufeld: We do recognize the particular idiosyncrasies of practising in the North. We recognize that the members there are often a great distance apart, but, frankly, we have the same in another district, namely, the eastern district of which I am a part. It covers from southern Manitoba right at the U.S. border all the way up past Pine Falls, and, frankly, there are lawyers from my

area south of the Trans-Canada that would not recognize the lawyers north of the Trans-Canada and, I suspect, vice versa. But, notwithstanding that fact, I do believe that it is fair and reasonable that our particular area only has one elected bencher giving us, again, representation, although I do not like to use that word, of three times as many per practising member as the city of Winnipeg has. So I again would say that my particular area, just like the North, is being very fairly treated by our bench.

Mr. Chairperson: Thank you. There being no more questions, we thank you for your presentation, Mr. Neufeld.

Bill 66–The Boxing and Wrestling Commission Amendment Act

Mr. Chairperson: I will now call upon Mr. Bob Holliday.

* (1030)

Mr. Bob Holliday (World Wrestling Federation): I should say first that the World Wrestling Federation is based in Stamford, Connecticut, and, as the marketing representative for the WWF, I am here to speak favourably to the deregulation of professional wrestling in the province of Manitoba.

The commission has been unable or unwilling to monitor matches outside the city of Winnipeg, and commission members, with the exception of the current chairman, Buck Matiowski, have always been reluctant to travel to or attend smaller promotions. Commission members and their friends are always at the Winnipeg Arena to fill the required 12 front row seats that we have to give them.

The WWF has tried to be a good corporate citizen. On two occasions, in September of 1992 and October of 1995, we had two days of television tapings in Winnipeg and Brandon. Last year's In Your House was only the third pay-per-view ever done outside the United States. The other two were in the Dome in Toronto and Wembley Stadium in London. The next day in Brandon, Monday Night RAW was beamed live into 1.8 million homes in the United States on the USA Network. On each of the four TV sessions, more than 200 wrestlers, technicians and support crew were in Manitoba spending money for three days, and, as well, more than 30 technicians were hired locally.

The World Wrestling Federation is committed to community involvement through the donation of tickets and merchandise to charitable organizations. On October 4, 562 less fortunate citizens attended our event at the Winnipeg Arena free of charge, and no other organization in Winnipeg can come close to meeting our commitment. Prior to the last match Jake "The Snake" Roberts spoke to about 250 students at R B Russell School. His topics, his life as a cocaine addict and alcoholic and of being sexually abused as a youngster. The World Wrestling Federation will continue to offer the best sports entertainment possible and will continue our commitment to the community.

I have attached letters from the Winnipeg Police, Winnipeg Child and Family Services, and one of the number of thank you letters I get from people who attend our matches free and also the Winnipeg Sun write-up on Jake's speech at R B Russell School.

Mr. Chairperson: Any questions?

Ms. Marianne Cerilli (Radisson): Thanks for your presentation, Mr. Holliday. I have a few questions. First of all, I just want to clarify. You have ended your presentation by saying that you will be continuing to offer the best sports entertainment, but as I understand it, with the deregulation, wrestling will be considered purely entertainment.

Mr. Holliday: Our owner, Vince McMahon, has always referred to the World Wrestling Federation as sports entertainment. When he was deregulated in New Jersey, he appeared before the Legislature and admitted that he calls the end of the matches; for the key matches he does call the ends of them.

Ms. Cerilli: Can you explain that, please.

Mr. Holliday: We had a pay-per-view last night and In Your House out of Indianapolis, and the ends of all those matches were predetermined. The public does not know who is going to win, but we do. As Archie Bunker once said in his argument with the Meathead when he said, you are watching the little Korean midget wrestlers, he said, yes, they may know who is going to win but I don't.

Ms. Cerilli: Okay. So we know that one of the things that this bill is acknowledging is that wrestling is choreographed, as some people say, and it has been that way for long time.

Mr. Holliday: Our owner has been quite–he has admitted freely that it has.

Ms. Cerilli: But in the past, under the regulation with the Boxing Wrestling Commission, was there not a requirement that the wrestlers would have to undergo physical exams, and would they have to undergo some kind of safety?

Mr. Holliday: On behalf of the WWF, our wrestlers, they have major physicals four times a year, because this is big business. The same firm that does the national basketball contract is the WWF, and they show up and do random drug testing including AIDS. They may show up three nights in a row if somebody is trying to mask something, or they may show up, you know, four times a month or four times a year. The wrestlers do not know. But our wrestlers are important to us, and without them being healthy--one of our wrestlers right now is on a fat farm for the second time. He has been told to lose 150 pounds.

Ms. Cerilli: So there will be some attention still given, and there will be regulations, self-enforced, to try and deal with health concerns and safety on behalf of the wrestler?

Mr. Holliday: We have the most stringent drug policy around. We have a couple of people who are right now in rehab. First time they are caught with failing the drug test, there is a $5,000 fine; second time, $10,000 fine; third time you have a choice, you are either gone or you go into a company-paid rehab.

Ms. Cerilli: How would you explain it that the bill is going in two directions at the same time? In a way it is deregulating wrestling, but it is bringing under regulation bouts under martial arts and kick-boxing, and those have up to this point been self-regulated.

Mr. Holliday: Well, we have always been classified by the commission as exhibition. We have never been classified as a sport. It is wrestling exhibition.

Mr. Chairperson: Thank you very much for those questions. Oh, Ms. Cerilli, you have another one?

Ms. Cerilli: Yes, I want to go back to your comments about the lack of enforcement on bouts outside of Winnipeg. I have talked to a few other people as well about why this deregulation of wrestling is occurring, and I would like for you to explain why it is that this is happening in Manitoba.

Mr. Holliday: When you do not see a commission member and the commission does not have the money to do it, and my friend, Tony Condello, who stages matches up in Flin Flon and the very northern Manitoba where he does a $3,000-gate, so if he was forced to pay to have a commission member there, you know, he loses money as it is without having to lose more money paying into a commission.

Ms. Cerilli: So, as I understand it, the commission takes one-third of the gate.

Mr. Holliday: It is 1 percent.

Ms. Cerilli: So that will no longer occur under the deregulation, but I am wondering if you can clarify for us the total amount in Manitoba that the WWF is dealing with in terms of the gate over a year period.

Mr. Holliday: Winnipeg is down to two to three matches a year, because the WWF at one time was running up to three shows a night but killing the wrestlers in between, so they have reduced down to 15 live shows plus TV a month. Winnipeg is classified as the A card, so our next date in Winnipeg is May 3, or May 4–we have booked the Winnipeg Arena.

When we have a match at the arena as last October 4, between the taxes and everything else that Winnipeg Arena–their share of our gate was over $40,000.

Hon. Jim Ernst (Minister responsible for the administration of The Boxing and Wrestling Commission Act): Just a point of clarification, that is the Winnipeg Arena and City of Winnipeg taxes and so on. It is not the commission.

Mr. Holliday: That is not the commission. It was, you know, the arena gets to keep the 10 percent amusement

tax. We pay 12 percent rent. We pay 5 percent for them to look after our box office, and then they charge you $2.50 to buy the ticket. They take 33 percent of our merchandise that are sold, but out of our $102,000 gate last time, we only received $55,000. The rest went to the Winnipeg Arena.

Ms. Cerilli: That was $55,000 from–what was the total at the gate?

Mr. Holliday: $102,565.23.

Ms. Cerilli: I am just concerned about–with wrestling deregulated it still will portray violent combat even though it is fixed, a decided match prior to the bout, and I am wondering how it now will be classified. I mean, we have regulations now where videos and movies and games are classified when they have violent content, so I am wondering how wrestling will be classified and regulated in terms of its portrayal of violence.

Mr. Holliday: Well, speaking for the World Wrestling Federation, the Canadian Association of Broadcasters has a standard code for children's shows, and our enforcement is stricter than theirs. We have stricter standards than the Canadian Association of Broadcasters, which allows us to be on daytime television on a weekend, which is usually reserved for children.

You will never see any blood with the World Wrestling Federation. There is no blading, there are no blood capsules. Blading, in case you are wondering, is where they cut themselves with a razor blade. You will never see that with the World Wrestling Federation.

* (1040)

Ms. Cerilli: Okay, there are a couple of things here. But the commission will regulate other professional bouts other than just World Wrestling Federation, will they not?

Mr. Holliday: The best explanation of wrestling was given to me before I was in the business, by Nick Bockwinkel, who was the perennial champion of the American Wrestling alliance, and he said: When I step into the ring I loan my body to my opponent on condition he not hurt me. He can do what he wants with it, but he does not abuse my body. You get thrown around a lot, and a wrestler will not deliberately go out to injure another wrestler.

Ms. Cerilli: Maybe that question would be better asked of the minister anyway, but will the WWF have a list of holds or maneuvers that are going to be prohibited in the bouts that they–no? So there will not be a code of combat, I guess you could say, that will be enforced by the referees or by the WWF. So there could be serious injuries that still occur in these bouts.

Mr. Holliday: There is always the chance of injuries because today's wrestlers are doing things off the top rope. They are doing more high-risk maneuvers; they are doing things that people used to think were exciting in the middle of the ring and now they are doing them off the top rope. We have finely tuned athletes. They wrestle, they are on the road somewhere between 300 and 320 days a year. They are not about to knock somebody out of good paydays, and the higher the risk, the better the fans love them and the bigger paydays they are going to get.

Ms. Cerilli: So what happens if it is something that is not in the script, but there is a fighter that is injured?

Mr. Holliday: Well, in our last match in Winnipeg we had 24 wrestlers, and I believe 15 of them took advantage of Glen Bergeron [phonetic] from the University of Winnipeg to be worked on. These guys are on the road; they are getting thrown around. They do get hurt, and that is why some guys disappear for a while and come back. They have a neck operation; they have had whatever. Injuries do happen. But they travel a lot. I can take two wrestlers who have never seen each other, and within five minutes of a match, they will be putting on a spectacular match.

Mr. Chairperson: Ms. Cerilli, you have about a minute and a half.

