

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

Chairperson
Ms. Marilyn Brick
Constituency of St. Norbert

Vol. LV No. 4 - 6:30 p.m., Monday, June 7, 2004

MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Eighth Legislature

Member	Constituency	Political Affiliation
AGLUGUB, Cris	The Maples	N.D.P.
ALLAN, Nancy, Hon.	St. Vital	N.D.P.
ALTEMEYER, Rob	Wolseley	N.D.P.
ASHTON, Steve, Hon.	Thompson	N.D.P.
BJORNSON, Peter, Hon.	Gimli	N.D.P.
BRICK, Marilyn	St. Norbert	N.D.P.
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CHOMIAK, Dave, Hon.	Kildonan	N.D.P.
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DERKACH, Leonard	Russell	P.C.
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DOER, Gary, Hon.	Concordia	N.D.P.
DRIEDGER, Myrna	Charleswood	P.C.
DYCK, Peter	Pembina	P.C.
EICHLER, Ralph	Lakeside	P.C.
FAURSCHOU, David	Portage la Prairie	P.C.
GERRARD, Jon, Hon.	River Heights	Lib.
GOERTZEN, Kelvin	Steinbach	P.C.
HAWRANIK, Gerald	Lac du Bonnet	P.C.
HICKES, George, Hon.	Point Douglas	N.D.P.
IRVIN-ROSS, Kerri	Fort Garry	N.D.P.
JENNISSEN, Gerard	Flin Flon	N.D.P.
JHA, Bidhu	Radisson	N.D.P.
KORZENIOWSKI, Bonnie	St. James	N.D.P.
LAMOUREUX, Kevin	Inkster	Lib.
LATHLIN, Oscar, Hon.	The Pas	N.D.P.
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LOEWEN, John	Fort Whyte	P.C.
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MARTINDALE, Doug	Burrows	N.D.P.
McGIFFORD, Diane, Hon.	Lord Roberts	N.D.P.
MELNICK, Christine, Hon	Riel	N.D.P.
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MITCHELSON, Bonnie	River East	P.C.
MURRAY, Stuart	Kirkfield Park	P.C.
NEVAKSHONOFF, Tom	Interlake	N.D.P.
OSWALD, Theresa	Seine River	N.D.P.
PENNER, Jack	Emerson	P.C.
REID, Daryl	Transcona	N.D.P.
REIMER, Jack	Southdale	P.C.
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ROWAT, Leanne	Minnedosa	P.C.
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TAILLIEU, Mavis	Morris	P.C.
VACANT	Turtle Mountain	
WOWCHUK, Rosann, Hon.	Swan River	N.D.P.

LEGISLATIVE ASSEMBLY OF MANITOBA

THE STANDING COMMITTEE ON SOCIAL AND ECONOMIC DEVELOPMENT

Monday, June 7, 2004

TIME – 6:30 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Ms. Marilyn Brick (St. Norbert)

VICE-CHAIRPERSON – Mr. Bidhu Jha (Radisson)

ATTENDANCE – 11 – QUORUM – 6

Members of the Committee present:

Hon. Mr. Ashton, Hon. Ms. McGifford, Hon. Messrs. Sale, Selinger

Ms. Brick, Messrs. Dewar, Faurschou, Goertzen, Jha, Mrs. Mitchelson, Mr. Rocan

APPEARING:

Hon. Jon Gerrard, MLA for River Heights
Mrs. Mavis Taillieu, MLA for Morris

WITNESSES:

Bill 23–The Red River Floodway Act

Mr. L. James Shapiro, Private Citizen
Mr. Jack Jonasson, Coalition for Flood Protection North of the Floodway
Mr. Jim Stinson, Private Citizen
Mr. Robert Duerksen, 768 Association Incorporated
Mr. Ian Wishart, Keystone Agricultural Producers
Mr. Paul Clifton, Private Citizen
Mrs. Maxine Clifton, Private Citizen
Mr. Doug Chorney, Private Citizen

Bill 10–The Gaming Control Amendment Act

Ms. Valinda Morris, Provincial Council of Women of Manitoba
Ms. Elizabeth Fleming, Provincial Council of Women of Manitoba

WRITTEN SUBMISSIONS:

Bill 23–The Red River Floodway Act

Mr. Gerry Bristow, Private Citizen

Bill 35–The Credit Unions and Caisses Populaires Amendment Act

Mr. Garth Manness, Chief Executive Officer, Credit Union Central of Manitoba

Mr. Fernand Vermette, General Manager, Fédération des caisses populaires du Manitoba, Inc.

Mr. Bill Saunders, Chief Executive Officer, Credit Union Deposit Guarantee Corp.

Mr. Claude Bru, General Manager, Société d'assurance-dépôts des caisses populaires

Mr. Bob Lafond, Credit Union Central of Manitoba

MATTERS UNDER CONSIDERATION:

Bill 10–The Gaming Control Amendment Act

Bill 23–The Red River Floodway Act

Bill 31–The Floodway Authority Act

Bill 33–The Public Servants Insurance Amendment Act

Bill 34–The University of Winnipeg Amendment Act

Bill 35–The Credit Unions and Caisses Populaires Amendment Act

Bill 38–The Fisheries Amendment Act

Madam Chairperson: Good evening. Will the Standing Committee on Social and Economic Development please come to order.

This evening the committee will be considering the following bills: Bill 10, The Gaming Control Amendment Act; Bill 23, The Red River Floodway Act; Bill 31, The Floodway Authority Act; Bill 33, The Public Servants Insurance Amendment Act; Bill 34, The University of Winnipeg Amendment Act; Bill 35, The Credit Unions and Caisses Populaires Amendment Act; and Bill 38, The Fisheries Amendment Act.

We do have presenters registered to speak to Bills 10, 23 and 31. It is the custom to hear public presentations before consideration of bills. Is it the

will of the committee to hear public presentations?
[Agreed]

I will then read the names of the persons who have registered to make presentations this evening. On Bill 10, The Gaming Control Amendment Act: Elizabeth Fleming from the Provincial Council of Women of Manitoba. On Bill 23, The Red River Floodway Act: Dr. L. James Shapiro, private citizen; Jack Jonasson, Coalition for Flood Protection North of the Floodway; Jim Stinson, private citizen; Ian Wishart, Keystone Agricultural Producers; Paul Clifton, private citizen; Robert Duerksen, 768 Association Incorporated; Maxine Clifton, private citizen; Gaile Whelan-Enns, Manitoba Wildlands; and Doug Chorney, private citizen. On Bill 31, The Floodway Authority Act: Gaile Whelan-Enns, Manitoba Wildlands.

Those are the persons and organizations that have registered so far. If there was anyone else in the audience that would like to register or has not yet registered and would like to make a presentation, would you please register at the back of the room; just a reminder that 20 copies of your presentation are required. If you require assistance with photocopying, please see the clerk of this committee.

I understand that we have some out-of-town presenters in attendance this evening. These names are marked with an asterisk on the presenters list. Is it the will of the committee to hear from the out-of-town presenters first? [Agreed]

We have also been requested to have special consideration for Robert Duerksen. I would like to request permission from the committee to move Robert Duerksen from The Red River Floodway Act up to No. 4. [Agreed]

Mr. Denis Rocan (Carman): Madam Chair, I wonder if it would be appropriate at this time for you to canvass the committee members that when we start working on the bills that are before us this evening that there be some sort of a resolution that, once we start, to complete the business that has been scheduled for this committee tonight.

Madam Chairperson: Is that the will of the committee? [Agreed]

I would also like to inform the committee that written submissions have been received from the following individuals and/or organizations: Gerry Bristow, private citizen, on Bill 23; Bob Lafond, Credit Union Central of Manitoba, on Bill 35. A

copy of these briefs was made for committee members and was distributed at the start of the meeting. Does the committee grant its consent to have these written submissions appear in the committee transcript for this meeting? [Agreed]

I would like to inform presenters that, in accordance with our rules, a time limit of 10 minutes has been allotted for presentations and 5 minutes for questions from committee members. As well, in accordance with our rules, if a presenter is not in attendance, their name will be dropped to the bottom of the list. If the presenter is not in attendance when their name is called a second time, their name will be removed from the presenters list.

I would also like to advise all in attendance that, in accordance with our rules, if there are fewer than 20 people registered to speak at 6:30 p.m., the committee may sit past midnight. I would like to advise that as of 6:30 p.m. tonight, there were 11 people registered to speak. Therefore, this committee may sit past midnight.

Just prior to proceeding with public presentations, I would like to advise members of the public of the process when it comes time for questions from committee members on your presentation. The proceedings of our committee meetings are recorded in order to provide a verbatim transcript. Each time someone wishes to speak, whether it be a member of the committee or a presenter, I have to say, first, the MLA or the presenter's name. This is the signal for the Hansard recorder to turn your mike on and off. Thank you very much for your patience.

We will now proceed with public presentations on Bill 10, The Gaming Control Amendment Act. Excuse me, Bill 23, because it is the out of town presenters, The Red River Floodway Act.

Bill 23—The Red River Floodway Act

Mr. L. James Shapiro (Private Citizen): Madam Chairperson and members of the committee, my name is Jim Shapiro and I live at 130 Greenview Road. Greenview Road is just south of the floodway in the city of Winnipeg. I have experienced the floods of 1979, 1996 and 1997. The last two floods were at my current residence on Greenview Road. From these experiences I can tell you that there is only one question that residents in flood-prone areas want to have answered and that question is, "Will I

get wet?" If the answer is "yes," then the potential flood victims two greatest fears become loss of life and loss of personal possessions. When someone loses their personal possessions they lose their history. They lose the mementos that contribute to, if not define, who they are and where they have come from. There can be no compensation for loss of life or one's personal possessions. For all else, however, compensation becomes very important.

Bill 23 deals with this issue. I feel that changes in the bill's wording, or lack of wording, would improve its effectiveness. Now, unfortunately, the answer to the resident's question, "Will I get wet?" is, "Yes, in all probability you will get wet." Why? With the current strategies being employed by the Province of Manitoba, an individual can either put their home on a pad or they can surround their residence with a permanent ring dike. The latter is usually in the form of a horseshoe with an access available for vehicles and service units. In many cases, however, neither of these options is chosen or these options are not available to the homeowner, instead sandbags are relied upon to protect the residence. None of these solutions are foolproof, efficient or safe which means that compensation will be required. For the Province and other funding agencies it becomes expensive and just another way of saying, "We were not there for you."

*(18:40)

Which brings me to Bill 23. It is my understanding that compensation will be based upon the homeowner's actions to protect his or her property. However, there are instances when the best course of action is to evacuate your house completely and let the floodwaters come in unimpeded and then wait for them to recede. For many reasons this is the most cost-effective way of preserving life and one's personal possessions. The secret to successfully fighting a flood in the Red River Valley is to be prepared to evacuate your house, have a plan by which this can be done, and to have a designated storage site for your personal belongings.

Bill 23 makes no provision for such a course of action. If one's house is not on a pad, or if it is not surrounded by a ring dike, then one has the option of not using sandbags. There are good reasons for not using sandbags. You cannot build the sandbag dike on frozen ground. The sandbags can freeze, rendering them useless, but, more importantly, the frozen

earth under the dike will thaw when the warmer water above it covers it. Then the water seeps inevitably under the sandbag dike and enters the home through the window wells, from then on it is game over for the homeowner.

In order to build a proper sandbag dike during a flood of 1997 or greater proportions, a shallow trench must be dug in the ground before the dike is erected and sandbags placed in it. That way, after the dike has been completed and when the warm water thaws the frozen ground the water cannot seep under the dike. However, Madam Chairperson, remember we are in a flood situation. Time is of the essence. The ground is frozen and no homeowner has the equipment to dig a trench in the frozen ground all around one's house.

So the proper method of constructing a sandbag dike is not available to the homeowner. Now, sandbags placed on top of existing dikes or used to close up an opening in a permanent dike are also not desirable and they are not safe. The force of the water at the junction of the sandbags and the permanent dike is a weak link in the dike and it will collapse.

Bill 23 does not provide for a situation where compensation will be granted if a homeowner does not have a pad or a ring dike and does not use sandbags to protect his or her home. However, there are advantages to not using sandbags. There will be no damage done by inexperienced volunteers attempting to build a sandbag dike. There will also be no damage done by heavy equipment coming onto soft ground, after the flood, to remove that which the volunteers inefficiently and inappropriately built.

There are also situations such as my own, where the government does not allow the building of a permanent dike around the house or placing the house on a pad. For me, the only suggested alternative is a temporary sandbag dike which, as I have just explained, is totally useless.

Now I have a plan of action that allows me to know what moving company will pack up my personal possessions, where the designated storage site will be, where I will stay during the flood, and how I will be able to return to my property even before the repairing and replacing of my house begins. However, I will not be doing anything of a physical nature apparent to the public. That puts me

in a position of being accused of not trying to protect my property and disqualifying me for financial compensation. This situation should not be allowed to occur.

I am suggesting to you that Bill 23 make provision for homeowners to register a plan of action with the Disaster Assistance Appeal Board or the Emergency Measures Organization, prior to any flooding, so that alternative flood-proofing methods can be approved by them and assure the homeowner that he or she will not risk the loss of compensation.

Now with respect to the wording of Bill 23, I have seven concerns. If you have the bill in front of you, I would suggest that you might want to look at it and follow along as I discuss particular parts of the bill.

My first concern is in Part 2, titled Compensation For Artificial Flood Damage and Economic Loss, subsection 2(c) and 3(a) and 3(b). These subsections refer to flood-proofing criteria as defined in the designated flood area regulation. However, this regulation pertains to the construction of new buildings, not to the protection of existing buildings. Compensation in Bill 23 should encompass damage to existing buildings as well.

My second concern is also in Part 2.4(3), and is titled Claimant's acts may affect compensation. This subsection deals with the very situation I have previously outlined. This subsection states that "compensation may be reduced in whole or part if the claimant's acts or failure to act allowed the damage or loss to occur or contributed to its occurrence." Bill 23 must be very careful not to penalize homeowners who have acted responsibly to protect lives and their home and property, while at the same time minimizing the cost of doing so.