Ms. Cerilli: Okay. I do not want to take too much more time on this. Some of these questions I will ask of the minister, but my question was, what will occur in terms of consequences or protection for fighters if there is injury by one fighter to another?

Mr. Holliday: They have always classified themselves as the last of the free enterprisers. They have a–their

work code is, you do not wrestle, you do not get paid. So if they hurt somebody, they know that somebody down the line is going to come back and hurt them.

Mr. Chairperson: No further questions? Mr. Holliday, thank you very much for your presentation.

I will now canvass the room to see if there are any other persons wishing to speak to the bills that were referred to the committee this morning. Any other presenters? There being none, Mr. Minister?

Mr. Ernst: Mr. Chairman, I propose that we deal with bills in the following order: Bills 22, 28, 29, 45, 46, and then deal with Bills 60, 62, 25 and 66.

Mr. Chairperson: Is that agreed? [agreed]

Bill 22–The Credit Unions and Caisses Populaires Amendment Act

Mr. Chairperson: Then starting with Bill 22, The Credit Union and Caisses Populaires Amendment Act. Is it the wish of the committee to deal with the bill in blocks of clauses? [agreed]

Hon. Jim Ernst (Minister of Consumer and Corporate Affairs): I do have one amendment to Section 9, Mr. Chairman, but beyond that, if I might introduce members of the committee to my deputy minister, Mrs. Alex Morton; and Mr. Ron Pozernick, who is the director of the Trust Loan and Credit Union section. In the interest of time, I have no opening statement.

Mr. Chairperson: Okay, and none by the critic, I note his nod.

We will begin then with the clauses, leaving the preamble and title till after.

Clauses 1 and 2–pass; Clauses 3 through 8–pass.

Clause 9, the minister has an amendment.

Mr. Ernst: Mr. Chairman, in both official languages, I move

That section 9 of the Bill be amended

(a) in clause (a), by striking out "or" and "by-laws"; and

(b) in clause (b), by striking out "and" and "by-laws"

[French version]

Il est proposé que l'article 9 soit amendé:

a) dans l'aliné a), par substitution, à "or charter by-laws", de "charter";

b) dans l'aliné b), par substitution, à "suppression de 'et de ses règlements constitutifs' ", de "substitution, à 'constitutifs', de 'administratifs'".

This is a technical amendment. Something was missed at the time that the bill was drafted.

Mr. Chairperson: Amendment–pass. Clause 9 as amended–pass. Clauses 10 through 15–pass; Clauses 16 through 20–pass; Clauses 21 through 26–pass; Clause 27–pass; Clauses 28 through 30(3)–pass; Clauses 30(4) through 32(3)–pass; Clauses 32(4) through Clause 35–pass; Clauses 36 through 39–pass; Clauses 40(1) through 42–pass; Clauses 43 through 46(2)–pass; Clauses 46(3) through 52(1)–pass; Clauses 52(2) through 55(1)–pass; Clauses 55(2) through 57–pass; Clause 58–pass; Clauses 59 through 65–pass; Clauses 66(1) through 66(4)–pass; Clauses 66(5) through 72–pass; Clauses 73 through 75–pass; Clauses 76 and 77–pass; Clauses 78 through 81–pass; Clauses 82(1) through 87–pass; Clauses 88(1) through 89(1)–pass; Clauses 89(2) through 92–pass; Preamble–pass; Title–pass. Bill as amended be reported.

Bill 28–The Winnipeg Stock Exchange Act

Hon. Jim Ernst (Minister of Consumer and Corporate Affairs): I have one amendment.

Mr. Chairperson: Which section?

Mr. Ernst: Section 11(1)(c).

Mr. Chairperson: Any other statement, Mr. Minister?

Mr. Ernst: No.

Mr. Chairperson: Critic from the official opposition? No statement.

Again, we will leave the preamble and the title till the end, and we will begin then with blocks of clauses. Is that agreed? [agreed]

Clause 1–pass; Clauses 2 and 3–pass; Clauses 4(1) through 7(1)–pass; Clauses 7(2) through 8(4)–pass; Clauses 9(1) through 10–pass.

We have an amendment proposed with respect to Clause 11.

* (1050)

Mr. Ernst: Mr. Chairman, I move in both official languages

THAT Clause 11(1)(c) be amended in the English version by adding "in" after "only".

[French version]

Il est proposé que l'alinéa 11(1)c) de la version anglaise du projet de loi soit amendé par adjonction, après "only", de "in".

Mr. Chairperson: Amendment–pass; Clause 11(1) as amended–pass; Clauses 11(2) and 11(3)–pass; Clauses 11(4) and 12–pass; Clauses 13, 14, 15, 16–pass; Preamble–pass; Title–pass. Bill as amended be reported.

Bill 29–The Winnipeg Commodity Exchange Act

Mr. Chairperson: Mr. Minister, any opening statement?

Hon. Jim Ernst (Minister of Consumer and Corporate Affairs): No, other than to say I have four amendments to this bill. They are all technical, pretty much, in nature.

Mr. Chairperson: Starting where?

Mr. Ernst: Starting with Clause 1.

Mr. Chairperson: Any statement from the official opposition? No? We shall proceed, leaving the preamble and title to last. We have an amendment proposed for Clause 1.

Mr. Ernst: I move in both official languages

THAT section 1 be amended in the French version by striking out the definition " marchandise" et "contrat à terme" and substituting the following:

"marchandise" et "contrat à terme de marchandises" S'entendent au sens de la Loi sur les contrats à terme. ("commodity", "commodity futures contract")

[French version]

Il est proposé que la définition de "marchandise" et "contrat à terme", à la version française de l'article 1 du projet de loi, soit remplacée par ce qui suit:

"marchandise" et "contrat à terme de marchandises" S'entendent au sens de la Loi sur les contrats à terme. ("commodity", "commodity futures contract")

Mr. Chairperson: Amendment–pass. Clause 1 as amended–pass; Clauses 2 and 3–pass; Clauses 4(1) through 4(3)–pass.

An amendment with respect to Clause 5, Mr. Minister?

Mr. Ernst: I move in both official languages

That section 5 be amended in the English version by striking out "object" and substituting "objects".

[French version]

Il est proposé que l'article 5 de la version anglaise du projet de loi soit amendé par substitution, à "object", de "objects".

Mr. Chairperson: Amendment–pass. Clause 5 as amended–pass; Clause 6–pass.

Clause 7, there is an amendment–[interjection] I said six; 6 inclusive of all subsections. That was understood by the committee? [agreed] Clause 6 in its entirety has accordingly passed.

Clause 7, you have an amendment.

Mr. Ernst: I move in both official languages

THAT Clause 7(1)(b) be amended in the French version by striking out "maximun" and substituting "maximum".

[French version]

Il est proposé que l'alinéa 7(1)(b) de la version française du projet de loi soit amendé par substitution, à "maximun", de "maximum".

Mr. Chairperson: Amendment–pass. Clause 7 as amended pass; Clause 8(1)–pass; Clauses 8(2) through 9(2)–pass; Clauses 9(3) through 9(5)–pass.

There is an amendment with respect to 9(6).

Mr. Ernst: I move in both official languages

THAT subsection 9(6) be struck out and the following substituted:

Officer cannot be director or member
9(6) No officer of the Corporation, except the chair and any vice-chair of the board of directors, shall be a member of the Corporation and no officer of the Corporation, except the chair and any vice-chair of the board of directors and the president, shall be a director of the Corporation.

[French version]

Il est proposé que le paragraphe 9(6) soit remplacé par ce qui suit:

Interdiction
9(6) Les dirigeants de la Corporation ne peuvent être membre de celle-ci, à l'exception du président et des vice-présidents du conseil d'administration, ou administrateur de celle-ci, à l'exception du président et des vice-présidents du conseil d'administration et du président de la Corporation.

This captures the intent a little better of what was anticipated, as opposed to what is actually there, so we are trying to maintain the division of people.

Mr. Chairperson: Amendment–pass. Clause 9(6) as amended–pass; Clauses 10 and 11(1)–pass; Clauses 11(2) through 11(4)–pass; Clauses 12 and 13–pass; Clauses 14, 15 and 16–pass; Preamble–pass; Title–pass. Bill as amended be reported.

Bill 45–The Consumer Protection Amendment Act

Hon. Jim Ernst (Minister of Consumer and Corporate Affairs): Okay, we have four amendments here.

Mr. Chairperson: Where does the first amendment occur, Mr. Minister?

Mr. Ernst: Section 2.

Mr. Chairperson: I take it there are no opening statements then?

Mr. Ernst: No.

Mr. Chairperson: The preamble and title are left to the end. Clause 1–pass.

Clause 2.

Mr. Ernst: I move, Mr. Chairman, in both official languages

THAT the proposed section 61, as set out in section 2 of the Bill, be renumbered as 61(1) and that the following be added as subsection 61(2):

Requirements re oral agreement
61(2) If an agreement for a retail sale or retail hire purchase to which this Part applies is not in writing, the vendor shall provide to the buyer, at the same time that the agreement is entered into, a written statement of cancellation rights that conforms with the requirements prescribed by the minister.

[French version]

Il est proposé que l'article 61, énoncé à l'article 2 du projet de loi, devienne le paragraphe 61(1) et qu'il soit ajouté, après le paragraphe 61(1), ce qui suit:

Conditions de validité des conventions orales
61(2) Lorsqu'une convention de vente au détail ou de location-vente au détail à laquelle s'applique la présente

partie n'est pas conclue par écrit, le marchand donne par écrit à l'acheteur, au moment de la conclusion de la conventon, un avis de droit d'annulation qui est conforme aux exigences prescrites par le ministre.

* (1100)

The reason for this amendment is to make it absolutely clear, in the case where there is no written agreement, they still have to provide a statement of rights to the purchaser so that they fully understand what rights they have under this agreement.

Mr. Chairperson: Amendment–pass. Clause 2 as amended–pass.

Clause 3(1).

Mr. Ernst: I have two more amendments under this section. It is actually under Section 2. We got a little ahead of ourselves there.

Mr. Chairperson: With leave of the committee, can we revert back to Clause 2 and redo that one? [agreed]

Is that the only other amendment to Clause 2 then?

Mr. Ernst: No, we have an amendment to Clause 62(1), and I would move, in both official languages,

THAT the proposed subsection 62(1), as set out in section 2 of the Bill, be amended by striking out ", excluding Sundays and holidays,".

[French version]

Il est proposé que le paragraphe 62(1), énoncé à l'article 2 du projet de loi, soit amendé par suppression de "Sont exclus du calcul de la période des 10 jours les dimanches et les jours fériés.".

The reason for doing that, Mr. Chairman, is in order to be harmonious with our fellow provinces. We went to the maximum of 10 days from the current seven. What happened was that some exclude Sundays and holidays and some do not, so to reach harmony in this agreement, we have decided to–there are two other provinces who have already passed legislation in this regard, and others are in process. This is the general agreement reached by the working groups from across the country. We are not worse off in Manitoba than we were before. In come cases, we are better off, depending upon how contracts fall on a weekend and so on.

Mr. Jack Penner (Emerson): Mr. Chairman, if you might allow me just to make a brief comment on Section 62(1), the amendment thereof, can we revert back to that one? That is the one dealing with striking out the exclusion of Sundays and holidays.

Mr. Chairperson: That is the motion now before you, yes.

Mr. Penner: This, of course, means that we are now including that contracts can be written and agreed to.

Mr. Chairperson: Mr.Minister, clarification on this section.

Mr. Ernst: For purposes of clarification, what it means is that from the day the contract is signed, for the next 10 running days, including weekends, the purchaser has a right of cancellation.

Mr. Penner: It is all-inclusive, not 10 business days.

Mr. Ernst: That is right. It is 10 running days.

Mr. Penner: Ten running days.

Mr. Chairperson: Amendment–pass.

Okay, we have another amendment with respect to Clause 2.

Mr. Ernst: I move, Mr. Chairman, in both official languages

THAT the proposed subsection 62(3), as set out in section 2 of the Bill, be amended by adding "any" before "goods" and before "services".

[French version]

Il est proposé que le paragraphe 62(3), énoncé à l'article 2 de la version anglaise du projet de loi, soit amendé par substitution, à "of goods or provision of services", de "of any goods or provision of any services".

Mr. Chairperson: Amendment–pass. Clause 2 as amended–pass; Clause 3(1)–pass; Clauses 3(2) through 7–pass; Clause 8–pass; Preamble–pass; Title–pass. Bill as amended be reported.

Can we have leave to revert to Bill 45 and, in particular, following Clause 8. It will be a new clause.

It is not a new clause, I am informed. It is a renumbering of the statute to accommodate the amendments.

Mr. Ernst: I move in both official languages

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.

Mr. Chairperson: Is that agreed? [agreed]

Bill 46–The Securities Amendment Act

Mr. Chairperson: Next Bill 46, The Securities Amendment Act. Does the minister responsible have an opening statement?

Hon. Jim Ernst (Minister of Consumer and Corporate Affairs): No.

Mr. Chairperson: The critic from the official opposition. Proceed. Leaving the preamble and title till the end.

Clauses I through 4–pass. There is an amendment, I understand, for Clause 5.

Mr. Ernst: I move in both official languages

That the proposed subclause 149(r)(iii), as set out in section 5 of the Bill, be amended in the English version by adding "of fees payable to the commission" after "exchanges".

[French version]

Il est proposé que le sous-alinéa 149r)(iii) de la version anglaise, énoncé à l'article 5 du projet de loi, soit amendé par adjonction, après "exchanges", de "of fees payable to the commission".

This was inadvertently left out of the original draft.

Mr. Chairperson: Amendment–pass. Clause 5 as amended–pass; Clause 6–pass; Preamble–pass; Title–pass. Bill as amended be reported.

Next Bill 62, The Jobs Fund Repeal Act. What is the will of the committee? Do you want to do Bill 62 now?

It has been agreed by the committee that Bill 60 is next. The Minister of Justice is going to come forward. The next bill considered will then be Bill 60, The Law Society Amendment Act. Does the minister responsible have an opening statement?

Bill 60–The Law Society Amendment Act

Hon. Rosemary Vodrey (Minister of Justice and Attorney General): Mr. Chair, the president of the Law Society, I believe, indicated a very significant amount of background to this bill, so I will not repeat that. However, as I indicated at second reading, the bill does propose a number of changes to make operations of the Law Society more efficient and as well includes a provision that extends the time within which a client can challenge a contingency fee contract.

Since the second reading stage, I have had an opportunity to discuss with the Law Society further the background of certain provisions, and there are a couple of changes proposed in the bill that I will be recommending not be proceeded with.

I will be proposing that we not proceed at this time with changes to the oath, and at the request of the Law Society we will be proposing that we not proceed with changes providing for removal of benchers. Now, Mr. Chair, I am prepared to proceed clause by clause when my critic is ready.

Mr. Chairperson: Mr. Mackintosh, as the official critic, do you have an opening statement?

Mr. Gord Mackintosh (St. Johns): I just have some questions, Mr. Chair, first on the issue of the oath, I wonder if the government can give the reasons why it is not proceeding. I understand that Mr. Neufeld did not withdraw that particular section.

Mrs. Vodrey: As Mr. Neufeld indicated, however, in his discussion, there is variance of opinion within the Law Society regarding this area, and variance of opinion and concern regarding the oath also came forward to government.

There is also another issue. First of all, there is the evidence of a wide range of views concerning the propriety of the present oath, and there is also a wide range of views with respect to the constitutional validity of the current provision. But government believes that it is important that the bill move forward, and so we are going to move to sever the oath issue from the bill. This way we can consult further with the Law Society and also the legal community concerning the direction that ought to be taken regarding the oath.

Mr. Mackintosh: Given I think that it has been generally accepted that the section is more inclusive when the oath is done away with, I am just wondering what representations the government has received then from parties outside of the Law Society on this issue.

* (1110)

Mrs. Vodrey: Certainly MLAs have brought forward this issue representing their constituencies. For that reason we took the issue back to the Law Society. The Law Society, again in Mr. Neufeld's comments, indicated that this issue is one in which there are a number of different opinions. So at this time we will be moving to sever that section from the bill in order to move the bill forward and to have the Law Society continue with consultation to deal with the matter of the oath.

Mr. Mackintosh: What is the government's view on oaths of allegiance to the Queen in general and specifically with regard to people being called to the bar? Does it not have a policy on that?

Mrs. Vodrey: Within The Law Society Act there is a requirement–and I am just looking to see if I can find the section, I think I have it–which requires that the person, and I am quoting here, "shall be called to the bar, or admitted as a solicitor, or be entitled to carry on the practice or profession of a barrister or solicitor . . . unless the person takes in court, before a judge of the Queen's Bench, the following oaths: the oath of allegiance in the form prescribed by the Oaths of Allegiance (Canada.)"

The Oaths of Allegiance (Canada) then says, and I will just quote a phrase from it: shall have administered and take the oath in the following form and no other. And so in dealing with the matter, as we see, is consistent with both the direction within The Law Society Act and also the issue as it is covered then in the oath of allegiance. This matter clearly has to be dealt with more fully by the Law Society.

Mr. Mackintosh: I am wondering if the Attorney General has an independent legal opinion, given information from Mr. Neufeld that the requirement of the oath of allegiance to the Queen may well be contrary to the Charter and Rights and Freedoms of Canada.

Mrs. Vodrey: What we have is, in fact, the range of opinions which clearly gives arguments on both sides. With that being the issue and with the concern around the provisions within The Law Society Act at the moment that refer to Oaths of Allegiance (Canada) which stipulates this oath and no other, government is not prepared to move ahead with this clause at this time until the Law Society has dealt with the issue with their members.

Mr. Mackintosh: On the second issue, that of the northern representation, has the minister reconsidered the northern representation as set out in the bill, and is she now of the view that that should change and be increased from one to two?

Mrs. Vodrey: The Law Society again informs us that given the ratio of practising lawyers across the province, this ratio does appear to be appropriate. We also have accepted on this matter the study which was done by the Law Society in the area of numbers of benchers, and also that this change in numbers of benchers in general provides for a greater proportion of representation of citizens.

Mr. Mackintosh: Well, we certainly recognize the increase in proportion of representation by nonlawyers;

however, we also recognize the Law Reform Commission has recommended that one-third of the representation be nonlawyers. So I do not think there can be any great applause for any movement on that front yet. I think we have to have a general public policy debate and position taken on lay representation on self-governing professions.

But in terms of the northern district representation, has the minister considered how disproportionate the northern representation is on the Law Society when one considers the representation by northern members in the Legislature, for example, and has the minister also considered a change of boundaries to shrink, if you will, the northern district to better allow representation than if one member indeed is going to be assigned to the northern district?

Mrs. Vodrey: The Law Society informs me that they have looked at this matter and that they believe that this is consistent with the formal judicial districts and that the representation in the light of the large number of changes that they have made in terms of representation is what has been recommended, and government has accepted that.

Mr. Chairperson: Leaving the preamble and the title till last, we will then proceed with the block clause addressing of the clauses.

Clauses 1, 2 and 3 pass–pass; Clause 4 through 7(2) –pass.

We have an amendment with respect to Clause 8.

Mrs. Vodrey: Section 8 of the bill deals with one of the issues that I mentioned in my opening remarks, that is, the removal of benchers who are not properly carrying out their responsibilities.

As I indicated, the Law Society has requested that we not proceed with these changes at this time. I had thought that I would be moving a motion to strike out Section 8 of the Bill. However, I am advised that the appropriate approach procedurally is to vote against this section.

Mr. Chairperson: We are now addressing Clause 8 with those remarks in mind. Shall Clause 8 pass?

Some Honourable Members: No.

Mr. Chairperson: Clause 8 is not passed, is defeated. With respect to Clause 9, do we have another amendment?

Mrs. Vodrey: In relation to 9, I move in both official languages

THAT clause 9(b) of the Bill be struck out.