According to Bill 23, such a determination will be made by personnel from the Emergency Measures Organization, which brings me to my third concern, also in Part 2.3(2), titled Emergency Measures Organization determines claims.

This subsection has serious deficiencies associated with its intent. After a flood, the EMO employs untrained, part-time, inexperienced personnel to investigate claims made by homeowners. EMO has no front-line, experienced personnel trained in the complexities of evaluating flood

damage. Its guidelines exist on paper. It is a top-down approach to the resolution of a flood victim's claim. I suggest that it should be a bottom-up procedure, with the EMO training homeowners as a standard operating procedure, say, associated with obtaining one's homeowner's insurance—

Madam Chairperson: Doctor Shapiro, you have 30 seconds left.

Mr. Shapiro: —buttressed with required evidence confirming a plan of action, a moving company hired or on retainer to remove one's personal belongings and to store them for the duration of the flood. A place to stay and a plan of action to account for one's activities after a flood all contribute to a population of potentially flood-prone residents who know what to do, and who are confident that there will be no loss of life or loss of personal possessions. These homeowners are less likely to panic—

Madam Chairperson: Doctor Shapiro, if you could conclude your remarks, please.

Mr. Shapiro: I will stop now, Madam Chairperson, and distribute copies of my presentation.

Madam Chairperson: Thank you very much. Are there questions?

Hon. Jon Gerrard (River Heights): Thank you for the presentation and for some clear recommendations to improve the legislation. Maybe you would comment about your experience in using sandbags. Clearly, you have had some not very positive experience, from the sound of your comments.

Floor Comment: The experience with sandbags is exactly as I—

Madam Chairperson: I have to recognize you, Doctor Shapiro.

Mr. Shapiro: Madam Chairperson, through you, the experience that I have had indicates that you cannot use sandbags in our climate when the ground is frozen. Using sandbags with warm water engulfing the home that you are trying to protect, because the warm water thaws the ground under the dike and the water, through the force of the pressure of the water above it, will force that water under the dike and into the window well of the home, flooding the home.

Therefore, the only way to make sure that everything in that house is safe and secure is to get

rid of it. What I am suggesting is that as an alternative to using sandbags, if that is not advisable, that Bill 23 recognize that there are alternative ways of protecting one's life, protection of livestock and home possessions.

One can submit that plan to EMO or the Disaster Assistance Board, have it approved, carry out your plan and you qualify for compensation. If you do not do that, then I can tell you that the plan as outlined now by EMO is going to be more expensive.

You are going to have a house filled with water with 90 000 sandbags around it, with volunteers who do not know how to build a dike and a panicked homeowner who also does not know how to build a dike. You are going to have heavy equipment coming across your lawn which will not be compensated because you are only compensated for the land under the dike. It will be hugely expensive.

Also remember the problem with flooding in Manitoba is not the flooding. The problem is letting homeowners be aware of what they have to do. If they know what they have to do, then calm prevails. They have a plan of action. They carry it out. They get out of there. The government has less compensation to provide for these homeowners because there are less of their possessions that are ruined.

*(18:50)

So what I am suggesting is that Bill 23 encompass alternative plans of saving one's home, have them approved and it may even be legislated so that this has to be part of one's homeowner's insurance. Then, every two or three years, just as you have to have your licence to drive renewed, you have to demonstrate you have a plan of action. You have a carrier hired, or on retainer, to empty your house. You have a place to stay. You know what you are going to do after the flood.

Now, the government's role is to make sure that homeowners in a flood-prone area are prepared. You do not leave homeowners as susceptible to panic, to worry, to not knowing what to do because the time to fight a flood is not during the flood, it is now, before the flood.

Mr. Kelvin Goertzen (Steinbach): Mr. Shapiro, thank you for your presentation. I wonder if you could comment a little further on section 32 where

you make comment that, perhaps, quite apart from the bottom-up approach of flood planning, there must still be somebody who does an assessment of damage. You raise some concerns perhaps about EMO doing the assessment. If you could provide us some indication of who you think might be better for that. Do you have concerns as well with the government not allowing appeal outside of the EMO process?

Madam Chairperson: Doctor Shapiro, you have about 45 seconds to answer.

Mr. Shapiro: It has been my experience that the EMO is a paper organization. It plans for disasters, but after the disaster occurs and I, the homeowner, am now in my home asking for someone to assess the damage, those individuals are not trained. They are part time. They are inexperienced. They want to get into the public service. They do not have a job. They get into the public service; they find that it is too much; they quit. All of a sudden, I have a new assessor on my hands and we have to start all over again.

What I am suggesting is, as I have outlined here, the homeowner should be able to say, "Hey fella, you are not competent. I want another assessor." Also, where the government is protected by this legislation later on, and I did not have an opportunity to discuss that, you should not protect yourself from incompetence because your incompetence is putting my life in jeopardy. It is destroying my future. My present is gone. The past is rendered useless. I should be able to sue you in a court of law if you send me an incompetent assessment.

Madam Chairperson: Thank you very much for your presentation, Doctor Shapiro.

Point of Order

Hon. Tim Sale (Minister of Energy, Science and Technology): Madam Chair, on a point of order, I wonder if you would ask the committee if there is leave to vary the procedure we agreed in order for Elizabeth Fleming from the Council of Women to present now. I understand Ms. Fleming is unable to stay terribly long and I believe there are still nine presenters at 15 minutes each. If there is leave, then perhaps we can vary our procedure.

Madam Chairperson: Is there leave from the committee to change? *[Agreed]*

Thank you. There is no point of order, but we will change the order.

Bill 10—The Gaming Control Amendment Act

Madam Chairperson: Elizabeth Fleming and Valinda Morris from the Provincial Council of Women will be presenting on Bill 10, The Gaming Control Amendment Act. Thank you very much.

Do you have presentations to distribute to committee members?

Ms. Valinda Morris (Provincial Council of Women of Manitoba): I think we would rather wait until the end to give them out, if that is permissible.

Madam Chairperson: All right. Please proceed. And you are?

Ms. Morris: My name is Valinda Morris.

Madam Chairperson: Valinda Morris. Okay, thank you.

Ms. Morris: I am sharing the presentation with Elizabeth Fleming. We will each read half.

Good evening, Madam Chairperson, members of the committee, ladies and gentlemen. The Provincial Council of Women, which we call PCWM, is pleased to have this opportunity to speak to Bill 10, The Gaming Control Amendment Act. PCWM has been researching and monitoring gambling across Canada and internationally since 1995, when we participated in the hearings of the working group which produced the Desjardins report.

PCWM policy reflects the recommendations of this report as well as the beliefs of our own members. One of the councils of women's tenets is the improvement of society, especially for women and children. It is important to remember that behind each gambler is a family, perhaps a spouse or partner, and children. The key is to keep a balance between gaming as entertainment vis à vis gaming as an addictive habit, and between Manitoba Lotteries Corporation and the government's profit motive and the individual's excitement and his or her expendable cash for entertainment.

This presentation on Bill 10 is informed by PCWM's 1996 resolution entitled, *Reduction of*

Gaming in Manitoba, which is attached to our brief. Also, Statistics Canada's study on problem gambling entitled *Fighting the Odds*, December, 2003, and the reports of the Auditor General of Manitoba on *Dakota Tipi First Nation Gaming Commission and First Nation Accountability in Manitoba*, March, 2003. The latter report was initiated after PCWM wrote to the Premier (Mr. Doer) regarding its concerns about what the people on Dakota Tipi Reserve told us about the alleged misuse of gaming revenues. We also refer to performance reporting in annual reports, *Current Practices Among Crown Entities* and *An Examination of Governance in Manitoba's Crown Corporations*, June, 1998.

PCWM recognizes the study and work by the Gaming Control Commission, MGCC, board and staff in reviewing the Gaming Control Act and in bringing forward their recommendations in Bill 10, The Gaming Control Amendment Act. While Bill 10 is a welcome improvement, it fails to deal with one basic flaw. It does not address the contradiction found in Part 1, (2) and (4), which is most critical in the Gaming Control Act of 1997.

Part 1, (2), The Intent and Purpose, is fine, but the actual independence of the Commission as an arm's-length Crown corporation is prohibited by section 4, which reads as follows: "Duties of the Commission: (a) at the request of the minister, to provide advice and recommendations as to gaming activity; (b) at the request of the minister, to conduct public meetings or hearings for the purpose of clause (a)," and then part "(d) at the request of the Lieutenant-Governor-in-Council, to continue public inquiries into matters of gaming activity."

The result of these limitations is an MGCC Board of Directors with an executive director who must function subject to direction from the minister. Perhaps you have all noticed that gaming control announcements often are released by the minister. The media naturally turns to him for comment and further information while the chair, board members and executive director of the commission have a very low public image.

PCWM, therefore, continues to request the government to remove the phrases "at the request of the minister" and "at the request of the Lieutenant-Governor-in-Council" as we did during the consultation prior to Bill 10 and in our letter to Minister Sale dated April 6 of this year. PCWM

hopes that the government is prepared to make this critical wording amendment in Part 1 promptly, creating MGCC as a fully-independent commission, able to exercise real control of gaming in Manitoba without government interference and able to deal with the broader social implications of gambling as was originally intended.

If we refer to the government's implementation plan activities of 1996-1997 that charts the actions to be taken in one column beside the recommendations of the Desjardins report in the other column, we see that far greater responsibilities and powers were envisaged for the MGCC than the later act actually allowed. Note specifically these actions: under Security and Law Enforcement, "the Province of Manitoba to establish a gaming commission to provide for the balancing of the goals of revenue generation and other social and economic objectives."

*(19:00)

Under Video Lottery Terminals, the Gaming Commission is to review all aspects of the VLT program every two years. You may know that, at present, all VLT matters are dealt with by the Manitoba Lotteries Corporation. Then, another one under VLTs, "the Gaming Commission will review the impact of various redistribution techniques for accommodating new VLT site holder applications."

Under Operations, MLC, that is the Lotteries, to resume advertising and promotional activities under the scrutiny of the new Gaming Commission.

Advertising policy to exclude all lifestyle advertising.

Beneficiary awareness is to accredit the Province of Manitoba.

I am not sure whether the latter part is done, but I do not believe that the Gaming Commission has any say in the advertising that is done by MLC.

The last one under this earlier implementation thing is that the Manitoba Gaming Commission is to oversee First Nations gaming in Manitoba.

Ms. Elizabeth Fleming (Provincial Council of Women of Manitoba): Provincial Council of Women of Manitoba.

Madam Chairperson: Yes, and you are Ms. Fleming, right?

Ms. Fleming: Yes.

Madam Chairperson: Please proceed. You have two minutes remaining.

Ms. Fleming: From what we have heard from the women on First Nation reserves, we have further concerns about First Nations gaming. As indicated earlier, Bill 10 is the result of the internal Legislative Review Committee's work within the MGCC board. It started before the Auditor General's report on Dakota Tipi and the First Nation Gaming Accountability report, which was tabled in March 2003.

The issue for the MGCC was compliance. Financial accountability and the power to monitor only was insufficient to the task. Bill 10 addresses the need for procedures and enforcement capabilities of the commission to manage and control gaming activities on and off reserves in Manitoba. The LRC is apparently satisfied with this improvement and we agree with this increase in enforcement capability, as far as it goes, in the regulation of the business of gaming. But the first concern is just how the First Nations are included and affected under the act as amended by Bill 10.

Section 57 of the bill defines licensing authorities which is understood but not stated to include First Nation Gaming Commissions. It seems to cloud the issue not to clearly state the relationship of MGCC to First Nation Gaming Commissions. It talks about municipality, but not First Nations. The OAG Report recommended that the MGCC have agreements between MGCC and the First Nation, and that is on page 37. The 1994 agreement between the band and the Province did not include any reference to MGCC.

The other concern that we have is really the publishing of what happens to the revenues. First of all, the revenues have not been reported and then publishing of where those revenues go. The women told us very clearly that the money came in, it was divvied up that night, and they never saw any improvements, whether it was for charitable or religious purposes, or for community improvements, and that was the real problem. So the issue in this act now is that we do not really see enough of the publishing, and we continue to ask for that.

I am going to leave you with the—

Madam Chairperson: Ms. Fleming, if you could conclude.

Ms. Fleming: —presentation and just leave with a recommendation that because of all the initiatives that have been put forward by the Manitoba Lotteries Commission that have then been pulled, for example, the kenos, and the advertising in rural areas, the ATMs in casinos, we are going to recommend that, respectively suggest, that the minister consider an independent public review, maybe a working group, of gambling in Manitoba including, but not limited to, the types of and amount of gambling appropriate for Manitoba—

Madam Chairperson: Ms. Fleming—

Ms. Fleming: —ways to provide continuity—

Madam Chairperson: Excuse me. Hello. I am sorry. I will have to give some time here for questions, so I will have to stop your presentation at this point. Are there questions?

Hon. Jon Gerrard (River Heights): Thank you for your presentation. I am quite interested in your comments with regard to the need for an independent review of what is happening with gaming and gambling in Manitoba, and I would be interested in your comments as to what should be included.

Ms. Fleming: We thought it should mostly consider on the types of an amount of gambling appropriate for Manitoba, ways to provide a continuity for financial records, timely public reporting, and public accountability for all gambling revenues in Manitoba, ways to apply even-handedly the provisions in section 207 of the Criminal Code of Canada to gambling in Manitoba, and ways to manage and operate gambling in Manitoba so that the government of Manitoba is no longer in the position of regulating itself. We feel that there is a real conflict of interest the way things are arranged at the moment.

Mr. Kelvin Goertzen (Steinbach): I would like to thank you very much for your presentation. Certainly, the independent review is something that we in opposition have been calling for, for some time, and so we appreciate hearing the support of your organization. I think that gives us some

motivation to go forward and continue to call for the independent review.