[French version]

Il est proposé de supprimer l'aliné 9b) du projet de loi.

Mr. Chairperson: Amendment–pass; Clause 9 as amended–pass.

There is an amendment with respect to 10.

Mrs. Vodrey: Mr. Chair, Section 10 of the bill deals with the oaths to be taken by persons being called to the bar or being admitted as a solicitor. I have explained in earlier answers to questions from the member for St. Johns (Mr. Mackintosh) that again it has become evident that there are a wide range of views concerning the propriety of the present oath, and there are a range of views with respect to its constitutional validity. Because we believe the bill should move forward, we think it is best to sever the oath issue from the bill. That way we can consult with the Law Society further and also the legal community as can the Law Society do the same as well.

Once again I am advised that the appropriate course of action procedurally is to vote against this section rather than to move a motion to strike it out.

Mr. Chairperson: With that in mind, shall clause 10 pass?

Some Honourable Members: No.

Mr. Chairperson: Clause 10 is defeated. Did you request a vote? A voice vote.

* (1120)

Voice Vote

Mr. Chairperson: All in favour of Clause 10, say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All opposed, say nay.

Some Honourable Members: Nay.

Mr. Chairperson: The Nays have it. The clause is defeated.

Clause 11 pass–pass; Clause 12-13(2)–pass.

Now there is a motion with respect to numbering.

Mrs. Vodrey: I move,

THAT Legislative Counsel be authorized to change all the 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.

Mr. Chairperson: Is it agreed? [agreed]

Preamble–pass; Title–pass. Bill as amended be reported.

Mr. Marcel Laurendeau (St. Norbert): Before we pass the bill, Mr. Chairperson, I would like to apologize both to the committee and to the member for St. Johns (Mr. Mackintosh) for my behaviour earlier at the beginning of the committee. It was inappropriate, and I expect more of the members. So I apologize.

Mr. Chairperson: I really appreciate that, Mr. Laurendeau, and I apologize as the Chair for treating you so abruptly at that time. Your point was, as I understand it, if you had withdrawn your support for what had been agreed to–unanimous support is required. I had treated you as having given support before and I did not treat it as an official withdrawal. So I hope that is okay and understood by you, Mr. Laurendeau.

Mr. Laurendeau: Agreed to proceed.

Mr. Chairperson: Thank you very much.

I do want to clarify because Mr. Laurendeau had made that very courteous intervention, and I just want to confirm that Bill 60 as amended shall be reported. Agreed? [agreed]

Bill 62–The Jobs Fund Repeal Act

Mr. Chairperson: Another minister has joined us here, Mr. Cummings.

Hon. Glen Cummings (Minister of Environment): No opening statement.

Mr. Chairperson: No opening statement. Any critic statement? There being none--oh, Mr. Sale.

Mr. Tim Sale (Crescentwood): Very briefly, Mr. Chairperson, I will just make a comment that the other night Councillor Murray of City of Winnipeg made a very impassioned as well as well-informed appeal on the basis that governments could save money from their current level of expenditures on social assistance if they were willing to enter into the kinds of creative partnerships that were contemplated in the Jobs Fund and other such things as the federal infrastructure act. I think it is appalling that the government is not prepared to have legislation in place that would allow for creative partnerships of the kind contemplated in this act and for which there have been very good returns in terms of real employment and real gains to the community. Councillor Murray made the case that in the order of several thousand recipients of social assistance could be gainfully employed developing skills and improving the infrastructure of the city of Winnipeg at no net cost to the government's concern apart from the actual supplies in point which, of course, would generate economic activity in the community.

I have no other comments, but I put on the record that I think this marks a sad end to what was a very effective program.

Mr. Cummings: Mr. Chairman, I was not going to be involved in debate, but, seeing as how there is a eulogy being given, let me only say that we want to see real jobs and real work being done, which was not the record that

we saw and that there are other mechanisms that we can use. Therefore, this mechanism is not being used.

Mr. Chairperson: The debate having been joined, we will now proceed with the–

Mr. Jack Penner (Emerson): Mr. Chairman, thank you very kindly. I heard what Mr. Sale said, and I also heard what the honourable minister said. I want to confirm, though, that those of us who sat in committee that day heard two presentations from city councillors, and it was obvious that there was not agreement. Listening to both those presentations and, therefore, I think the move that is being made here is the correct move. I would entertain that committee members and ministers might well enter into dialogue through further dialogue with the City of Winnipeg in the issue that Mr. Sale identifies. I concur with that. There is some progress to be made, but it is obvious there is not total agreement within City of Winnipeg Council.

Mr. Chairperson: My hope is that we are not going to now move into debate of a bill that has already been passed. Mr. Sale, if your point is not going to be dealing with this bill, I am going to rule it out of order.

Mr. Sale: Mr. Chairperson, I want to correct the record. Only one councillor spoke the other night, Councillor Murray. No other councillor was present.

Mr. Chairperson: I rule this out of order, Mr. Sale.

Next, we will now be dealing with The Jobs Fund Repeal Act, Bill 62, leaving the preamble and title until the last.

Clauses 1 and 2–pass; Preamble–pass; Title–pass. Shall the bill be reported?

Some Honourable Members: Agreed.

Some Honourable Members: No.

Voice Vote

Mr. Chairperson: On whether or not the bill should be reported, we have asked for a vote.

All those in favour, say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, say nay.

Some Honourable Members: Nay.

Mr. Chairperson: The Yeas have it. The bill shall be reported.

Formal Vote

An Honourable Member: Recorded vote, please, Mr. Chair.

Mr. Chairperson: On division or recorded vote?

An Honourable Member: Recorded vote.

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

Mr. Chairperson: The bill shall be reported on a vote of five to four.

Bill 25–The Jury Amendment Act

Mr. Chairperson: The honourable Minister of Justice has now joined us. Do you have an opening statement with respect to Bill 25, The Jury Amendment Act?

Hon. Rosemary Vodrey (Minister of Justice and Attorney General): I would like to also take a moment to introduce Donna Miller, who is the director of the Constitutional Law branch and John Barr, who is a Crown attorney and counsel in the Constitutional Law branch.

Mr. Chair, I advised the House on second reading, the purpose of this bill is to provide summary relief to an employee whose employer has violated The Jury Act and to address issues raised in the Loscerbo case. The government's proposed amendments are at the forefront of the Canadian legislation in the protection of employment rights of prospective jurors. There were a number of points raised during the debate in the House, and I would just like to comment on some of those. Drafting the 1992 amendments, the wording of the 1992 amendments was based on the Ontario Jury Act and that legislation remains unchanged today.

Mr. Chair, the issue of the $5,000 maximum fine for an offence does seem an appropriate ceiling. By way of contrast, the maximum fine in Saskatchewan for a breech of their Jury Act is $1,000. The fine imposed by the court in the Loscerbo case was $1,200. The next was the issue of a $5,000 maximum compensation for loss of wages. It is important to understand the rationale for the compensation order that these amendments would allow a court to make under 24.1(4).

* (1130)

First, this is an additional avenue for an aggrieved employee to obtain an order against an employer for lost wages. An employee who does not wish to avail himself or herself of this avenue can bring a separate civil action in the Court of Queen's Bench for wrongful dismissal. This ability is expressly preserved by this bill in Section 24(1)(7). In addition to court action, an employee may also avail himself or herself of a collective agreement or the provisions under The Employment Standards Act. So it is important to understand that Section 24(1)(4) of this bill is just adding one more tool for an employee who wishes to obtain redress for lost wages against his or her employer.

It is also important to understand that this remedy is a summary one to be awarded expeditiously at the conclusion of the sentencing process of the employer's trial. This rationale acknowledges the Supreme Court of Canada case of the Queen and Zelensky that ruled that compensation for loss should be determined expeditiously and without turning the sentencing process into a form of civil trial. As to the $5,000 limit this maximum is consistent with that under the Queen's Bench Small Claims Practices Act which affixes a limit of $5,000 with respect to jurisdiction over small claims. This limit acknowledges the constitutional restrictions relating to matters that can be assigned to provincially appointed judges and is based on our constitutional advice from senior officials in my department.

This two-pronged approach allowing for punishment for an employer who has committed an offence under Section 24(1)(3) while at the same time providing a summary mechanism for benefits to a wronged employee is at the forefront of Canadian legislation. It preserves the integrity of our jury system and protects the employment rights of prospective jurors by making it clear to their employers what their responsibilities are, both with respect to the civil and criminal consequences.

In the area of juror's compensation, jury duty has been traditionally regarded as a civic responsibility. Compensation is paid at the rate of $20 per day for being summoned to the jury panel and $30 per day once selected to serve on a jury. This amount is not taxed. The compensation is not intended to be a salary because such service is regarded as a civic duty, but provisions in the act allow for a prospective juror to be excused for reasons of hardship or loss according to Section 25(1) and no juror has to serve again within two years of having served on a jury. This is set out in Section 25(3). While payment in Manitoba is on a per diem basis, no fee is paid in Saskatchewan and in New Brunswick and Ontario. Jurors are only paid when their trial continues for more than 10 days.

There has been a question of reverse onus provision. The honourable member for St. Johns referred to in his comments in the House to a Law Reform Commission report from 1980 on jury reform relating to a reverse onus clause. In fact the paper which the member was referring to was not a final report of the federal Law Reform Commission but only a working paper; in other words, a discussion document. In the final report the federal Law Reform Commission decided against making any recommendations with respect to the protection of jurors' employment, and this is a quote: Since reform or federal legislative enactment did not seem urgent or even appropriate in these areas. That is the end of quote.

In any event the working paper from which the member was quoting was suggesting a reverse onus clause, but that was in 1980, prior to the passage of the Charter of Rights. Under Section 11(d) of the Charter, and I quote: Any person charged with an offence has the right to be presumed innocent until proven guilty according to the law in a fair and public hearing by an independent and impartial tribunal.

There were also concerns expressed about the Aboriginal Justice Inquiry, and I just would like to make a brief comment. Aboriginal representation on juries has been an issue in Manitoba as recently as 1993 when it was raised in the case of the Queen and Bear Tooth, Manitoba. The concerns expressed in the Aboriginal Justice Inquiry were dealt with by Mr. Justice Michel

Monnin who was then a judge in the Manitoba Court of Queen's Bench.