I wonder, in terms of one of the questions about independence, section 29(3) of the act limits the executive director in terms of making certain recommendations, in particular, the hours of operation of a scheme, number of schemes, the combination, layout of a particular gaming establishment. I wonder if it would be beneficial if the Manitoba Gaming Control Commission had the ability to make recommendations on those things. Would that be a step forward in terms of, maybe not outright independence, but at least the ability to make recommendations?

Ms. Fleming: Yes, I believe that would be a step in the right direction.

Madam Chairperson: Thank you. Seeing no other questions, thank you very much for your presentation.

Bill 23—The Red River Floodway Act

Madam Chairperson: The committee will now revert to Bill 23, The Red River Floodway Act, and the next presenter is Jack Jonasson from the Coalition for Flood Protection North of the Floodway and he has indicated that he is from out of town.

Mr. Jack Jonasson (Coalition for Flood Protection North of the Floodway): Not that far out of town.

Madam Chairperson: Mr. Jonasson, do you have presentations to distribute to the committee members?

Mr. Jonasson: There are several up here.

Madam Chairperson: Okay. Please proceed.

Mr. Jonasson: Madam Chair, committee members and fellow presenters, I am going to make some general comments about the bill first, the concerns that we have, those of us who live north of the floodway. We had asked for compensation to be considered, not just for what this bill addresses, which is artificial flooding, but if you are going to protect Winnipeg from a 1-in-700-year flood, what

are you going to do for the rest of us who are outside the protection of that floodway? When it was announced that there would be a compensation bill, our hearts were filled with the generosity of the government. However, on reading the bill, it appears that from the content of this act it is more about protecting the government and its agencies and employees from court action, regardless of how negligent and/or incompetent, from blame or consequence then it is about developing a system to treat those not protected by the construction of the floodway in a fair and reasonable manner.

The fact that this act speaks only to artificial flooding caused by construction and/or operation of the floodway demonstrates very clearly that the framers of this bill have little understanding of the many and varied impacts that the floodway will have on those living outside its protection and in the path of its construction.

* (19:10)

On asking for compensation, our group was expecting that if the government was protecting some of the residents of the Red River basin from a 1-in-700-year event, it would find ways to compensate those it chose not to or could not protect to that level. Compensation methods may include buying property that cannot be protected; purchasing easements, that is, the right to store water on land that cannot be protected and will be used to protect other lands from flooding; or, in lieu of flood protection, a one-time compensation that will allow continued use of the land with severe restrictions on land use and construction, but forever excluding further compensation.

The way in which those outside the protection of the new and expanded floodway have been dealt with historically and now there is this law which in essence is not a new concept because historically the law against flooding your neighbour is a long-standing law in Canada. The government, if they artificially flood anyone, is obliged under existing law to provide compensation. The only thing new in this law is that it strips away the right of access to the courts to those harmed by the actions of the government and its agencies.

I would like to now go through some of the provisions. No. 1, this proposed act speaks only to artificial flooding. We want to know what is

proposed to do with other effects of the floodway expansion, i.e., damage to the aquifer, interruption of municipal services, ambulance, fire, student transportation, other municipal services like road maintenance, surface drainage. What of the loss of revenue to the municipalities from lands expropriated to build the floodway, and why the name? Would not the principles and conditions here in this proposed law apply to any like situation anywhere in Manitoba, that is, a hydro dam, the Portage diversion, drainage ditches. It should all be the same.

Then when we get into the definitions at the beginning of the act, it talks about natural level. This is not defined in the act. We want to know what it is and how it is calculated. The government is obliged, according to this act, to compensate people only if they artificially flood them.

Ladies and gentlemen, historically the people north of the floodway have been told they are not adversely affected by the operation of the floodway. Well, the historic record indicates that, in fact, they are. We need a way to have that recognized. If the government says we were not artificially flooded, they do not have to compensate us.

Extreme spring floods. There is a section there that talks about extreme spring floods upstream of the floodway. It never mentions downstream. Well, we are also there, and we get extreme floods too. As a matter of fact, we had floods downstream this year when nobody else had extreme floods.

Rules of operation. The legislation must clearly state how these rules are developed, who is involved in the process and the consequences of not acting according to those rules. This is as crucial to establishing a fair and reasonable process to deal with compensation, as is the definition of natural level.

In part 2.2(1)(b), there is mention of the development of regulations by the Lieutenant-Governor-in-Council. Well, how can we comment on this bill if we do not know what those regulations are? It may be fine. Maybe the concerns that I have and members of our coalition have are unfounded, but in the regulations we do not see.

There are questions in 2.2. What is the difference between real and personal property? What about intellectual property?

In 2(2)(c) it talks about the government being exempt from compensating someone if they have not dealt properly with flood proofing their property. The problem is we are talking about artificial flooding. There is no requirement to protect your property from artificial flooding. It does not apply, should not apply.

There is a section that says compensation is provided only if the economic loss occurs in Manitoba. What about a contractor who has a contract to do work in Ontario, but his equipment is drowned in a flood because he is resident in the basin of the Red River?

Emergency Measures Organization determines claims, 3(2)(b), EMO determines whether artificial flood damage to property and whether it is eligible property. I ask what is the expertise available to EMO to make this determination.

Madam Chairperson: Mr. Jonasson, you have one minute remaining.

Mr. Jonasson: Many residents north of the outlet have been turned down by government for assistance in flood protection because it was determined they did not reside within the flood plain, this despite the fact that they have flooded and will continue to be flooded. We have no idea as to who and how those determinations were made. Furthermore, there is an appeal process. This, again, is done by the same agency, EMO, who is under the same ministry. I think this is a classic case of conflict of interest, particularly when the act says you have no appeal after appeal to the EMO. This does not make sense to me.

Madam Chairperson: Mr. Jonasson, if you could conclude your presentation, please.

Mr. Jonasson: I guess our concerns are with the whole concept of this act. It does not address any of the concerns that we, as residents north of the floodway, put forward to the various hearings that were held in January 2002. It misses the point altogether and it does not provide compensation. It provides protection from the government.

Madam Chairperson: Thank you, Mr. Jonasson. Are there questions for Mr. Jonasson from the committee?

Hon. Jon Gerrard (River Heights): I want to say thank you for your presentation. You have been quite thorough in reviewing this, and I would like to ask you to comment briefly on the phrase "natural level," what it means or does not mean and what it should mean if it is going to be in this legislation.

Mr. Jonasson: It is a theoretical construct. It does not exist. It basically says that the government is not obliged to compensate people if, in fact, they would have been flooded to that level anyway.

Now, how do you calculate this mythical construct called natural level? It is a level that the water in the river would have existed at during a flood, were there no floodway or were there no dikes or were there no whatever.

I do not know how they can calculate this, but they have apparently been confident enough to use this in the act. I think this would have to be worked out by a very, very extensive cross section of academics, engineers and people who have experienced what happened in the floodway. A good example is we are always told north of the floodway that you would get all that water anyway, so why are you complaining?

Do you know, ladies and gentlemen, in 1826, all of the water did not flow down the river through Selkirk? A good portion of it went around Selkirk, west through the bog, a river as much as three miles wide, six miles long, a huge amount of water that now has to go by Selkirk.

* (19:20)

It also went east of Birds Hill into the watersheds of Devils Creek and Cooks Creek. So all of the water did not go by Selkirk. All of the water now has to go by Selkirk. So how do you define natural level? I do not know. I think it is a mythical concept.

Hon. Steve Ashton (Minister of Water Stewardship): Thank you, and if I could, as we were out of time last time, I would also like to thank Doctor Shapiro for his presentation. I know he is certainly correspondent with the department and myself, and I want to indicate that I will be responding in writing to many of the issues that were raised. I just do not have the time to get into all of them, and I certainly appreciate that.

Also, I would like to thank Mr. Jonasson. I can indicate to Mr. Jonasson in terms of natural levels that I think Mr. Jonasson is aware we are—in fact, we have a specific engineering study that has been ongoing to make sure that there is a current scientific definition of natural flooding. I certainly encourage him to participate at the hearings and put forward any issues or concerns of that nature.

We have a well-known engineering company here which is looking at that, and I certainly appreciate that that is key to this bill, which is aimed at compensation for flooding above natural levels, as compared to what I would call non-artificial flooding, if you like, which is covered by Disaster Financial Assistance.

So I did want to thank Mr. Jonasson. I realize we are short of time, so I do not really have a chance to ask detailed questions on a lot of the points that were raised, but, certainly, if you are interested, I would be more than happy to provide you with the latest information on the natural level issue, which I know we have discussed directly at our previous meetings. So, thank you.

Madam Chairperson: Thank you very much for your presentation.

Mr. Jonasson: I have a handout and it addresses a lot more issues in the bill.

Madam Chairperson: Thank you very much.

Our next presenter is Jim Stinson, a private citizen. Mr. Stinson, do you have a handout for the committee?

Mr. Jim Stinson (Private Citizen): I apologize, Madam Chairperson, I do not.

Madam Chairperson: Okay, please proceed.

Mr. Stinson: I did not have a photocopier at home and I did not believe it was available.

Madam Chairperson: That is fine. Please proceed.

Mr. Stinson: Madam Chairperson, members of the Legislature, first off, I want to thank you very much for the opportunity of speaking on this bill. I am just a private citizen. I am not an engineer or anything like that. I am just a resident of the R.M. of St. Clements.

I have lived in the R.M. of St. Clements since 1990. First, I would like to say that I hope Bill 23 never has to be used, but, in the event it does, I believe that some areas must be addressed and/or clarified. If you have the bill with you, in front of you, it may help assist when we go through it.

The first thing is definitions. Under definitions of the act, No. 1. "artificial flooding," part (a), "caused by floodway operation during spring flooding." When are the dates for spring? They are not pointed out. Why is this Bill 23 limiting it to springtime? Anytime the floodway is in operation should be covered. The floodway, in fact, operates in the summer, and a deadly example of when it was operating was in August of 1993, when a gentleman drowned at the outlet of the floodway when it was in full operation. That is not springtime operation, the way I would look at it, I suggest.

Part (b), "in which the Red River exceeds its natural level at the time of the event." Like was mentioned before, what is the natural level? As late as April of this year at a floodway expansion presentation in St. Norbert, Mr. McNeill of the floodway expansion authority admitted that there were in fact some discrepancies now as to what natural level actually is.

The next definition on the next page, "rules of operation means the rules of operation of the floodway control structure approved by the minister under The Water Resources Administration Act."

Twice now, I personally have asked the Floodway Authority for the present-day rules of operation and still have not received them. With the proposed floodway expansion, I understand that there will be new rules of operation. Does this proposed Bill 23 pertain to the present day rules of operation or under the expanded floodway?

I will quickly move to part 2.2(1) deals with claims for artificial flooding and economic loss; 2.2(2) deals with eligibility of property; 2.2(3) deals with "eligible economic loss." In all three subsections, Bill 23, the word "artificial" is used. I have great difficulty with this word "artificial". If the damage caused by the Red River Floodway is to compensate all Manitobans, as Minister Ashton indicated in his press release, then one would believe that any flooding caused by the operation of the floodway would be compensated.

I live approximately three miles northeast of the floodway and draw my water from the aquifer below me. A lot of people are not aware of the aquifer. The aquifer is the water we get from down below. I served 30 years with the RCMP and retired six years ago, at which time I turned down a physical move to anywhere in Canada, completely paid for by the government, strictly because of the quality of life that I had living in the province of Manitoba, in specifically the R.M. of St. Clements. We have horses and therefore quality of water is not only important for human consumption, but animals as well.

In none of these subsections do I see anything to deal with one's quality of life being affected due to the operation of the floodway. I would like to expand on this quality of life and the Red River Floodway. In Minister Ashton's press release, he indicated that The Red River Floodway Act would provide a legislated right to compensation for Manitobans.

The original floodway was built in 1968. The aquifer was breached in at least four locations for several miles. This causes contaminants from the Red River going through the floodway, being subjected to my aquifer, to the water in front of you people. That is the type of water it is subjecting to me. When speaking with members of the floodway expansion, they advised that if drinking water or the aquifer were contaminated then they would possibly have to drill wells deeper. This brings into focus the quality of water and the quality of life again.

There are several sites in Manitoba where due to contamination people have to haul water. If this was to happen, my quality of life and several of my neighbours would be greatly affected with Bill 23. As it is written today, we would not be compensated. I would just like to mention one thing for my uncle, who lives at Breezy Point, 2.2(4), exception to eligibility of certain property. Residents of Breezy Point were required to sign a waiver preventing them from any compensation due to flooding as they were residing on a flood-prone area. These are 21-year leases. Minister Ashton in his press release for Bill 23 mentioned that \$110 million was provided to residents of the valley to improve protection.

The residents of Breezy Point were refused any funding to protect their property when this program was in operation. Now, with the proposed expanded floodway, they will be subjected to additional

flooding, still with no funding for flood protection or compensation under Bill 23.

* (19:30)

Under section 7, it says, "no court proceedings for compensation." I find this section very discriminatory and if Bill 23 is supposed to be implemented to protect the residents of Manitoba, why would such a section be required? I feel section 7 should be completely removed.

The last area is under part 3.9(1), extreme spring flooding declaration. It says, "on the advice of the director, or that an extreme spring flooding is occurring or that to occur, the minister may make an extreme spring flooding declaration. The declaration takes effect when it is made." End of the section.

Again, this points to rules of operation and natural level, which I have addressed previously, and must be clarified. Thank you very much for your time and your interest in such a bill.

Madam Chairperson: Thank you very much, Mr. Stinson. Are there questions for Mr. Stinson?

Mr. Gerrard: Thank you. You bring up some important points with regard to the quality of life which I think would need to be better considered than they have been. You also talk about the, I think it is section 7, which deals with the appeal mechanism and I would like you to comment a little bit further on, I mean, this seems, you know, to make it very difficult, particularly if there is not a clear definition of what is artificial flooding and what is natural levels.

Mr. Stinson: Section, section, this is very awkward bending forward like this.

Madam Chairperson: Mr. Stinson. Sorry. Just a moment. Mr. Stinson, go ahead.

Mr. Stinson: It is very awkward in this stepping forward here. Section 7 says, "no court proceedings for compensation." I spent 30 years in the RCMP, 15 years specializing in immigration dealing with people all around the world. In any democratic country, the courts were always open to people. This act removes it from us. It takes our democratic right away from us—[interjection] I am not a lawyer but—I am sorry.

Madam Chairperson: Excuse me, there is no participation from the gallery. Thank you. You may continue, Mr. Stinson. Did you want to continue?

Mr. Stinson: I apologize, sorry. I am not a lawyer, but I have dealt with laws and dealing and reading in the act, and in 30 years of police, and a lot of you people, or even some of you are quite a few years younger than I am, have you ever seen a law being taken off the books? No. We put laws on the books continually. The way this bill is written, Mr. Ashton, I thank you very much for trying to protect us, but the way this thing is written, it is not protecting us at all. It is a useless act. I am sorry. I apologize. We do not need more acts just to have paper. We need to be protected.

Mr. Ashton: Thank you and I appreciate your presentation and I can indicate I know some concerns have been expressed about the particular section you referred to in terms of appeal mechanisms and I would anticipate once we are finished the hearings, we will be discussing some potential amendments and certainly we are looking at an amendment that would provide some avenue in terms of appeals.

The other thing I wanted to really stress too, by the way, is the good point you raised about the impact on ground water. We have tried very much, through the design of this project, to include that as a major factor. As you are probably aware, we were originally looking at up to six feet of depth for the floodway. It is now two feet or less and the engineering model has now shifted very dramatically for one reason and one reason only, and that is that we said, yes, we have to provide the flood protection but we also have to look at the ground water impacts.

You are quite right about what happened in the 1960s and, of course, in those days, there were no environmental assessments. People did not know what was going to happen, but we know that ground water was impacted, so I can assure you that not only are we designing the project for flood protection, we are going to minimize ground water impacts and, certainly, there is mitigation built in for that.

I realize that is sort of beyond the scope of the bill but I could not agree with you more. I know that is a huge impact and I do thank you for going through this. It is a rather technical bill and I appreciate your perspective, particularly your

background in law enforcement. I am sure you have dealt with many bills in the past on the receiving end of implementing it so we certainly appreciate your advice.

Mr. Stinson: Madam Chair, if I could just speak to Mr. Ashton.

Thank you, Mr. Ashton. That is correct. They have got it down from the 2000 report. They were going to go three metres and now it is down to two feet, two feet, two inches. The aquifer is still breached, so every time the floodway is used, my aquifer is subjected to the contaminants. I asked the engineering firm if they could find a way of sealing it, and they said they did not know but they were going to find out. But if they do not, how do we get compensated?

Thank you very much. I appreciate your time.

Madam Chairperson: Thank you very much, Mr. Stinson.

Mr. Robert Duerksen, 768 Association Incorporated. Mr. Duerksen, do you have a presentation to distribute to the committee?

Mr. Robert Duerksen (768 Association Incorporated): Yes, I do, and I would like to hand it out after my presentation, if that is all right.

Madam Chairperson: Please proceed then, Mr. Duerksen.

Mr. Duerksen: I represent the 768 Association Incorporated. The 768 Association Incorporated is a corporation that represents 27 property owners directly south of the floodgates. We are a unique organization in the fact that some of our members are located in the R.M. of Ritchot and some are located in the city of Winnipeg. Because of our close proximity to the flood control works, we are very interested and concerned with the proposed legislation, as well as the Floodway Expansion Project in general.

On May 10 our association wrote the Honourable Steve Ashton and provided our comments in response to the draft summary of the draft legislation that was provided to our association earlier in the year. My presentation here tonight is basically to pull out six points from that letter that we wrote, and just to put those points in a nutshell.

Number 1. The 768 Association is concerned that the legislation says that a flood report may be available to the public. It is our position that a flood report must be available to the public every year and whenever it is written.

Number 2. It is our position that an independent group must determine if artificial flooding was created. The wording of the legislation right now is that it is the government that determines whether artificial flooding is created. This cannot be the case. The 1997 flood was a very good example of how it took the government a whole year-and-a-half and extreme pressure before they ever admitted, after countless times coming out, I remember the Premier (Mr. Doer) standing on TV saying that there was no artificial flooding created, basically lying to the public, it took them a year-and-a-half before the truth finally came out. It is just a good example of how, if you do leave it up to the government to determine if artificial flooding is created, you might not necessarily get the truth. There has to be an independent group established with fair representation from outside the city of Winnipeg.

Number 3. The rating curve must be part of the legislation by which artificial flooding is determined, or at least a process by which the rating curve is determined must be identified in the legislation. There has to be public involvement and public scrutiny as to how this rating curve is determined. To date, the Manitoba Floodway Expansion Authority has rolled out a new rating curve and there has been no public involvement and there has been no public scrutiny of that rating curve. We are asked to trust the government that these are the natural levels. There must be public involvement and it must be tied to the legislation. There must be consensus on what natural levels are and how they are determined.

Number 4. The legislation requires existing properties to be flood proofed ahead of time but it is not clear what this entails or, as a previous presenter has mentioned, it is not broad enough in its definition of what flood proofing could be.

Number 5. The proposed legislation precludes litigation as a last resort. It is our position that this is contrary to the Canadian Charter of Rights and Freedoms. The Canadian Charter of Rights and Freedoms provides equal protection and equal benefit under the law. One might think that this is equal or the same as no-fault Autopac insurance but

it is our position that this is very different. No-fault Autopac insurance is applied equally to all citizens across the board in the province of Manitoba. This legislation, if it were to go through, would not allow certain segments of the population the right to sue if they were caused damage. So again, it our belief that it is contrary to the Canadian Charter of Rights and Freedoms.

Number 6. There are more ways of causing artificial flooding than are described in the legislation. Other presenters have spoken to this point here tonight. For example, ice jams caused by gate operations. That has nothing to do with natural levels or not. Those are localized events. They can be caused by the early operation of the gates when there is still ice on the river.

Those are six points that we presented in our letter to Mr. Ashton on May 10. I thank the committee for hearing me tonight.

Madam Chairperson: Thank you very much, Mr. Duerksen.

* (19:40)

Mr. Kelvin Goertzen (Steinbach): Thank you very much for your presentation. I appreciate your comments regarding the difference between no fault insurance and what Bill 23 proposes. Certainly, quite apart from the Charter argument, although perhaps you could make one there, there is also more of a policy argument in that I think when you are dealing with no-fault insurance you are dealing with two parties separate from government who have been involved in an accident, and the government steps in as a third party to administer a scheme, whereas here it is actually the government itself that has caused the harm through the operation of the floodway, and then they insulate themselves from the harm that they created. I think there is a substantial difference right there.

I wonder if you could indicate, you indicated that you wrote to the minister on May 10 regarding these concerns. What was the response from the minister?

Mr. Duerksen: No response. Can I speak to that point again?

Madam Chairperson: Yes, Mr. Duerksen.

Mr. Duerksen: We received no response that I am aware of from the minister's office. We did copy the Conservative Party. The Conservative Party did phone me and say that there was this committee hearing tonight and that we should register to speak.

Mr. Gerrard: Thanks for your presentation. You mentioned that there should be a process in the legislation with regard to the method used to determine what is artificial flooding. I just want to give you an opportunity to suggest what sort of might be elements of that process to help us in looking at what might be best in terms of changing the legislation if this were to proceed.

Mr. Duerksen: The rating curve and the artificial flooding levels should be part of the environmental hearings by the CEC. Currently, it is not. It is not part of the project description, and it is not being heard in that venue. What the government of Manitoba has done here in our opinion is they have piecemealed this project out. We have made this point countless times. We have made it at the first CEC hearing, a preliminary hearing about a week ago.

The point is that we have compensation legislation, we have floodway operating rules, and we have the floodway expansion project. They are all three separate streams right now requiring three separate submissions by people, requiring different arguments at different places. It is all one project and it needs to be tied together as such, okay.

The public has not been given any kind of a venue or the resources to hire engineers to independently verify the rating curve that has been presented by the government. That is what we would like. We would like funding through the CEC hearings. That is one possible way. They have intervenor status funding. There needs to be the resources given to the public at large that there is buy-in, because there is a huge, huge mistrust between residents outside of the city of Winnipeg with the government of Manitoba with respect to this project at this point. That gap needs to be bridged.

One other point, in our letter we suggest also that to be open and transparent in this whole process the inlet and outlet structures should have elevation markings on them. They should have flow meters there so the public, anybody from the public can walk up, they can determine what the flow, what the

elevation is and do their own calculations. It is not rocket science. It is fairly simple to do.

Mr. Ashton: Thank you. I certainly would like to thank you for your presentation and correspondence. We have actually received some very good, detailed letters. I mentioned Doctor Shapiro before. Actually, given the importance of this bill for people who are impacted, we have made sure that each and every letter that we do receive is given full scrutiny.

I stress that a lot of the letters, and you have mentioned a number of the issues, go beyond the scope of the bill as well. I thought it was important that we not only respond in terms of the bill which is before us today but some of the broader floodway issues and certainly the point you raised about the appeal process. I indicated that I am anticipating once we are finished that we will be able to debate some amendments that we feel will address that concern. I also want to make sure that we are responding in detail to some of the other issues that were raised. I think that there were some very constructive points that were raised both in presentation today and the letters. Thank you very much.

Madam Chairperson: Thank you very much, Mr. Duerksen.

The next presenter is Ian Wishart from the Keystone Agricultural Producers. Mr. Wishart, do you have copies of your presentation to distribute?

Mr. Ian Wishart (Keystone Agricultural Producers): Yes, I do.

Madam Chairperson: The page will distribute those. You may proceed.

Mr. Wishart: Good evening, Madam Chairperson, honourable members, ladies and gentlemen. I am here on behalf of Keystone Ag Producers, called KAP. I am pleased to share our organization's position with respect to Bill 23, The Red River Floodway Act. KAP is a democratically controlled general farm policy organization, representing and promoting the interests of agricultural producers in Manitoba, and it is an organization run and funded by its members' farm units throughout the province.

While we were pleased that compensation will be available for economic loss, as well as property damage, we would like to highlight some of our

concerns with this bill and the impact it may have on those affected by artificial flooding.

Within the new Ag Policy Framework, producers will lose their ability to have coverage for unseeded acreage at 100% government contribution, as was the case in the past. Therefore, one area that must receive fair and adequate compensation is in the event that land cannot be seeded due to overland flooding. This has a potential loss of income to producers for a long period, particularly because of the new safety net programs being implemented nationally. Agriculture is vastly different than other commercial businesses and this must be taken into consideration.

Section 2.5(1) deals with appeals of applications for compensation. While it does state the Disaster Assistance Appeal Board which is appointed under the EMO, The Emergency Measures Act determines, assesses or evaluates these appeals, it is not clear if the process will deal with appeals relating to market value of crops and/or a loss of income.

They have no history of working in this area. They have always refused these types of appeals before. It is imperative that farmers have the ability to appeal compensation for any activity or asset that may be impacted by artificial flooding. I am sure, in fact, that a rewrite of the mandate of the EMO appeals organization would have to be done to get them to deal with questions of economic loss.

Many times, when programs have been developed they have not been tested to see if they would work on the ground in the event of a disaster. The reality of how these programs work on the farm vastly differs from how they are promoted by governments. It would have been beneficial to see how compensation plans under this bill would be applied, as well as detailed components of coverage. We want to stress that any undue burden on our industry must be compensated for.

Another area not addressed in the bill is the potential for overland flooding as a result of the construction of the floodway expansion. If, for reasons caused by the construction, the floodway gates cannot be opened, there must be compensation for those affected. The Manitoba Floodway Authority has stated that, failing an emergency, the floodway will not operate in the summer during the

project's 2005 to 2009 construction phase, leaving ample opportunity for losses during that period.

In closing, we have kept our remarks very specific to the issue of compensation. We do have some other areas of concern and I will mention those briefly. But after having some discussion with the floodway people, we feel that that is not within the scope of this bill, but there are still areas of concern that I think you would want to hear. I would like to stress that farmers must not, in any way, be put at a disadvantage due to lack of compensation or criteria for application for compensation.

*(19:50)

Just some of the other points, and these are not included in my written presentation, unfortunately. We did not mention the issue of ground and well water. I know they are looking at that and certainly there were changes in plans. Probably, we will reserve any of our comments on this until we see the final design, because it was certainly still in process.

Issues of local drainage have to be dealt with. They keep talking about that they are going to work on some of these and are trying to make improvements, but we do want to see the final design. The issue around the west dike expansion, there are a lot of concerns from the people in that particular area. Things like winter access in the area is impacted by it, also, access during periods of construction, as there are not many alternatives. It actually functions as the main road for the area. We are concerned about the loss of right to sue. I think that that is a major cause of concern.

It seems strange to us as we represent producers from all across Manitoba that we are dealing so specifically with compensation on the Red River Floodway, and we continue to forget issues around the Assiniboine Valley flooding caused by Shellmouth, or anything related to the Assiniboine River diversion. It does seem like a double standard to us, and, frankly, we would find this very hard to defend to a lot of our members who represent those other areas.

Those are some of my comments, briefly.

Madam Chairperson: Thank you very much, Mr. Wishart.

Mr. Gerrard: Thank you. I would like to ask you to comment specifically on two things.

One is that what I am hearing is that you feel a broader approach when it comes to agricultural lands would be better than one which is just specific to the operation of the floodway. Second, you deal with compensation in the event that land cannot be seeded, but if we are talking summer flood, problems with the floodway, what have you, not operating and lands being flooded, we are talking crops being drowned out. So there are clearly a variety of different circumstances where there could be agricultural producers adversely affected. Is that right?

Mr. Wishart: Yes, Doctor Gerrard. You kind of touched on it. There are actually kind of three sets of circumstances where compensation will come into play. The first is if it stays wet for a prolonged period and producers will never get to sow that that particular year. In the past, we had programs in place in Manitoba called unseeded acreage insurance that all producers participated in. It was built into the basic crop insurance program. As long as you carried crop insurance, it was covered.