Defence counsel had raised the issue of a representative jury not being available in Winnipeg to consider the evidence against an aboriginal accused, charged with robbery, but Mr. Justice Monnin noted that the basis for a jury roll is a random selection of names from lists generated from the Manitoba Hospital Services Commission database. Because of that database, and I quote: There is no evidence to support the assumption that there may be an insufficient number of aboriginal persons to draw from if the jury roll has been selected from within Winnipeg residents. This is a quote quite to the contrary.

Mr. Justice Monnin wrote–and then he ruled that the jury panel had been properly constituted. As well, the Manitoba Court of Appeal in 1986 ruled in the case of the Queen and Kent that, and this is a quote: Absence of members of a particular race from a jury does not constitute proof of discrimination, particularly where there has been no deliberate exclusion of persons of a particular race or origin throughout the jury selection process.

Now, Mr. Chair, with those opening comments I am prepared to deal with the bill clause by clause.

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

Mr. Gord Mackintosh (St. Johns): I take it then that the minister is rejecting all of the amendments that were proposed to her on October 7 by letter. I wonder if the minister can respond to that.

Mrs. Vodrey: Mr. Chair, yes, the proposed amendments from the member for St. Johns will not be accepted because there are certainly reasonable explanations as to why we would not be proceeding, many of which have been answered in my opening comments.

Mr. Mackintosh: From the minister's comments I see nothing there that would dissuade us from proceeding with the amendments. I think the bill in its current form gives insufficient respect to both employees and the jury system. It is interesting that the government has, by way of this bill, for the first time recognized the principle that it should bear some of the burden of ensuring compensation for anyone fired as a result of being called to jury duty. However, having recognized the principle, the government limited the principle of $5,000. While there may be arguments about Small Claims Court which I do not think apply, and there may be arguments as well about Provincial Court certainly, there are courts in Manitoba that can hear such a claim. While there is a mixture of compensation and criminal sanction set out in our proposed amendments, we believe that having gone part way the government has an obligation to fully respect the needs of employees who are fired by one of the worst discriminatory actions that can exist and that is when they fulfill their civic duty to serve on juries.

Mrs. Vodrey: Mr. Chair, I believe that my opening comments did in fact address the issue of the $5,000, the summary nature of this, and also the other options which are available to individuals. Also, I believe that I have addressed the other comments made by the member and, in addition, some comments I am prepared to make if he does decide to bring forward the amendments one by one.

Mr. Chairperson: We will then proceed with the bill. Starting, we will go past the preamble and title and leave them till last. Clause-by-clause consideration.

Clauses 1 and 2 of Bill 25, The Jury Amendment Act–pass; Clauses 3(1) and 3(2)–

Mr. Mackintosh: I have an amendment to subsection 3(2) of the bill in both official languages.

Mr. Chairperson: Will we then deal with 3(1). Clause 3(1)–pass.

The amendment with respect to 3(2) is being circulated. Any discussion on the amendment–oh, you will have to move it.

Mr. Mackintosh: I move

THAT the proposed subsection 24.1(4), as set out in subsection 3(2) of the bill, be amended by striking out everything after "employer" and substituting the following:

do one or more of the following:

(a) pay to the employee an amount by way of compensation for

(i) any actual loss of wages or benefits sustained by the employee, or

(ii) any expenses incurred by the employee,

as a result of the commission of the offence; or

(b) reinstate the employee to his or her position, or provide the employee with alternative work of a comparable nature at not less than his or her wages at the time of the commission of the offence and without loss of seniority or benefits accrued to the time of the commission of the offence.

[French version]

Il est proposé que le paragraphe 24.1(4), énoncé au paragraphe 3(2) du projet de loi, soit amendé par substitution, au passage qui suit "l'employeur", de ce qui suit:

d'accomplir l'une ou plusieurs des choses suivantes:

a) verser à l'employé, en raison de la perpétration de l'infraction, un montant à titre d'indemnité:

(i) pour la perte réelle de salaire ou d'advantages qu'il a subie,

(ii) pour les dépenses qu'il a engagées;

b) réintégrer l'employé dans ses fonctions ou lui confier des tâches comparables sans réduction du salaire qu'il gagnait au moment de la perpétration de l'infraction et sans perte de l'ancienneté ou des avantages accumulés jusqu'à ce moment.

Motion presented.

* (1140)

Mrs. Vodrey: Mr. Chair, just in answer, first of all, to expand the compensation provision to include amounts for loss of benefits and expenses loses sight of the purpose of Section 24.1(4) of the bill. That purpose is to create the opportunity for a complainant to obtain a summary judgment at the conclusion of the sentencing process for lost wages. The amount to be claimed should be easily calculable so as to obviate the need for actuarial or other expert testimony. The $5,000 limit on compensation is consistent with that under the Queen's Bench Small Claims Practices Act This limit acknowledges the constitutional restrictions relating to matters that can be assigned to provincially appointed judges. It is based on constitutional advice from senior officials in my department.

Mr. Mackintosh: The subsection was proposed so as to enable compensation for calculable loss; at least it does not propose compensation for general or punitive exemplary damages. I also ask the minister if she can explain why such a matter can not be heard in the Queen's Bench.

Mrs. Vodrey: Mr. Chair, I believe the member knows that this takes place at the end of the criminal process which by and large takes place in the Provincial Court, but there is a general provision for damages which can take place in the Court of Queen's Bench.

Mr. Chair, just to answer as well the amendment put forward in this particular area, the proposal would allow the provincial judge to reinstate the employee. A Provincial Court judge does not have the constitutional authority to order reinstatement. Even Queen's Bench justices do not order reinstatement on wrongful dismissal claims.

Mr. Mackintosh: I think the minister has made the point then that Queen's Bench can in fact deal with the matters that are set out in our amendment, and certainly with regard to orders in reinstatement, if the bill so provides that that remedy is available, the judges will be empowered to make that order.

I might also add that if the minister believes that there will be no calculations required for $5,000, she may be wrong in particular instances. So again the argument is defeated there that the amendment gets into too complicated a calculation of loss.

Mrs. Vodrey: It is clear that you can bring a separate civil suit in the Court of Queen's Bench. The member still seems to be missing the point of these proposed changes being brought forward by the government which

will occur at the end of the criminal process, and the words that I used were "easily calculable." So, Mr. Chair, we do not support the amendment which has been brought forward by the member for St. Johns.

Mr. Chairperson: There is a call for the question. One final short point.

Mr. Mackintosh: Again we ask that the government reconsider their position on this one. To allow or to put the onus on a plaintiff in a civil suit to pursue damages for a loss that comes from a very wrongful dimissal stemming from service on juries, we think is wrong, that the importance of juries has to be ensured by the state taking the responsibility for pursuing compensation. I might also add that I think it is important that independent counsel be available in the event that a complainant so wishes.

Those are my final comments.

Mr. Chairperson: Shall the amendment pass?

Some Honourable Members: No.

Mr. Chairperson: The amendment is defeated.

An Honourable Member: We want a vote on that.

Voice Vote

Mr. Chairperson: All in favour of the amendment, please say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All opposed say nay.

Some Honourable Members: Nay.

Mr. Chairperson: The amendment is defeated.

Formal Vote

An Honourable Member: Formal count, Mr. Chair.

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

Mr. Chairperson: The amendment is defeated six to four.

Clause 3(2)–pass; Clauses 4 and 5–pass.

Mr. Mackintosh: After Section 3(2).

Mr. Chairperson: Okay, we will revert back. There is an amendment with respect to what, Mr. Mackintosh?

Mr. Mackintosh: A new Section 3(3).

Mr. Chairperson: You are proposing a new Section 3(3). Is there leave to revert back? [agreed]

Mr. Mackintosh: I move

THAT the following be added after subsection 3(2) of the Bill:

3(3) The following is added after subsection 24.1(7):

Liability of directors, officers, or agents
24.1(8) Every director, officer, employee or agent of a corporation who knowingly participates in, assents to or acquiesces in an offence by the corporation under this section is also guilty of the same offence and liable, on summary conviction, to a similar penalty and may be held liable to the employee for any amount under subsection (4), as the judge considers just and appropriate.

Presumption arising from termination of employment
24.2 In any prosecution under Section 24.1, if it is shown to the satisfaction of the judge that the employer terminated the employment of the employee between the time when the employee was summoned for jury service and the time when he or she completed the jury service or was discharged from the jury service, the employer shall be presumed to have terminated the employment of the employee as a result of the employee's having been summoned for jury service or required to serve on a jury.

[French version]

Il est proposé d'ajouter, après le paragraphe 3(2) du projet de loi, ce qui suit:

3(3) Il est ajouté, après le paragraphe 24.1(7), ce qui suit:

Responsabilité des administrateurs ou dirigeants
24.1(8) En cas de perpétration par une personne morale d'une infraction au présent article, ceux de ses administrateurs, dirigeants, employés ou mandataires qui y ont sciemment consenti ou participé sont considérés comme des coauteures de l'infraction, encourent, sur déclaration de culpabilité par procédure sommaire, une peine semblable et peuvent être tenus responsables envers l'employé à l'gard de tout montant visé au paragraphe (4), selon ce que le juge estime juste et indiqué.

Présomption
24.2 Dans les poursuites pour infraction à l'article 24.1, l'employeur est présumé avoir mis fin à l'emploi de l'employé du fait que celui-ci a été assigné à titre de juré ou a été tenu de faire partie d'un jury s'il est démontré de façon satisfaisante pour le juge que cet employeur a mis fin à l'emploi de l'employé entre le moment où il a été assigné à titre de juréet le moment où il a terminé ses fonctions de juré ou en a été libéré.

Motion presented.

Mr. Mackintosh: There are two parts to this amendment, Mr. Chair.

The first is to ensure that there is personal liability for a person who participates in or sends to or acquiesces in the offence. I had the Loscerbo case in mind here, but I think that it is important that we ensure that the statute specifically sets out personal liability for directors, officers and agents.