Under the Ag Policy Framework, as we are one of the few provinces to offer this, because it is almost specific to flood-prone areas in the country, it will be discontinued because it is national in scope. So now we are going to be in a position where the other way producers can get that is by buying it, paying good money out of their own pockets to get that. We think that creates a disadvantage to them to not have it. It leaves you at a situation under the new CAIS program, where your coverage levels will be impacted if you do not carry it on an ongoing basis. You have to protect yourself on that front too. So it does create quite a disadvantage.

You also mentioned that we could lose the crop after it is sowed, during the course of the summer. Now, we insure ourselves, generally speaking, against that through the crop insurance program. But should it not also be covered by this if it is generated by natural or by artificial flooding. Really, who should be paying on that? Should the crop insurance program, which is one-third producer money actually going up to 40 percent producer money, be paying that or should the Province be paying that? It is a good question. Then again, in the fall, to actually grow the crop and then not be able to get it off, another set of circumstances.

Mr. Goertzen: Thank you very much, and thank you for your presentation here tonight on behalf of the organization. It is an interesting point you raised near the end of your presentation regarding potential for flooding as a result of the construction of the floodway and the inability to perhaps operate the floodway during those times.

Have you had the opportunity to raise those concerns prior with either the minister responsible for Disaster Financial Assistance, the Minister of Agriculture (Ms. Wowchuk), the Minister of Water Stewardship (Mr. Ashton), the Floodway Authority, and have you heard a response on that particular concern?

Mr. Wishart: To be quite honest, we have not had time yet to make presentation on that particular point. It occurred to us fairly recently that what happens if we get a major rainfall event during the construction phase and it cannot function, we will obviously bear the brunt of that, as the largest landowners in Manitoba, farmers in particular. So I think we need to maybe look at that. We did mention that to the Floodway Authority, but of course that is not something they feel mandated to deal with.

Mr. Ashton: I would like to thank you for your presentation. Certainly, we look forward to any further feedback. I appreciate why KAP would focus on The Water Protection Act, which is a pretty comprehensive bill. It probably took the vast majority of your time.

Just on the issue of coverage, when you are dealing with extreme spring flooding, you are generally dealing with pre-seeding. Certainly, the act is designed to look at economic losses that would be impacted, for example, by delayed seeding. The definition of damage is quite broad, in terms of including economic losses, not just damage to property. That is quite different from Disaster Financial Assistance, which is very much focused in on damage to property. So I can certainly assure you that this goes far beyond crop insurance and actually anticipates the kind of scenario that is most likely, which is where you have unseeded crops.

So I appreciate the concern that has been raised. I think if you see the legislation, if we have the opportunity to discuss it in more detail, that broader concept of economic loss is built right in. That is very much keeping in mind the kind of situation that

agriculture is often faced with. It is not the value of the seeds, it is the loss of income from delayed seeding or prevented seeding. Thank you very much.

Madam Chairperson: Thank you very much, Mr. Wishart.

Paul Clifton, private citizen.

Mr. Paul Clifton (Private Citizen): Madam Chair, I wonder if I could seek leave and have a lady before gentleman, my wife first. My wife would like to present with a board, it is a poster board, a natural resources poster of the 1997 flood at flood crest; 2000 square kilometres were inundated in that flood. We would just like to put it up on a chair beside Maxine as she presents, if you grant me leave.

Madam Chairperson: Okay, just a moment, please. Is there leave from the committee to allow a visual presentation to be used as part of this presentation? *[Agreed]*

Please come forward. Leave has been granted to allow Maxine Clifton to use a visual presentation.

Mrs. Maxine Clifton (Private Citizen): I hate it when he does this to me.

Madam Chairperson: Just a moment. Is there leave to allow Maxine Clifton to present? *[Agreed]*

Please proceed.

Mrs. Clifton: Madam Chairperson and committee, thank you so much for coming out on the biggest hockey night of the year to listen to us. I wanted to show you on this map the area that I am from. I represent the Ritchot Concerned Citizens.

Can everyone see this? This is a map to identify Manitoba Conservation of the flood that occurred in 1997. I live right here as do the committee members that I represent. Grande Pointe is over here. Ste. Agathe is south. St. Adolphe is here. The west dike is over here. The water comes up from the south, hits the west dike, comes sloshing by the Turnbull Drive dike, the Cloutier dike, comes up into the neck of the floodway where we live.

The Grande Pointe dike is now preventing any water from going this way so it is all going to come.

We had water 10 feet deep in this area in 1997. It was all flowing in this direction. It was very high and very fast. So, when I talk about the legislation, I am representing the group of people that live in the neck, here.

Again, I thank you for coming out to hear us tonight. I want you all to know that this flood fight is our life. We have been at it continually for seven years. Although the 1997 flood might be a distant memory for all of you, I can tell you we are living it minute by minute.

I am here to talk about Bill 23. There are a couple of facts that you may or may not know. Back when they were deciding on a flood protection option for Winnipeg, Ste. Agathe detention structure was dismissed for a number of reasons, one of which was the necessity of obtaining flood easements from the residents there.

* (20:00)

You may not know it but flood easements have never been obtained in the upstream area of the current floodway, possibly because there was a promise made at the construction of the floodway, verbally and in writing, that there would never be natural levels exceeded. That has occurred many times since the floodway was built, most recently with the summertime operation in 2002, where there was five feet of additional flooding. Our claim, among others, was denied because the damage caused by that was material losses.

Another point, the upstream area is guaranteed in a large flood to be completely inundated. This is just as likely to happen in 100 years, 50 years or even next year.

At a meeting this week, it was again confirmed that even with a 1997 flood equivalent, the water would be at the top of our brand new 1997-plus-two-foot flood protection levels and, quote, "The wake of a boat going by will overtop this protection, never mind any wind set up or rain at the time," unquote.

This indicates, among other known facts, that even though this project will be excellent for the provincial economy, Mr. Doer needs it desperately, Winnipeg needs it and Winnipeg needs it for sewer relief, that there are citizens who lose with this project and lose badly. The province has clearly

advertised compensation issues would be dealt with in separate hearings, and now this has gone.

The IJC that is commonly touted recommends full and complete consultations with the upstream residents regarding flood protection, which has not been done. We have been in discussions for a year with a consultant who will assist us with negotiating a flood agreement so we can have some peace in our lives.

I should mention here that pleas for pre-flood buyouts when everything in our area was in ruins fell on deaf ears. Many months ago at a meeting with Mr. Ashton regarding the flood agreement, I was told by him there will be no negotiations and I said, "No negotiations?" and he repeated there would be no negotiations. This is directly opposite to what the IJC recommends and an affront to what the affected citizens need.

There remain several outstanding flood claims stemming from the 1997 flood and upcoming claims for damages for summertime operation in 2002. Unfortunately, Mr. Ashton was misinformed that there was only one, as he said in the House, but I assure him there are several. The Province and the affected residents are currently before the courts on this very issue with the Province continuing to deny, despite all evidence, that there was any artificial flooding in '97 and further that the Province has any liability in regard to the damage that went well above DFA guidelines.

Perhaps this action should be settled before moving on. Those of us who understand the truth, we cannot even sell out until our claims are settled. Many of the people in our area have decided that when people are well enough assured that the floodway is going to be good, their properties will immediately be for sale if you do not have a big mortgage against it. Because the Province clearly will not, nor has any mechanisms to act on our concerns, but merely hear them through consultations, it is the aim of our community to move the upcoming hearings into a federal panel review where we will insist that a compensation package that we were completely shut out of and has some ghastly holes in it is not considered by the citizens of Canada to be mitigation.

If the Province refuses to negotiate, then we can say, well, we do not want to be flooded. In order for

Canada to fund this project, agreed-upon mitigation must be part of the project description. The chair of the CEC has already told us that mitigation or compensation is outside the scope of the CEC and will not be discussed. This is completely unacceptable for us and any Canadian or Manitoba citizen. It is completely insulting that the Province clearly in a conflict of interest here has even proposed taking away our right to sue, showing no faith in this legislation themselves.

Part of this legislation, as you may know, simply assumes the right to flood us and to store water on our property, which has to be illegal, if not immoral. It is gratifying to see this work started, but please do not yet recommend this legislation, as there is more work to be done. It is a very, very difficult position for an average citizen like myself to have to prepare to be painted by the Province as those people who are against floodway expansion. It is of course untrue. It is also unclear why the Province is proceeding in the manner it is when we just as easily could have been allies.

The manner in which we were dealt with by the Province and EMO, who will again be administering this package, was the very worst experience we have ever known or imagined and can never be repeated. We feel unsafe and we are unsafe where we live, and so we are not truly free. Our society cannot accept this or expect citizens to bear this for the salvation of another community. I respectfully ask you to refer this package for negotiation with the impacted citizens. Thank you.

Madam Chairperson: Thank you very much.

Mr. Goertzen: Thank you very much for your very impassioned presentation, Mrs. Clifton. It was very informative. Certainly, I appreciate you also setting the record straight regarding the number of outstanding claims regarding 1997. We have heard several times the minister refer to there only being one claim. I hope that your comments today will prevent him from making that assertion again in the future.

I wonder if you could go into a little bit more depth in terms of the independent consultant and the flood agreement that you said that you might be looking at in negotiation. What components are you looking at in terms of that type of an agreement?

Floor Comment: We have been talking—

Madam Chairperson: Mrs. Clifton, just a minute.

Mrs. Clifton: Sorry. I am not accustomed to this formality. We have a consultant on board that if he works for us, obviously he is going to require payment. His claim to fame is negotiating flood agreements. He has worked across Canada, but, surprisingly, most of his business has proven to be in Manitoba. He has experience with Aboriginal flooding rights. We happen to be his first European clients.

Mr. Gerrard: Thank you for your presentation. Just so you can clarify one thing for me, you say that even if there was a '97 level flood, that you would likely be flooded at '97 plus two. Is that because of the positioning of the Grande Pointe dike?

Mrs. Clifton: No. I appreciate you asking that question, Doctor Gerrard. The latest information from the minister's office has declared that the floodway does not have to be dug as deep as originally thought and that it will be more shallow. I am a little fuzzy on detail here, but my trusty husband will answer. The fact that the floodway will not have to be as deep as originally thought is going to cost us in terms of more artificial flooding than originally thought.

Madam Chairperson: Thank you.

* (20:10)

Mr. Ashton: Thank you, and I appreciate your presentation. One thing that I want to indicate, too. I appreciate that there has been legal action going back to 1999. We are somewhat restricted, obviously, in terms of getting into the details of the legal action. One thing I do want to assure you is we did take the initiative recently of putting in place a mediation process which did result, I know, in some settlements. There are still some ongoing concerns about the process that was put in place. I know you had not contacted me on this, but some other people had who were part of the process. I do not know if this is your view or not, but I was asked to review the mediation process. We will be doing that as well, in addition to the process that did take place with Justice Nurgitz.

Like I said, there may be some possible legal action which does make it difficult for either one of

us to get into the details. But I certainly want to indicate that we will be doing that because the claims are all in the artificial flooding. The argument is that there was artificial flooding. It is outside of DFA where, in fact, there was only one case outstanding. I do want to indicate that I have given the undertaking a look at the mediation process as well. I know at least one claim, and even though they did sign, I believe, a settlement, they felt that there were problems. So we are going to look at the process itself, because it was intended to try and see if there was some way outside of the court process. So thanks very much.

Mrs. Clifton: Since Mr. Ashton brought up the mediation, may I comment?

Madam Chairperson: Please, Mrs. Clifton, go ahead.

Mrs. Clifton: The mediation was an underhanded attack. There was no mediation. Judge Nurgitz freely admitted he did not have a chance to mediate or act as a judge. Half of the claimants out of our group were bullied into accepting a single-digit settlement. The rest of us could not do that. That is all I will say.

Madam Chairperson: Thank you very much for your presentation.

Mrs. Clifton: Thank you.

Madam Chairperson: Mr. Clifton, do you have a presentation for the committee?

Mr. Clifton: Yes, I do. I have actually distributed it early and it is quite extensive. I will try and be brief.

Madam Chairperson: Thank you. Mr. Clifton, I just want to give you a preamble. You have 10 minutes for your presentation, and then 5 minutes for questions from the committee. So, whenever you are ready, please proceed.

Mr. Clifton: Could you not start the clock until we fix this mike? I need it turned up so that I can get it up to here, so I do not have to stand down here.

Madam Chairperson: Sure, we can do that for you.

Mr. Clifton: Thank you, Madam Chair. I should explain what I have got before the group. I had made representation to the Clerk of the House asking that I

be allowed to present in a video format to date stamp a particular issue. The Clerk of the House advised that she had to talk with the House leaders, the Opposition House Leader, Government House Leader, in that in 1990 there was a ruling that "thou shall not allow videos and the like." I made representation, and I understand that Gord Mackintosh and Leonard Derkach met and talked about it, and they disallowed that we could do any sort of a presentation in storyboard form, video or the like.

On this video is a video representation on CBC national TV, May 2, 1997, May 4, 1997, *The Inundation of the Upstream Valley*, and that is important that it is date stamped here. There are also background records.

My name is Paul Clifton. I am a resident of the R.M. of Ritchot, that we now call the community of Howden, Manitoba. We are clustered on the southern edge of the city of Winnipeg.

I wish to first observe that yesterday we, as Canadians, from sea to sea to sea acknowledged the brave and unselfish contribution some 60 years ago by men and women of Canada in the D-day invasion of Normandy. This in defence of our value of democracy, freedom and way of governance that we hold dear to this day.

Then tonight, a day after this sombre remembrance of a commitment by many, I feel myself in a committee room of the Manitoba Legislature to speak on a draconian piece of legislation. The most draconian yet to be tabled in this House of democracy. Clearly, it is an affront to the fundamental observations of a citizen's rights possible. This is to remove the right of impartial review of government decisions, actions or lack thereof to the courts of this province. The rights of citizens to be legislated away with little or no strenuous voice from opposition, save for the Member for Morris, Mavis Taillieu, and the Leader of the Liberal Party, Mr. Jon Gerrard, and his colleague.

The court was in the vision of the late Pierre Elliott Trudeau and his repatriation of the Constitution to have government actions of legislative review at higher court than the government, to the highest court of the land, the Supreme Court of Canada. The court would be a

check and a balance against the abuse of government of the day.

That said, I will be speaking tonight in reference to two reference packages, the first a spiral-bound book and five additional pages paginated. I did not have time. I received the one this morning at six-fifteen in the morning from Environment Canada out of Ottawa. So it is numbered page 44, I believe. I did not get a chance to number the next pages, but it is 45, 46, 47 and 48. I will make reference to those as I go.

The second book is titled *Supplementary Background*. Records will be used to demonstrate the government of Manitoba and the government of Canada's true actions as relates Red River flooding induced upstream on citizens of Canada and citizens of Manitoba.

I will be detailing from the available public record past actions of the current government, to shelter records fundamental to complete an unbiased review of this legislation and the project Red River Floodway Expansion to continued action of Manitoba to shelter records of its participation with the Government of Canada on or about May 1, 1997, under the floodway emergency operation to inundate the upstream area for the exclusive salvation of the city of Winnipeg.

With the proposed legislation now to remove the right of judicial review relying solely on two Manitoba government institutions, that of Manitoba EMO and the adjudication of disputes to the Disaster Assistance Appeal Board for compensation issues, I will be detailing the sheltering of Manitoba commission records and post-amalgamation operations by Ernst & Young and its appendices of public scrutiny.

I will be strongly recommending that these two items of record be provided to the committee of the House, you folks, to Manitobans and to Canadians, for that matter, without exclusion or severing of portions except for personal names to protect personal identity.

I will be demanding from the Government House Leader that he petition his federal counterpart, the honourable Jacques Saada, Government House Leader, Minister responsible for Democratic Reform, to undertake and initiate a comprehensive judicial

review of matters of Red River flood control in the province of Manitoba, this to cover from the date of the government's deal, that is, Canada and Manitoba, to wilfully and deliberately flood the valley and forward to the present date, to today.

I will be demanding that the issue of environmental assessment of the Floodway Expansion Project be moved following judicial review to mediation. This by the Premier of Manitoba, immediately advising the Minister of Environment, Mr. David Anderson, that he wishes to most expediently advance Manitoba flood protection and his full and complete support of the option of mediation under The Canadian Environmental Assessment Act. This is the best option for Manitobans and Canadians to see Red River Valley flood protection, including flood protection for the city of Winnipeg.

I am going to start from the spiral-bound book to start. First is a reply from Water Stewardship on an access to information request. I will note that I have been chasing federal records for six years. How can you fix something, how can you make it better with understanding how it was supposed to work? That is where it started. Six years later, I am down to the deal between the Government of Canada and the government of Manitoba, that I will be detailing later, to inundate the valley. To date full compensation by Canada and Manitoba has not been received by residents affected by that deal.

* (20:20)

The first two pages are Water Stewardship denying me access to these records. The third page is my letter to the Ombudsman on a complaint currently before the Ombudsman in which I allege there was a deal between the Government of Canada, the mayor of the City of Winnipeg and the Premier of the day of the government of Manitoba to initiate an emergency operation of the floodway. Also, I note at the end that the Ernst & Young investigation and the lack of release of the Ernst & Young report of how EMO actually does operate was denied after a year and a half of research by the Ombudsman.

Further to that, letter to your partner, the Government of Canada, that wants very much to partner with Manitoba, but they cannot partner if you are screwing upstream Canadians.

Page 6, Suzanne Hurtubise, deputy minister of Environment, recommends strongly to Manitoba that those two pages be provided to Mr. Clifton to help get to the truth here. The Province is still not going that way.

The next page, No. 7, Ombudsman report, where the Ernst & Young report of the amalgamation of the Disaster Financial Assistance and EMO, that it was amalgamated by the Filmon government in 1996, is not being released. So the very body that is going to pay damages to us, you are not telling me how they really operate.

Page 11: Fundamental to democratic rights is the right to government records, the right to our records. We are government. We pay the taxes. We ensure integrity through the right to access. The dates on all this stuff are very important. In 1998, I requested information specific to federal approval of the operating rules for the Red River Floodway.

Page 12, I had to pay money to get that information, and, subsequently, there was a change of government. On page 13, Mr. Doer was in government and he talked very highly of what he would do. He would get folks behind closed doors and he would solve this problem. So I sent an access request to the Government of Canada in 2000 with the new government in place, thinking that there would be transparency, as recommended by the IJC. Subsequently, I met Mr. Doer on the floodway, as Mr. Doer and company were flooding us again unnecessarily. I challenged Mr. Doer, and in writing I challenged Mr. Doer, on April 16, 2001, saying: "Mr. Doer, you are sheltering the federal approval records. You do not have approval to operate this floodway and you are sheltering," I thought at the time, "13 pages." As it turns out, he was sheltering 11 pages. He corresponded through his department to Environment Canada and said: "Release 9 of 11 records to Mr. Clifton," and they were released.

Madam Chairperson: Mr. Clifton, I want to just tell you, you have 30 seconds remaining in your presentation.

Mr. Clifton: The last page of the second brief is a deal. This is where the director of PFRA bought—after the Municipality of Ritchot refused to sign-off on the operating rules because they were not in the best interests of the valley residents, the director of PFRA, Mr. Erminio Caligiuri, circumvented the

rights of all Canadians in that he usurped the requirement that the federal government be at arm's length to provinces. If monies come to municipalities, those monies come to the municipalities through Manitoba, not Canada. Mr. Erminio Caligiuri usurped the rights of citizens of Manitoba by buying approval for the operating rules as—

Madam Chairperson: Mr. Clifton, I am sorry, we will have to conclude. You have time for one last sentence.

Mr. Clifton: We cannot proceed on floodway expansion on lies and deceit. We have \$660 million to spend. It might be a billion and it might be 1.4 billion, but we are going to do it right. The record is there. The record is presently on the federal public registry and the provincial public registry. You will be unable to license this project.

Madam Chairperson: Thank you, Mr. Clifton. Does the committee have questions for Mr. Clifton?

Mr. Goertzen: Thank you very much, Mr. Clifton, for your very detailed presentation. I look forward to going through in more detail the documentation you have provided here this evening.

Certainly, Mrs. Taillieu has spoken well about your knowledge on this issue. She is presently attending another committee hearing in the Legislature. I know she would have appreciated being here and I will be certain to pass along these documents to her, as well, if she has not already received copies of those documents.

Regarding the issue of litigation, specifically, could you indicate for the committee the allowance to appeal to the courts? Should that be separate and apart from the scheme altogether? What I am asking then is, when somebody has a compensation claim, should they have the choice of whether or not to go through the appeal, the legislated compensation scheme, or to the courts, or would it be acceptable if they were kind of mandated to go through the legislated scheme first but still have the right after that, et cetera, to go to the courts?

Mr. Clifton: There is a bit of a charade, and it comes back to the International Joint Commission. I am sorry, I cannot make a short answer, but the International Joint Commission has tasked Mr. Lloyd Axworthy, detailed, to study valley-wide flood

protection. We are not anywhere near studying valley-wide flood protection. The government engineers have determined that we are going to flood-protect Winnipeg, irrespective of valley-wide issues. The Province of Manitoba cannot afford to operate a floodway if they cannot empond water on private property. They have to negotiate the right to empond water on private property on an annual basis because it could flood in any year.

We are not talking about a legislated right to take my rights away to seek judicial review through the courts. Ten minutes goes by very quickly, but I will detail where Maxine did not have the knowledge. Under this judicially assisted mediation, there were 10 families that were brutalized by the Province of Manitoba. They were offered the thought: "If you settle now, we will not charge you costs." They took these folks, with an aggregate loss of \$2.4 million, and out of the 10 families they pieced up \$365,000. On average, that is about 10 percent of their loss, and they were forced to sign a confidential agreement that they could not even tell their mother they were brutalized by the Province of Manitoba.

Mr. Gerrard: You have made what I think is a very important point that the lack of appeal to normal court procedures is terrible. It seems to me, and maybe you would comment, there are some fairly complex issues here in dealing with flooding and there needs to be an ability to have a review which is carried out by a court which is independent of government in order to protect citizens because of the complex nature of the circumstances around flooding and the potential for government to be heavy-handed in its approach.

Mr. Clifton: We have been encumbered by the statute of limitations in the province that you have two years or possibly six years. Very interestingly though, in the Federal Court of Canada, there is no statute. I bring to you an example. The Residential Schools issue, where 30 years ago a wrong was perpetuated among Aboriginal people, is in the courts now. This will move to the courts, and it will delay, but it will go to the Federal Court of Canada. All folks, Government of Manitoba, City of Winnipeg, Province of Manitoba, will be named in the Federal Court of Canada and we will solve this. That is counter-productive to most expedient flood protection of the Red River Valley, including the city of Winnipeg.

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

Gaile Whelan-Enns from the Manitoba Wildlands. Is Gaile Whelan-Enns here? Her name will be dropped to the bottom of the list.

Doug Chorney, private citizen. Mr. Chorney, do you have a presentation to distribute to the committee members?

Mr. Doug Chorney (Private Citizen): I do, I have 20 copies.

Madam Chairperson: Thank you, please proceed whenever you are ready.

Mr. Chorney: Madam Chairperson, I thank the committee for the opportunity to speak regarding Bill 23. I am Anthony Douglas Chorney, life-long resident of East Selkirk. I hold an undergraduate degree in Agricultural Engineering from the University of Manitoba. I am a registered professional engineer in the province of Manitoba, and I am currently self-employed operating a grain and vegetable farm in the R.M. of St. Clements. I am a member of the Keystone Agricultural Producers and part of the District 5 executive.

* (20:30)

Many shortcomings in Bill 23 require amendment prior to final passage. I will briefly highlight the points which require the committee's consideration. Part I Definitions. "Artificial flooding" This is much too vague. Area residents who have experienced flooding caused by ice jams north of Lockport have historically linked the onset of high water volumes to the operation of the current floodway. This flood event is indeed artificial. When challenged, the government denies the link. This happened in the spring of 2004. Another definition, "natural level." Flooding in the absence of the floodway. That is what is used in the definition that the floodway does not exist, but, in fact, we have been told by the Manitoba Floodway Expansion Authority the current floodway is considered state of nature in all modelling of flood impacts. Why is this excluded from the definition in the act?

Eligible property, Part 2.2(c), flood-proofing initiatives which have been available south of Winnipeg have been denied to residents north of

Winnipeg. Will this change in the future? The MFEA has made public presentations which predict flooding near the PTH 4 bridge in the event of a large flood. Why is state of nature deemed to be acceptable for all Manitoba residents outside the floodway and not acceptable to residents inside the floodway?

Part 4, General Provisions, Protection from Liability. Why, if the government only exists to act in the best possible public interest, is it necessary to have liability protection? Would it not be necessary only if the government is planning to knowingly violate the law or constitutional human rights? Any justification of individuals' sacrifice for the benefit of the majority of the public would surely need mitigation and/or remedy rather than avail of legal protection. I trust the public interests can never outweigh individual rights.

Groundwater. I understand the intention of The Red River Floodway Act is to address issues of damages caused by the construction and operation of the floodway system because it is a system. However, the new act fails to address the most significant environmental issues surrounding the project. I reluctantly bring this issue to your attention as it seems that if included in the act, the public again would have no legal recourse or remedy available by legal liability protection which the government is going to have with this act. However, the issue of groundwater supply and quality is paramount and cannot be avoided in any discussion about the floodway as it exists today or the planned expansion in the future.

The KGS Engineering Project Description published in July of 2003 predicts 5200 water wells will experience some degree of draw down as a result of the floodway expansion project. Intrusion of Red River water to the aquifer is a risk from the Birds Hill area north to Lockport. The reports suggests further study is required to define the scope of the problem. The project description includes well water mitigation as a line item in the project budget.

Mr. Vice-Chairperson in the Chair

The MFEA has commissioned further studies and I give them credit for that and now believe the risks are of such magnitude that a redesign of the floodway expansion is necessary. The floodway will no longer be deepened to the planned 6.5 feet. Deepening will be avoided where possible and will

be limited to a maximum of 2 feet. I believe that no single technical opinion should be used when risking a resource as important as groundwater.

The importance of groundwater to my community including the town of Selkirk and agricultural industry is critical to our long-term sustainability and viability. My farm operation, like many local residents depends on groundwater for domestic consumption, agricultural applications and geothermal heating. My personal residence is heated and air-conditioned using a geothermal well to well heat pump. Any loss of supply of water quality or supply quantity would be of tremendous economic hardship to our area.

In conclusion, I ask the committee to consider the implications of Bill 23 before passing it into law.

Mr. Goertzen: Mr. Chorney, thank you very much for your presentation. You certainly touched on some of the issues that other presenters have touched on and there seems to be something of a consensus growing around the inability for court action and such things. In your comments on artificial flooding and the effect that you had this spring in terms of the ice jams, that intrigued me in particular because you had kind of a real-life situation that would not necessarily fall under the act, and you question whether or not it would fall under the act to artificial flooding. Could you provide some suggestions, perhaps, on how that vagueness on the term artificial flooding could be addressed? Do you have any thoughts on that, in particular, in relation to the concern that you raised about the ice jams this spring?

Mr. Chorney: It is an intangible number and it gives the act broadening, sweeping flexibility because the definition can be disputed. If you look back to 1826 there was no Highway 44 or Highway 59, natural drainage, municipal drainage projects; so what is natural pre-1826, 1997, 2004? It is a very vague concept. It is a very poor way to base remedying or compensating people who are impacted by flood waters specifically that are man-made. One cannot dispute the fact that the floodway as it exists today is a man-made structure and that it will have an impact on waters entering the river at Lockport.

Mr. Ashton: I appreciate your comments on the definition of artificial flooding and have indicated that there has been the same amount of engineering

work that has been going into getting to the root of a lot of the issues here you are referring to, because when you start having concepts, in this case, in legislation, clearly we wanted to insure that the state-of-the-art terms of the scientific data that is there and I certainly would appreciate any feedback you have from your own professional perspective on the work they have been doing.