The second aspect of the amendment is not to impose a reverse onus, which has been dealt with in the Oakes decision but, rather, introduce a rebuttable presumption that when one is fired in the course of duty, there is a rebuttable presumption that must be overcome.

By the way, I understand the rebuttable presumptions have supported under the Charter.

Mr. Chairperson: Shall the amendment pass?

Some Honourable Members: No.

Mr. Chairperson: Do you want discussion on the amendment?

Mrs. Vodrey: I will just respond. Mr. Chair, it is our government's view that this proposal fails to take into account the very broad definition of employer in the revised definition section of the bill, and it is our view that that definition does go a long way to piercing the corporate veil and also placing legal responsibility on those responsible for making the decision to wrongfully dismiss the employee.

On the issue relating to the–this may be the simplest. Any prosecution under The Jury Act identifies the individual or individuals liable for the action against the aggrieved employee as allowed by the expansive definition of the employer. So I believe that covers the issues raised by the member.

Mr. Chairperson: No further discussion? Shall the amendment pass?

Some Honourable Members: No.

* (1150)

Mr. Chairperson: The amendment is defeated.

Clauses 4 and 5–pass; Preamble–pass; Title–pass. Bill be reported.

Bill 66–The Boxing and Wrestling Commission Amendment Act

Mr. Chairperson: Now, next with Bill 66, two submissions were received in the Clerk's Office by fax at 11 a.m. and will now be distributed to the committee. Is there agreement from the committee to include these submissions in the committee Hansard? [agreed]

Now, with respect to Bill 66, The Boxing and Wrestling Commission Amendment Act, does the minister responsible have an opening statement? There being none, does the critic for the official opposition have an opening statement?

Ms. Marianne Cerilli (Radisson): I would just request that you give me a moment. I just asked that we be given a moment to read the submissions prior to proceeding.

Mr. Chairperson: So granted.

We have a submission first from the Group Against Pornography, dated October 21, 1996, but received by fax today, and the second one also dated October 21 and received by fax today. It appears to be from a private individual. Martin Boroditsky is the name of the individual.

Mr. Chairperson: Now that the committee members have had ample opportunity to review the submissions, does the critic from the opposition have an opening statement?

Ms. Cerilli: I think, rather than having an opening statement, I will just have a number of questions. Just suffice it to say that I know that the minister was saying that this was not the most pressing or hefty piece of legislation that the Legislature is considering, and it is dealing with what is now considered entertainment. I still think that it does deal with a very serious concern in society and a very serious social problem which is increased violence. So I do want to ask some serious questions, and I know that there are different attitudes towards boxing and wrestling and other combat sports, but I do want to ask some serious questions.

Mr. Chairperson: Okay, well, we will now then proceed with clause-by-clause consideration of the bill. The preamble and title–

Ms. Cerilli: I just wanted to ask some questions of the minister.

Mr. Chairperson: As we go through?

Ms. Cerilli: Well, before we go through, it is a very short bill, so before we do the clause-by-clause, I just wanted a chance to ask some questions of the minister.

Mr. Chairperson: Is there agreement, Mr. Minister and members of the committee?

Mr. Jack Penner (Emerson): Mr. Chairman, should we not have had this debate in second reading? I mean that is the time to debate these bills, and to do this sort of thing in committee is a waste of time. I think you can ask questions any time of the minister.

Mr. Chairperson: Whether that is so or not, perhaps, Mr. Penner, we could indulge this situation.

Ms. Cerilli: Especially considering the extent of the debate this session on second reading.

I just want to begin by asking a question that was sort of alluded to or raised in the committee presentation that we heard. First of all, with the first aspect of the bill which is to deregulate wrestling, and that will mean that there is no longer any inspection or requirement under the act for what are still admittedly through the representative of the WWF here this morning–there is still the potential for injuries in a bout where there is not going to be any limit on holds or any regulation independent of government on the holds, that there is going to be a promotion, if you will, the more violent it is, the more of a contest it is, the more there is an appeal and a sense that the bout is going to get more attention.

* (1200)

I am wondering if the minister does not see that deregulating wrestling is going to allow for increased violence to be portrayed and that there will even be changes that could occur in wrestling to include all sorts of holds or maneuvers, assaults, I guess if you would, that will not be regulated. I am wondering how there will be any kind of intervention when that occurs. Even if there is an agreement that a certain fighter is expected to win, in the meantime, in that bout, there could be injuries to either party, and I am wanting the minister to clarify how that is going to be dealt with.

Hon. Jim Ernst (Minister charged with the administration of The Boxing and Wrestling Commission Act): There is a very fine line that you walk between a Criminal Code offence in this regard when it is not a sanctioned event. If in fact they cross the line, then it can become a Criminal Code offence, and then the police will act with respect to what they are doing.

In terms of the medical requirements and so on, admittedly there is a potential situation there, but that potential situation exists in hundreds of sports where there is no regulation and no testing required and so on. So I do not see this as a major problem

Ms. Cerilli: I will just ask for the minister to repeat the last bit of his answer. I did not hear.

Mr. Ernst: I said there are potential injuries in hundreds of sports, amateur, professional and others, that we do not regulate. For instance, professional football is a good example; professional hockey, where there is significantly and perhaps greater potential for injuries, yet we do not regulate that, we do not require medicals, we do not require a number of other things. So I think the risk is relatively small with respect to wrestling.

Ms. Cerilli: I do not want to get into too much of a debate with the minister, but I think in football the purpose of the game is to get the ball over the end zone. It is not to portray violence against the other. That is not the objective. The minister shakes his head, and he may want to dispute that. I do not want to get into that.

I want to ask the minister, in the case of deregulating wrestling, if what is making the difference is that it is a fixed or decided outcome before the bout, the spectators may not know, but the referee and the fighters, the wrestlers know at the outset the intended winner, if that is the difference of why these bouts are not going to be deemed a violation of the Criminal Code. That is one question.

The other part of that question is, if it is going to be exempted from the Criminal Code, based on this decided outcome, could not then there be all sorts of violence similar to extreme and ultimate fighting, but they still know in the end who is expected to win and could not that mean that we are going to have a deregulated combat sport, entertainment that is going to be, it is going to fall through the cracks, I guess is what you could say?

Mr. Ernst: I think the relative fear of that is very small. I do not see that going to occur. I mean, the whole nuts and bolts of this situation, as we said, look, professional wrestling by and large is, in my view at least and the view of the commission, pure entertainment, and it has a sporting connotation, if you will, but the fact of the matter is it is still pure entertainment. We found that at the time when the regs under the previous act were attempting to be drafted that there was so much entertainment attached to it that would not have been permitted under the regulations that the decision was taken not to regulate it at all.

We do have a concern, however, about kick-boxing and all the other martial arts contests that are coming up, including some very extreme and dangerous ones in which we do not want to permit. That is the ultimate fighting contest and whatever other name it comes under. The fact of the matter is, we do not want to permit those. There are a couple, I believe, where legitimate kick-boxing is warranted, providing it is regulated properly. Beyond that nothing will be permitted, and it will all fall under the Criminal Code as an offence without a sanction. Those were the two principles behind this and hence the reason for the bill coming forward.

Ms. Cerilli: I do not think the minister answered my question which was, what is going to make the wrestling fights different from anything else that is coming out? We know that there are people who are conceiving all sorts of new combat sports that are emerging as we speak. I am concerned that we are going to have either these other sports by another name, or we are going to see that deregulated wresting is going to become increasingly violent. I am wondering if it is because it has a decided outcome, if that is why it is not going to come under the Criminal Code.

Mr. Ernst: The question of the difference between ultimate fighting and its spurious connotations and wrestling is the fact that wrestlers are not permitted to use their fists. They can use forearms, various holds and so on, but they are not permitted to use their fists. The minute you use your fist to make physical contact, then you fall outside the regulation of wrestling. You fall into ultimate fighting and that is where the Criminal Code will take over.

Ms. Cerilli: Mr. Chairperson and Mr. Minister, it is going to be deregulated, and we heard a presentation by the representative from the World Wrestling Federation that there is going to be no code of barred holds, so there could be choking. There could be arm twisting where there is a possible dislocation of arms. There could be a host of other things that could be done to an individual. I know that wrestling means that there is no closed fist punching, but my concern remains. Is this going to be exempt from the Criminal Code because of the fixed outcome, and if that is going to be able to be interpreted by other promoters or other wrestling organizations and we are going to see an escalation in the kinds of deregulated bouts in this province?

Mr. Ernst: Well, there are two things; first of all, the question of fists. The second is the fact that they are not fighting to win. If they do not fight to win then it does not fall under Section 83 of the Criminal Code.

Mr. Chairperson: Are we now ready to proceed with the–

Ms. Cerilli: No. I have a number of other questions. I do have a copy of the Criminal Code in here somewhere, but I do not know if that was in the definition of what would be, if fighting to win was part of what was referred to in the Criminal Code. I do not know if counsel can clarify that for the minister. As I understood it, the Criminal Code made reference to bouts that were not sanctioned by legal commission for combat sports.

* (1210)

Mr. Ernst: I think the summary of the law indicates that it appears that, unless the parties intend to fight until one gives up from exhaustion or injury, then the activity will not fall within the scope of Section 83 of the Criminal Code. So they are not really fighting if that is the case; they are putting on–I mean, it is just the same as, I guess, in some respects, though obviously considerably more realistic, to go to the Manitoba Theatre Centre and have two people in a play allegedly fight. They are not really fighting; they are performing.

Ms. Cerilli: I think we are going to have a difference here between what happens at the Manitoba Theatre Centre and what happens at a venue that is holding a deregulated wrestling match, or we are going to have other kinds of organizations staging events and calling it wrestling. It is going to become increasingly violent. It is the portrayal of violence that is a concern here.