The only point that I wanted to raise though on the groundwater—I appreciate your presentation and the fact that you indicated the mitigation that will be there as part of the redesign of the floodway—I want to indicate that that was very much driven by the principle of maintaining the flood protection but minimizing groundwater impacts. I just wanted to indicate that in addition to that, I think, you have acknowledged that, that it is also another aspect of the floodway as well which is the actual mitigation in terms of wells. I mean, we are trying to design the minimum impact on groundwater but if there are any impacts with wells that is a specific element of the floodway expansion budget, but obviously, as you have pointed out the more we can minimize groundwater impacts, other presenters made, the better our hope is to not use that line in the floodway authority budget if we have to and the latest engineering work is very encouraging. This act, in fact, will get the flood proofing without the impact on groundwater, so I appreciate your presentation.

Mr. Gerrard: Thank you for your presentation.

My question actually has to do with the groundwater and the wells. The area where you are now, was the groundwater affected by the original floodway construction? How common are the geothermal wells, to well heat pumps, and so on, that you are using to heat your home? What would be your recommendation in terms of how compensation should be approached in terms of ground water problems?

Mr. Chorney: Well, certainly, the effects of the original floodway construction were noticed most evidently at a farm near Lockport, where the well water level drawdown was 60 feet, and they were never compensated for that, and they had to make a new well. That level never recovered.

In the KGS engineering studies that I have read, the drawdown effect after the original construction of the floodway recovered by the early seventies to the

vast majority of landowners. However, many local residents have claimed that their water level has, in fact, stayed low.

* (20:40)

The geothermal heating system is quite common. There are various options, well-to-well loops, in-ground loops. Manitoba Hydro is now encouraging Power Smart geothermal heating. I built my house and installed the system 13 years ago because I saw it as a logical thing to do.

Madam Chairperson in the Chair

It is growing in importance and, I think, popularity, and I think we should not do anything to hurt that advantage that Manitoba has as a resource.

Thirdly, the compensation. I am appalled at the—

Madam Chairperson: Mr. Chorney, I am sorry to interrupt you. Your time has come to an end. Thank you.

Mr. Chorney: I thank the committee.

Madam Chairperson: We have one presenter listed for Bill 31, The Floodway Authority Act. Is Gaile Whelan-Enns from the Manitoba Wildlands present here? Her name will be dropped to the bottom of the list.

This is the second time we are reading for Bill 23, The Red River Floodway Act. Gaile Whelan-Enns, from the Manitoba Wildlands? No? Seeing that she is not present, her name is dropped off the list.

For Bill 31, The Floodway Authority Act. Once again, Gaile Whelan-Enns, from the Manitoba Wildlands? No? Seeing that Ms. Whelan-Enns is not present, her name is dropped off the list.

That concludes the list of presenters that I have before me this evening. Are there any other persons in attendance who wish to make a presentation?

Seeing none, is it the will of the committee to proceed with detailed clause by clause consideration of bills 10, 23, 31, 33, 34, 35 and 38? Agreed? *[Agreed]*

Is it the will of the committee to proceed in numerical order for each one of the bills that I have read? Agreed, to go in numerical order for each one of the bills? *[Agreed]* Thank you.

Bill 10—The Gaming Control Amendment Act (Continued)

Madam Chairperson: Does the Minister responsible for Bill 10 have an opening statement?

Hon. Tim Sale (Minister charged with the administration of The Gaming Control Act): Madam Chairperson, in the interest of time I will be very brief. The purpose of the act is to substantially strengthen the powers of the Manitoba Gaming Control Commission vis-à-vis all aspects of gaming in Manitoba, including VLTs, lotteries, casinos, break-open tickets, bingo.

Secondly, it is to strengthen the accountability of the act so that the public has a much clearer right to know where money was spent and, obviously, from whence it was raised.

Thirdly, it is to put into place a capacity on the part of the commission to deal with procedural issues around complaints and arbitrations of various kinds that arise in the operation of any industry, and to clarify the responsibilities of the board and the executive director.

Finally, Madam Chair, I want to underline that the Gaming Control Commission began work on this legislation in November of the year 2000. We were gratified when the report of the Auditor General on Dakota Tipi and other related issues was made public, that most of the recommendations of the Auditor General had been anticipated in the work of the board in the two previous years. We were very pleased to be able to affirm both the work of the board and the wise guidance from the Auditor General.

With those comments, Madam Chairperson, I would like to proceed with the legislation.

Madam Chairperson: We thank the minister.

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

Mr. Kelvin Goertzen (Steinbach): I do have a brief opening statement to make. I appreciate the presentation that was made earlier this evening from

the Provincial Council of Women on this particular piece of legislation. I will speak about that in a moment.

Certainly, one of the concerns that has been raised with Bill 10 has to do potentially with its effect on those groups which we might not consider to be regular gaming groups, which might not have a regular type of gaming scheme. I think we appreciate and support the recommendations in the act regarding increased accountability in terms of where funds are accounted for, where they have come from, where they have gone.

I think that is important, but we want to ensure that when we are doing that, we are not putting too much of a hindrance on those groups who might be very occasional in their use of licences for gaming operations, whether it is bingo or otherwise. That is a concern that we do not want to put an additional cost on those groups who are ensuring that they are raising money for one-off type of operations.

While we generally agree with the intent of the act to provide more regulation, we have issued that caution. I have spoken with the minister about that in the past. I think he has given me some assurances that that is not the intention of the legislation and that the regulations will not be so onerous as to impact on those organizations.

I appreciate the minister's assurances on that. I will take him on his word on that and look forward to seeing the regulations reflect that assurance. The submission that we had this evening from the Provincial Council of Women was, I think, reflective of what a lot of Manitobans have been asking for over the last number of years and certainly what the opposition has been asking for as well in terms of an independent public review of gaming in the province of Manitoba.

I appreciated their comments to come here tonight to bring that forward to members of the government and to clearly articulate the reason for it. Certainly, I think that the gaming industry in Manitoba is at a state of maturity at this point where it is valuable and worthwhile to stop and take a look back at what impact it is having in the province of Manitoba.

I know that members opposite have raised concerns in the past about the impact of gaming in

Manitoba. I have certainly heard comments from the Minister of Water Stewardship (Mr. Ashton), the Member for Burrows (Mr. Martindale) in the past regarding those particular concerns and the need at one point in the history of this province to do that kind of an analysis.

Now, that we are some years away from that, those comments, with an expansion of gaming that has gone on in the last number of years, one would think that the need for that public review is even more so than when those statements were made by the Minister of Water Stewardship (Mr. Ashton), by the Member for Burrows (Mr. Martindale), by many other members of the current government and those who are no longer members of the Legislature, but who once sat with their colleagues in government.

I thought it was helpful for a group, perhaps a non-partisan group, to come forward and bring in a very serious concern about the need for that review. I think they did it with the best of intentions. They did not come in and say that a number of things should be changed immediately or that there should be a great devolution of gaming necessarily, but just that an independent review should take place so that we can see what the costs are of gaming in the province.

We clearly understand the revenue that is generated for the province of Manitoba from our gaming industry. That is well documented each year on an annual basis. I think Manitobans recognize that, but what we have not done is taken a look at the cost of gaming in Manitoba at this particular stage of where we are in terms of the industry.

It is a little unfortunate, because I think it is a bit like looking at a balance sheet if you are a business and you took a look at the assets of the company, but you were prohibited from seeing the liabilities of the company. It would not give an accurate statement of the position of that particular entity. It would not give an accurate statement of where it is that that company is in the financial health of its organization.

It is somewhat similar, though not a perfect analogy, in terms of where we are today with the gaming industry in Manitoba. We know that the gaming industry brings in a great deal of revenue for the Province of Manitoba. We know that it brings in a great deal of revenue for this government as it tries to ramp up that revenue even further, but what we do not know necessarily is the social cost. I think it

would not be a difficult thing to undertake. It probably would not be a timely one. It would require that the Government of Manitoba, the current NDP government, perhaps put a halt to any considerations it has in terms of expanding gaming, different operations we hear of, possibly, casinos in Brandon, more Aboriginal casinos.

* (20:50)

We know that while the government, Madam Chairperson, is looking to increase gaming in the province of Manitoba we have heard very little about studies in terms of the costs of gaming. So it would seem to be an appropriate time in the history of the province and the expansion of gaming just to stop and to look at what the costs are. I am not certain what the objection to the government is in terms of this type of a review. I think if one were to poll Manitobans on this issue, and I would be interested in seeing such a poll done, in terms of whether or not they would think a review would be worthwhile at this time. I would be surprised if the majority of Manitobans would not say, "What is the harm in doing that kind of a review? Now is a good time to take a look back." That is the reflection from the Provincial Council of Women, I think. They brought it forward very clearly in that regard. I wonder, Madam Chairperson, is this the right time to ask the minister that question, whether or not there is that kind of a public review being considered within the department.

Mr. Sale: Madam Chairperson, I do not mind discussing in Estimates, in general sorts of terms, where we are headed. We are doing many studies and I suppose if you want to spend time on that, I can talk about roughly seven projects that we are involved in now on, for example, an adolescent problem gambling index study started in February of last year in partnership with five other provinces, a two-year project to develop a measure of problem gambling among adolescents across country, doing a very careful look at this issue.

Madam Chairperson, we are here to discuss the bill and in the bill there is provision in section 4 of the legislation. The commission has powers to provide advice and recommendations which would include those kinds of things and certainly the commission does that, to conduct independent or joint research projects, the commission has that power and, obviously, does that. So I think the

purpose of our meeting tonight is to talk about this legislation in detail and the general policy we can spend time on, but it is not here in the bill that we are considering. I think those matters would have been properly canvassed during the Estimates debate or during concurrence. Concurrence is still available to the member to ask those questions and perhaps he or his colleagues will choose to do that at that time.

Mr. Goertzen: I appreciate the minister's sensitivity regarding this particular issue. I know he has been under some degree of public pressure, and we heard it here tonight, to move forward on those types of studies and I think that he will hear more from the opposition regarding a public study. I know he referenced a particular study which I do not think involves public hearings nor do I think it is specific to the province of Manitoba. If I am wrong, he can correct me. I would be happy to attend those public hearings in Manitoba—

An Honourable Member: I did not hear what was specific to Manitoba in the question.

Madam Chairperson: Excuse me for a moment, but there is clarification being sought. Mr. Goertzen, if you could just clarify what it is you are referring to.

An Honourable Member: Was it specific to Manitoba?

Mr. Goertzen: Madam Chairperson, the minister referred to a study that was being done on adolescent problem gambling.

Mr. Sale: Madam Chairperson, for the member's clarification, perhaps I did not speak clearly enough. Five other provinces working together on this issue across Canada.

Mr. Goertzen: The minister makes my point about it not being specific to the province of Manitoba, nor there being public hearings in Manitoba, and that was specifically the concern that I raised and specifically the concern that we have been raising in the Legislature these past number of weeks and will continue to raise. The minister says that he will make himself available for concurrence on those questions and we will certainly pose them there. We will certainly pose them, I think, again in the future in Question Period. We will certainly pose them in other places in the province of Manitoba because we believe very strongly and very passionately about the need for this particular type of review.

Madam Chairperson: We thank the member.

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

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

Clauses 1 through 3—pass; clauses 4 through 6—pass; clause 7—pass; clause 8—pass; clause 9—pass.

Shall clause 10 pass?

Mr. Goertzen: Madam Chairperson, I would like to propose an amendment to clause 10(29)(3).

An Honourable Member: A very friendly one.

Mr. Goertzen: A friendly amendment as the Member for Carman (Mr. Rocan) points out.

Madam Chairperson: Just a moment, please.

Mr. Goertzen: Madam Chairperson, I move,

THAT Clause 10 of the Bill be amended by striking out the proposed subsection 29(3).

Madam Chairperson: It has been moved by Mr. Goertzen—

Some Honourable Members: Dispense.

Madam Chairperson: Dispense.

The amendment is in order. Debate may proceed.

Mr. Goertzen: Madam Chairperson, this amendment stems very much from some of the comments that were put forward by the Provincial Council of Women and other comments that we have heard in the past and publicly.

While the Provincial Council of Women brought forward some recommendations regarding the independence of the Manitoba Gaming Control Commission, this goes part-way in addressing some

of their concerns. They raised concerns regarding the ability of the Manitoba Gaming Control Commission to, I think, bring forward real recommendations to the corporation in terms of its operation, in terms of the way that things are done.

I note that the way section 29(3) currently reads, it prevents the executive director of the Manitoba Gaming Control Commission to make recommendations on a number of issues regarding the hours of operations of a scheme, the number of schemes, the combination of schemes. The amendment which was classified by the Member for Carman correctly, I think, is a friendly amendment in terms of allowing the Manitoba Gaming Control Commission to make recommendations on these issues. It goes part way, again, to addressing some of the concerns that the Provincial Council of Women raise, and I certainly would expect that the minister will be responsive to their concerns.

* (21:00)

I know that he will want to act on the concerns that they raise and I think this is an opportunity for the minister to do so, simply by striking out the section. We believe it will allow the executive director of the Gaming Control Commission to make some recommendations regarding these issues which I think are important, which I think are integral to gaming in Manitoba. While it does not give complete independence to the commission, it does go a long way in allowing recommendations to come forward.

The minister referenced, just a little while ago, about the ability for the council to do studies and why not, then, if they are already doing studies on the impact of gaming, to be able to make recommendations that clearly relate to gaming in the province. It seems like a natural connection for me. If the body that is there to do studies cannot make these types of recommendations, then I think the studies are, to some extent, for naught, other than public discussion and public perusal. I would think it would give some teeth to the commission and strengthen the legislation which we have before us today by this amendment.

Mr. Sale: Madam Chair, in responding to this amendment, I want to assure the member that I understand his intent, and I understand the concern that causes him to put forward this amendment. I want to try and explain why it is not an acceptable

amendment and why we will not be able to support the amendment.