It sort of leads into the other issue I want to ask the minister about: How is this going to be classified? I ask this of the presenter as well. We have classification for violent films and videos and what not. Is there going to be any kind of classification that will limit the audience, including children, particularly if they are unaccompanied by an adult? That kind of thing. So how is this new deregulated wrestling going to be classified in terms of its violent content? It is the same in movies. Movies are classified, even though I know that the actors are not getting killed in the movies; it is the portrayal of that that is a concern to the community. So how is this going to be regulated?

Mr. Ernst: To my knowledge, there is no classification of live events now and, as far as I know, never has been so that I do not anticipate there will be any classification of further live events.

Ms. Cerilli: Will the minister agree, then, that if it does occur where new kinds of bouts are predetermining the end winner as a way of getting around the Criminal Code but are portraying increased violence, there will be amendments to this legislation or other legislation to prevent that from occurring?

Mr. Ernst: If in fact that becomes the case, and, as I indicated, the intent at the start was to control and/or prohibit certain kinds of martial arts activities, and if somebody is attempting to contravene the act, then certainly we will be looking to ways and means of enforcing our intent.

Ms. Cerilli: As I said earlier, it seems that the act is going in two directions at one time. It is deregulating wrestling while at the same time bringing into regulation martial arts and kick-boxing which have previously been, as I understand it, self-regulated. I am wanting to ask the minister, first of all, whom he consulted on this. On the deregulation side, what do the wrestlers think? They are the ones that I guess potentially have a lot to lose physically, even though I guess some of them may make the argument that financially they will be better off if the audiences of these kinds of demonstrations are what people say they are.

But I will ask that question first: Were wrestlers consulted in this deregulation, and what did they have to say about it?

Mr. Ernst: The Boxing and Wrestling Commission did carry out a number of consultations over a fairly extended period of time, met with all kinds of groups associated with wrestling, with boxing, with martial arts to try and gain an understanding and a feel for what action the commission should recommend to the minister and in fact that did occur.

Ms. Cerilli: So wrestlers were consulted, and what was their point of view on this?

Mr. Ernst: I think the main body of opinion in this regard was that deregulation of wrestling was the appropriate thing to do.

Ms. Cerilli: What about the kick-boxers and the martial arts organizations or groups or individuals. Who was consulted on that side and what did they have to say about this? Because, as I understand it now, the commission will take one third of any revenue that are generated. If that is not the case the minister can clarify that, but there will be medical requirements and other requirements by regulation that we have not seen yet and, as I understand, has not been developed yet.

So I know that from talking to people in the field that there is some hesitancy from some of these groups to even meet with the minisiter to work on these regulations, so I am wondering how the minister intends to enforce these regulations when the reason that they are deregulating wrestling is because they could not enforce it, so you are going to have groups hosting bouts who are going to say, we have been self-regulated for all this time, and lookit, here you are, you have said to the wrestling people, you cannot enforce the regulations, so they have been deregulated. This is not making much sense.

Mr. Ernst: The member can have her own opinion on these kinds of things. I cannot tell you specifically with respect to what is an emerging professional sport, and we are talking only about professional. We are not talking about amateur. We are talking purely about professional sport and this is an emerging kind of thing. It has come about as a result of professional bouts over the last couple of years in various other parts of the country, and we have a concern that if those kinds of events are going to be staged here, we want to be able to control that, hence the reason for proceeding with the legislative changes.

Specifically, I cannot tell her who specifically was contacted. I do not know that anyone necessarily may have been contacted by the commission. The fact of the matter is that certainly no member of any professional group has contacted me with respect to this thing, or I would have been delighted to meet with them as I do anybody else who contacts my office, but I have not been contacted by anybody. The commission may well have been, and they may well have met with the commission. I do not know that. The fact of the matter is, though, that there is a desire on the part of the government to control this kind of activity.

Ms. Cerilli: I am not saying that there should not be regulation of kick-boxing, and that, I have seen on television. It looks like there is a lot of potential for injury to the participants. My concern right now though is, it seems that there is a problem with bringing these people in to develop the regulations, and I think it is reasonable to ask the minister to explain to the committee who he has consulted with. He is saying that maybe the commission had not even contacted any of the kick-boxing groups or martial arts groups, but I have contacted Sport Manitoba and I understand that there is a bit of a problem here. I have also raised this in the House in my debate on the bill, that I am hoping that the minister will consult more widely than just the kick-boxing and martial arts community, that there will be some opportunity for public input into this whole issue of regulating these kinds of violent combat sports. So, I am wanting to clarify, how is the consultation on the regulation for these new bouts that are going to be regulated under the commission going to proceed, and which groups have been contacted and which groups are you going to contact in the future?

Mr. Ernst: My contact has been through The Boxing and Wrestling Commission. It is one of the purposes of the commission. They have consulted with a number of groups I know for sure. With respect to the regulations related to boxing, there have been extensive consultations with an awful lot of folks throughout the community, and I am assuming that should this legislation pass that the same kind of broad consultation process will occur with respect to kick-boxing.

* (1220)

Ms. Cerilli: I find it amazing if the minister is saying that he is bringing in new legislation to regulate an industry and there has not been consultation with that industry.

If that is what he is saying and that is what the commission has done, I think there is bound to be some conflict here outside the ring, that we are going to see some problems, and that is what I am hearing. There is not necessarily a willingness on the part of these groups to be regulated by a government body. I am not saying

that that means it should not happen. I am just saying that I am surprised that there was no one here from a martial arts organization to make a presentation. So I think that that is one of the points to make.

The other point is that I hope that the consultation on these regulations will be broad, and I was hoping to get the minister's commitment to that and also to inform us of who will be involved in these kinds of consultations. But I am going to move on.

Oh, one of the things I also want to confirm on the record is I had asked the minister about the revenue, the new sports that are going to be regulated, the new bouts. The minister was shaking his head when I made reference to the history of wrestling when it was under the commission that 3 percent of the gate was given to the commission to pay for its costs in the regulating. Is that not going to occur with the kick-boxing and martial arts and why not?

Mr. Ernst: What the member for Radisson (Ms. Cerilli) said was one-third of the revenue, and one-third of the revenue is not correct; 3 percent of the revenue is correct, and 3 percent applies to everybody.

Ms. Cerilli: This may be one of the reasons why we are seeing the hesitancy of some of these groups in coming forward, but I am wondering if the minister has a sense of what the revenue is going to be for the commission by regulating kick-boxing and martial arts, and how many bouts this is going to include per year.

Mr. Ernst: We have about two to three boxing events per year. I do not know whether we have even had a kick-boxing event here. I do not believe we have, but my expectation is there may be one or two of those. But, historically, the revenue to the commission does not begin to pay its expenses.

Ms. Cerilli: So my understanding is that the minister is saying there have been kick-boxing events here. There have been no kick-boxing events in Manitoba so far. How about other martial arts events? I cannot remember the name of the–I think it is muai-Thai–is one of them. There are all sorts of other bouts that could operate for a prize money, and I am wondering if the minister has that information for the committee.

Mr. Ernst: I am not sure, and rather than mislead the committee unintentionally, I would prefer not to comment and I will have to look into it. I do not know if there have been any other related kinds of events where there has been a prize money offered.

Ms. Cerilli: Will there be an increase in the staff or the members of the commission and the funding of the commission to deal with the increase in the responsibility that they have?

Mr. Ernst: That is probably an out-of-scope comment with respect to the bill, but the necessary resources will be provided.

Ms. Cerilli: I am concerned by the comment that was made by the presenter that there has been a problem in the past by the commission enforcing regulations that are the responsibility of the commission. I am wondering –and we have also had a number of reports in the paper, and there have been a number of incidents in the past, where regulations have not been enforced. It seems like we are moving in a way to the lowest common denominator, and I am wondering if the minister could comment that the reason that we are deregulating wrestling is because they were unable to enforce the regulations.

Mr. Ernst: The answer to that is no.

Ms. Cerilli: It is, then, for the minister to explain why we are deregulating wrestling for the record.

Mr. Ernst: I think I explained that earlier, Mr. Chairman, when we went through the fact that, in dealing with regulations under the previously passed act, there was major difficulty in terms of the kinds of things that they do, the fact it was not really a fight, it was entertainment. On that basis, we determined that deregulation was appropriate. After consultation with all the wrestling people, they agreed.

Mr. Chairperson: We are now ready for clause by clause? Okay. preamble and title will be left until the last. We are dealing with Bill 66, The Boxing and Wrestling Commission Amendment Act.

Clauses 1 through 5–pass; Clauses 6 through 10(1) –pass. Shall Clauses 10(2) through 11 pass?

An amendment proposed with respect to which clause, Ms. Cerilli?

Ms. Cerilli: Clause 31 under Section 10(2).

Mr. Chairperson: 10(2). Okay. Would you move the amendment?

Ms. Cerilli: I move, seconded by the member for Crescentwood (Mr. Sale)–oh, you do not have to have it seconded:

THAT subsection 10(2) of the Bill be struck out and the following substituted:

10(2) The following is added after subsection 31(1):

Regulation to define "boxing"-actually can I ask clarification here on process? Am I to speak to the amendment? After, okay.

Regulation to define "boxing"
31(1.1) A regulation may be made under clause (1)(p) to define boxing as including kick-boxing full contact martial arts, or any similar sport in which blows may be struck by the fists or by both the fists and the feet.

Limitation on definition of "boxing"
31(1.2) For greater certainty, no regulation may be made under clause 1(p) to define "boxing" as including wrestling or any extremely violent contact sport such as shootfighting, extreme or ultimate fighting or tough man contests.

Scope of the regulation
31(1.3) A regulation to define "boxing" shall include an exhaustive list of non-acceptable holds and moves for any sport included in its definition.

Application of regulations
31(1.4) A regulation under subsection (1) may be general or particular in its application and may apply in respect to any class of person or activity.

[French version]

Il est proposé de remplacer le paragraphe 10(2) du projet de loi par ce qui suit:

10(2) Il est ajouté, après le paragraphe 31(1), ce qui suit:

Définition de la boxe
31(1.1) Peuvent être pris en vertu de l'alinéa (1)p) des règlements qui assimilent à la boxe le kick-boxing, les arts martiaux plein contact et tout autre sport analogue dans lesquels les coups peuvent être portés avec les poings ou avec les poings et les pieds.

Restriction s'appliquant à la définition de la boxe
31(1.2) Ne peuvent être pris en vertu de l'alinéa (1)p) des règlements qui assimilent à la boxe la lutte ou tout autre sport de combat extrêmement violent tel que le "shootfighting", l'"extreme fighting", l'"ultimate fighting" ou les compétitions "tough man".

Portée des règlements
31(1.3) Les règlements qui définissent la boxe contiennent une liste exhaustive des prises et des mouvements qui sont inadmissibles dans le cadre des sports assimilés à la boxe.

Application des règlements
31(1.4) Les règlements pris en vertu du paragraphe (1) peuvent d'être d'application générale ou précise et peuvent s'appliquer à des catégories de personnes ou d'activités.

Motion presented.

Mr. Chairperson: Ms. Cerilli, you had comments.

Ms. Cerilli: Well, this is to do with the part of the bill that we have not really started discussing yet, but that is the definition of boxing. We have been discussing that there is an increase in the number of new sports, bouts or combats, events, that are being staged, and a number of them are extremely violent where there are no holds barred or very few.

They are being banned in a number of states, including Quebec, and now British Columbia is looking at dealing with the live bouts and prohibiting those. I think that in Manitoba while we are amending the Boxing Commission it would make sense to explicitly ban these kind of bouts from being licensed by a commission.

The minister is simply going to give the commission the discretion to license, and the wording is, any similar

sport, which is pretty broad, or to define that as being prohibited or not.

So in the future we could have a commission that would see fit to license some of these kinds of combat events, and I do not think we want to be over-influencing, I guess, or taking over the role of the commission. But I think that it is in the interest of the Legislature and part of our role to deal with the kind of social problems and violence that is escalating in the community. We know that the portrayal of this kind of violence has an effect on people, especially on children. I know the minister and I have had some discussion about this amendment, but I would encourage him to give it greater consideration and to make it explicit that the commission cannot license bouts with these kinds of moves or violent demonstrations in them.

The other thing I want to raise with the committee and the minister is that the City of Winnipeg has been trying to deal with the broadcast of these kind of bouts, and they have passed a motion unanimously at City Hall that this bill should explicitly ban extreme fighting. I am going to read that motion that was passed at City Hall just this past September: Be it resolved the City of Winnipeg urge the Province of Manitoba to explicitly outlaw extreme fighting in this their current revision of The Manitoba Boxing and Wrestling Act. Be it further resolved the City of Winnipeg urge the federal government to regulate the broadcasting of extreme fighting in any public venue.

* (1230)

I think that the majority of the public would support that the government take steps to follow that recommendation and to do what they can here now today to limit the escalation of violence as entertainment in our community.

Mr. Chairperson: Any further discussion on the amendment?

Mr. Ernst: I just want to make a couple of comments with regard to the City of Winnipeg motion. I mean, it was taken out of the act in 1993 because it was unenforceable. CRTC has jurisdiction. They have ultimate authority, and in any case with respect to that needs to be brought before the CRTC for their consideration. The approach we have taken is to use the Criminal Code as the deterrent to promoting violent forms of combat sport. Without authority or permission from the commission, these types of things are subject to prosecution under Section 83 of the Criminal Code. So that is the approach that was taken by Ontario, Quebec, New Brunswick and Nova Scotia. It effectively places a ban on these kinds of bouts.

Now it is not quite as definitive, but every time you become definitive in legislation, it provides more work for lawyers who have an opportunity then to find a way to get around it. If you give the commission a broad enough opportunity, they can deal with all of these things under their mandate. If it comes up under a different name with a different twist, if you will, to it then they have the opportunity of moving to deal with that as opposed to a definitive list which requires legislative change at some point in the future or a regulatory change.

So, with that, I am afraid we do not support your motion although the intent certainly is well taken, and it is our intention to follow through on that.

Mr. Chairperson: I am going to call for the question. Shall the amendment pass?

An Honourable Member: No.

Voice Vote

Mr. Chairperson: The amendment is defeated.

Ms. Cerilli: We want a vote.

Mr. Chairperson: All those in favour of the amendment, say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, say nay.

Some Honourable Members: Nay.

Mr. Chairperson: The Nays have it.

Formal Vote

Ms. Cerilli: A recorded vote.

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

Mr. Chairperson: The amendment is defeated 6 to 4.

Clause 10(2)–pass; Clauses 10(3)–pass; Clause 11–pass; Clauses 10(2) through 11–pass. Preamble–pass.

Ms. Cerilli: I have another question. I want it on the record that the minister made reference to the City of Winnipeg motion that dealt with regulation by the CRTC and the Canada Broadcasting Act. I know that the minister in 1995 eliminated the references in The Boxing Commission Act to the broadcast via cable.

Has the minister written to and can he show me any kind of documentation that he has followed this up to urge an amendment to the Canadian Broadcasting Act to limit the closed circuit televised broadcasts of this kind of combat?

Mr. Ernst: No, I have not.

Mr. Chairperson: Title–pass. Bill be reported.

Mr. Chairperson: Shall the committee rise?

Some Honourable Members: Committee rise.

Mr. Chairperson: Committee rise.

COMMITTEE ROSE AT: 12:34 p.m.

WRITTEN SUBMISSIONS PRESENTED BUT NOT READ

October 21, 1996

Regarding Bill 66

Clerk's Office

Unfortunately the office has been so busy this morning so this did not get off before 10 a.m. or we cannot be in attendance.

There is a vitally important point we need to make. We encourage all involved to guarantee that this bill, and its wording, must be clear and specific to in no way allow the potential for "extreme fighting" to become a sport or legitimate entertainment. This is an activity that we, as a society concerned about violence and civility, cannot in any way legitimize.

We trust this can still be considered. Thank you.

Sincerely,

Audrey Krushel, President
GAP Group Against Pornography

* * *

To: Law Amendments Review Committee

Re: Bill 66 Hearings, October 21, 1996

I am unable to be present for these hearings. Therefore, I would like this brief presentation read into the record.

I offer these observations based on my career in and around the boxing and wrestling industries as a journalist, promoter and participant.

Bill 66 is the latest in a long line of misguided and twisted views of how to legislate fighting-related sports. Although lawyers have been paid many thousands of dollars to develop this process, the public good is still not being served. With regard to the regulation of boxing, it should be noted that I was the first journalist to detect failures in the Manitoba Boxing and Wrestling Commission to follow medical guidelines for testing. These tests are to serve two purposes–protect the boxers from themselves and from exploitation by promoters. I am the one who followed the trail that proved that in 1990, after Buck Matiowski swore testing laws would be followed, Byron Prince and other fighters were not being tested for brain or heart damage. This information led to the CBC documentary in March 1995.

The fact that government officials counted on Byron's personal problems and troubled past to undermine sympathy and concern for his plight is sickening and beneath contempt. In fact, there were cards on Indian reserves in which fighters were booked by Tommy Burns, in the mid-1990s. No testing was done. Boxers may have been accumulating brain damage or other injuries, yet Buck Matiowski has never investigated who

was responsible. Mr. Burns then booked many of these same fighters into Winnipeg cards, where they still were not being tested. This benefited the commission and promoters, but endangered the boxers like Richard Bangaloy and Tops Flores. Proposed rules brought forward, after the CBC documentary, to test only after a fighter was knocked out is a dangerous backward step.

When, in my speech on Bill 24 in June of 1993, I pointed out the obligation to protect the boxers, little did I know how endangered they already were. Further amendments to boxing regulation must suit the real needs of the sport not those convenient to promoters, matchmakers or commissioners who lie to the media when questioned and then blame the victim or staffing levels.

With regard to proposed regulation of kick-boxing and other relation combat or martial-art sports, and the banning of so-called "Extreme" or UC competitions, whoever supports that ban is an idiot. UC sport competitions are infinitely safer than boxing. These are Olympic and Pan-Am level athletes, not burns out of the gutter or barroom bouncers. Tough Man contests, where there is an open competition without regard to skill, and where fighters go through multiple opponents, is objectionable. But a close examination of the rules in UC, where fighters may tap-out or submit and are not only athletes but by-and-large sportsmen, is legitimate and there is no evidence to suggest the Manitoba Boxing and Wrestling Commission needs to intervene.

The move to regulate or ban interdisciplinary fighting is borne of the desire of Commissioner Matiowski, a member of the Canadian Boxing Federation, to protect the mystique and, therefore, drawing power of boxers at live events and for the proposed future pay-per-view cards.

Boxers are regularly destroyed in open competitions by Sambo, Vale Tude and other fighting disciplines. By forcing Manitobans who practice these styles under regulation, and they are being forced, the only beneficiaries will again be the established boxing interests. Fighters from other disciplines have earned the right to compete and make a living from their skill and pay-per-view response shows that the public demand is there.

The idea that regulation will make it safer is ludicrous, given the track record in Manitoba. Forcing gloves onto participants will increase punching and brain trauma, as hands will be then padded. I repeat, these sports are far better run than boxing, the promoters have no known record of exploiting or endangering their fighters and Bill 66 should leave these sports alone.

As for regulation of Pro Wrestling, I offer the following observations.

Initially, the World Wrestling Federation Representative initially supported stern regulations in 1993. By March of 1994, he insisted on deregulation. In 1993, MB & WC officials were proposing extremely restrictive rules that would have strangled the local industry. But now, Buck Matiowski and the WWF's Bob Holliday are in agreement on deregulation. Remarkable.

If members of the Legislature believe the public and participants have adequate protection under other statutes, by all means deregulate. However, I would like to point out that at the meetings with concerned parties in March 1995, Gene Swan, a wrestler, voiced concern that wrestlers needed protection from exploitation by promoters, and voiced concern about protecting fans from being ripped off.

Commission officials assured Gene Swan, Dave Pinksy, of River City Wrestling, and myself that the wrestling industry would be consulted prior to any further legislative or regulatory changes.

We were never contacted. Therefore, I am concerned that the proposal to deregulate all aspects of professional wrestling may be premature at this time.

Martin Boroditsky