Madam Chair, under the Criminal Code of Canada, provinces, in order to comply with the code, section 207(1)(a), I believe it is, are required to designate what is sometimes called an operating mind. In other words, a body that will have the conduct-and-manage function under any gaming operation. Essentially, articles (a) to (h) under 29(3) are the conduct-and-manage function. In other words, the Manitoba Lotteries Corporation, by virtue of being mandated under the Criminal Code of Canada by provincial act to have the conduct-and-manage function for gaming has to have these powers in order to do its job. Now nothing in this section of the act prohibits the Manitoba Gaming Control Commission from making inquiry into any of these issues. It could inquire into any or all of them and make recommendations, make suggestions for changes in an act or regulation or policy for that matter, because certainly MGCC has the capacity to undertake policy formation and recommendation to government.

The second reason why it is not appropriate to strike these (a) to (h), Madam Chair, is that this section, as the member can see, is about technical integrity. In other words, does the particular game of chance meet the test of technical integrity, the odds are as stated, the game cannot be fixed or manipulated by operators or controllers in order to manipulate payoff ratios or any other aspect. Since the section is about ensuring technical integrity, hours of operation are clearly irrelevant to technical integrity. So, with great respect to both the council and to the member, I am afraid we cannot support this amendment because it would interfere with the Criminal Code requirement for a conduct-and-manage mandate to be held by a body other than the oversight body, which is the Gaming Control Commission.

So the conduct-and-manage function has to be held by the body that conducts and manages gaming, which in this case, in the province of Manitoba, is the Manitoba Lotteries Corporation, which, as the member knows, has that function for even Aseneskak Casino in The Pas. It is the conduct-and-manage, the operating mind, as the legal folks like to call it, of gaming. So, with regret, Madam Chair, I cannot accept the amendment.

Mr. Goertzen: Well, I appreciate the minister's comments and certainly under section 207(1)(a) of

the Criminal Code, as the minister references, the federal code does discuss conduct and management of a lottery scheme. My suggestion is that the ability to provide recommendations by an entity such as the Manitoba Gaming Control Commission would not necessarily fall under a controlling mind theory, whether it was a corporate controlling mind or whether there was some other definition of controlling mind in law. So I would respectfully suggest that, in fact, I believe that the amendment would be in order in terms of the ability to make recommendations so long as they are necessarily mandated and to the extent they are tied to the technical integrity of the act. I do not think that that should cause the clause to fail, Madam Chairperson.

Madam Chairperson: Are there any other members wishing to speak to the amendment?

Some Honourable Members: No.

Madam Chairperson: Seeing no other members, is the committee ready for the question?

Some Honourable Members: Question.

Madam Chairperson: The question before the committee is the amendment moved by Mr. Goertzen, which reads as follows:

THAT Clause 10 of the Bill—

An Honourable Member: Dispense.

Madam Chairperson: Dispense. Shall the amendment pass?

Some Honourable Members: No.

Voice Vote

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

Some Honourable Members: Yea.

Madam Chairperson: All those opposed to the amendment, please say nay.

Some Honourable Members: Nay.

Madam Chairperson: In my opinion, the Nays have it.

Formal Vote

Mr. Goertzen: Madam Chairperson, may I request a recorded vote?

Madam Chairperson: A recorded vote has been requested.

All those in favour of the amendment, please raise your hands and the Clerk will count.

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

Madam Chairperson: The amendment is accordingly defeated.

* * *

Madam Chairperson: Now reverting back to the original clause.

Clause 10—pass; clause 11—pass; clauses 12 and 13—pass; clauses 14 through 15—pass; clause 16—pass; clause 17 through 19—pass; clause 20—pass; clause 21—pass.

Shall clauses 22 through 24?

Mr. Sale: Which clause are you on?

Madam Chairperson: Clauses 22 through 24.

An Honourable Member: Yes, pass.

Madam Chairperson: Clauses 22 through 24—pass.

Shall clauses 25 and 26 pass?

Some Honourable Members: Pass.

Madam Chairperson: Clauses 25 and 26 are accordingly—

Mr. Sale: Madam Chair?

Madam Chairperson: Yes?

Mr. Sale: You are a little faster than my mind here.

An Honourable Member: He has changed his mind. We are going back to my amendment.

Mr. Sale: Clause 24.

Madam Chairperson: Is there leave to revert back to clause 24?

Some Honourable Members: No.

Madam Chairperson: Is there leave to revert back to clauses 22 through 24? *[Agreed]*

Clauses 22 and 23—pass.

Shall clause 24 pass?

Mr. Sale: No. Madam Chair, I have a very small drafting correction.

I move

THAT the proposed clause 57.5, as set out in Clause 24 of the Bill, be amended by striking out "or" at the end of clause (b), adding "or" at the end of clause (c) and adding the following after clause (c):

(d) rescinding an order in council that specifies a licensing authority.

Madam Chairperson: It has been moved by Honourable Minister Sale

THAT—

An Honourable Member: Dispense.

Madam Chairperson: Dispense. The amendment is in order. Debate may proceed.

An Honourable Member: Question.

Madam Chairperson: Amendment—pass; clause 24 as amended—pass; clauses 25 and 26—pass.

Shall clauses 27 and 28 pass?

Mr. Sale: No. I have a small drafting amendment here.

Madam Chairperson: Shall clause 27 pass?

* (21:10)

Mr. Sale: No. This is a slight drafting error as well.

I move

THAT the proposed clause 66.1, as set out in Clause 27 of the Bill, be amended

(a) in the section heading, by adding "decisions and" before "orders"; and

(b) in the part before clause (a), by striking out "An order" and substituting "A decision or order".

Madam Chairperson: It has been moved by Minister Sale

THAT—

An Honourable Member: Dispense.

Madam Chairperson: Dispense. The amendment is in order. Debate may proceed.

An Honourable Member: Question.

Madam Chairperson: Is the committee ready for the question?

An Honourable Member: Question.

Madam Chairperson: The question before the committee is the amendment moved by honourable Minister Sale—

An Honourable Member: Dispense.

Madam Chairperson: Amendment—pass; clause 27 as amended—pass; clause 28—pass; clauses 29 through 31—pass; enacting clause—pass; title—pass. Bill as amended be reported.

Bill 23—The Red River Floodway Act

Madam Chairperson: Does the Minister responsible for Bill 23 have an opening statement?

Hon. Steve Ashton (Minister of Water Stewardship): The intent of the act is well explained in the preamble.

Madam Chairperson: We thank the minister.

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

Mr. Kelvin Goertzen (Steinbach): Well, actually, I do have a few comments that I want to put on the record, not that I am not a hockey fan like the rest of the committee members, but I do want to thank the

many people who came tonight to bring forward their concerns on Bill 23. I think that their concerns were certainly well thought out and the majority of them, I think, were well-founded.

The Member for Morris (Mrs. Taillieu), I know, was in another committee hearing this evening, but there was credit given to her in terms of informing individuals in her community and communities regarding this particular bill, and I want to give credit to the Member for Morris for doing that as well.

I do not think there is anybody in the Legislature or on this committee who does not think that people who are affected by artificial flooding, or flooding where there is a disaster declared, are not entitled to compensation. I think all of us would agree that compensation needs to flow to those individuals who are affected by artificial flooding or, in other cases, other types of flooding.

The question becomes, of course, putting in the best legislative scheme for that. I know the minister has, it was referenced by one of the presenters, and I think it was a very astute point. She raised the fact that she had brought forward concerns regarding the floodway compensation act. She was quickly labelled by individuals within the government as "anti-floodway expansion." That, clearly, I think, is inappropriate. It is a political tack, I think, that the government is using and a very unfortunate one. Not only is it, I think, an anti-democratic tack to use, I think it is very disrespectful to the vast majority of Manitobans and to Manitobans in general who have concerns.

Similarly, where concerns have been raised here with regard to Bill 23, I would hope that the minister would not use political rhetoric, political attacks, to try to say that those who might be opposed to this particular scheme that the minister has put forward, one that insulates himself and his government from outside scrutiny, that they would not take that as being anti-compensation.

I would say that members on this committee, members in the Legislature, I think, clearly, of the Member for Morris (Mrs. Taillieu), and I would hope also the Member for Selkirk (Mr. Dewar), who, I think, had a constituent of his or at the very least, a nearby constituent, make a presentation here today regarding concerns, would realize that those

questions are not concerns with compensation, but rather how this act is put forward.

It is important to remember that this particular compensation scheme is one that residents that are affected both north and south of the floodway gates will have to live with for many, many years and have to be impacted by it. So I think that their concerns about doing it right are clear, when they say that they want to have whatever is done, done properly now, because they are not sure if they are going to get another crack at it in terms of making changes.

It is very clear that is an important thing, and it is very clear that those concerns need to be raised here, today and now. If the minister wants to paint that as anything but what it is, which is concern for individuals who will be affected in the future, if the minister wants to paint that as anything other than standing up for those residents who may, in fact, find themselves on the wrong end of this particular scheme at some point, then I say, shame on the minister for those kinds of characterizations.

We will be clear to let residents who are affected know, not just south of the floodway, but also north of the floodway, that we raise the concerns where other members were silent about the concerns, where other members did not raise their voice about the concerns, when there were concerns raised regarding ice jams this spring, members that represent that area more closely than I do or the Member for Morris (Mrs. Taillieu), said nothing about the particular concerns, and I think that will certainly be noted, and I think it is important that this committee—

An Honourable Member: Go ahead.

Mr. Goertzen: Well, good, the Member for Selkirk (Mr. Dewar) says that I should go ahead, and I should make those comments, and I will make those comments. I will make them within his community and we will let those chips fall where they may.

Certainly, I think it is important that all members realize that we have concerns regarding this particular act, not against intention of compensation, but how this is going to be administered. Because compensation that is not timely, compensation that is not adequate, compensation that does not allow appeal, is not compensation, Madam Chairperson.

With those remarks, I think we would like to go on a clause-by-clause basis.

Madam Chairperson: We thank the member. During the consideration of a bill, the enacting clause and the title are postponed until all other clauses have been considered in their proper order. Also, if there is agreement from the committee, the Chair will call clauses in blocks that conform to pages with the understanding that we will stop at any particular clause or clauses where members may have comments, questions, or amendments to propose. Is that agreed? *[Agreed]*

Shall Clause 1 pass?

Mr. Goertzen: Question regarding the term artificial flooding, the minister certainly received some comments already regarding the term during our presentations here tonight. Some suggested that the term was too vague, that it may not apply to certain situations like what we saw with ice jams in the province this spring.

Also, others question whether or not there should not be an independent determination of what artificial flooding truly is. Can the minister make some comments in terms of how artificial flooding will be determined? Is it simply going to be on a case-by-case basis each and every year?

* (21:20)

Mr. Ashton: As I indicated, one of the engineering studies for the floodway expansion dealt exactly with the question of defining artificial flooding. It is actually on the Web site, the Acres study, and has used state-of-the-art scientific knowledge, particularly our greater ability with lidar mapping and other technical information that is available to provide the definition that is necessary.

Not only have we listened in terms of this concern, which has been raised before, we have acted as part of the Floodway Expansion Initiative in terms of putting that in place. I would refer the member to the Web site. It is publicly available and has actually, I know, been announced at the public hearings that are out there.

Mr. Goertzen: I thank the minister. I have seen the Web site as recently as today, as a matter of fact. I guess the question I had relates in particular to the

question that was raised by the constituent of the Member for Selkirk (Mr. Dewar), I believe, regarding how it is that a determination would be made on a unique type of occurrence like ice jams, whether or not that would be considered an artificial flooding.

I do not believe that that could be covered off necessarily in the studies that the minister refers to, but when there is something like that that is, you know, maybe not a regular instance in terms of normal flooding in the province, how would that determination be made? Would it be made by an independent determination? Would it be made by members of the department?

Mr. Ashton: I am somewhat surprised the member would refer to ice jams. Ice jams predate the floodway. They are documented as long as there is documentation. I think it is important that when we look at this very important issue to understand what is referred to in terms of artificial flooding. That is flooding that is created by something that is done directly as an act that would then result in something that is a higher level than would be the natural level.

I appreciate some of the concerns that have been raised. There are issues about ice control, but they really are issues related to ice control, period. There have been various attempts at times at core ice, et cetera. It is a separate issue, though, because all the scientific information, the historic information is that the phenomenon of ice jams is a natural phenomenon. Ice breaks up. The ice comes down, does jam. That occurred before the floodway, that occurs now with the current floodway and would occur with the floodway expansion.

Once again, I would point the member to the Acres study, which is on the Web site, which I think shows more than good faith in terms of dealing with this. We did not just assume the previous analysis in terms of natural levels would be applicable. In this case, we know we have the kind of scientific information that now allows us through the lidar mapping in particular to be very, very specific on levels. I think that Acres study, the member will see, has provided a state-of-the-art scientific definition of artificial flooding. That will be, indeed, reflected in the provisions for compensation under this act.

Mr. Goertzen: I am not sure that the minister should necessarily be surprised. He refers to the fact that ice

jams are a phenomenon that date back many, many years, but so does flooding date back many, many years. I am sure he is not suggesting that just because flooding predates our time here that it should not be considered an artificial flooding.

The reality is, of course, that there are a number of man-made interventions that exasperate or make worse or change the nature of where there is ice jams or flooding. I am wondering in terms of these type of unanticipated events how it is that the definition of artificial flooding will be applied.

Mr. Ashton: I think we are into a broader discussion here. I think the member is confusing the fact that there is naturally occurring flooding and there is artificial flooding. This bill deals with artificial flooding. To then leap from saying flooding is flooding, well, it is quite different in terms of its cause. One is artificial. One is, in this case, natural.

To the ice jam situation, the ice jams are naturally occurring. They are not artificially created. I know there have been concerns expressed by some local residents that maybe that is indeed the case. If that can be documented scientifically, this is certainly the impact, but I am surprised the member does not say the distinction between, in this case, ice jams which are a naturally occurring phenomena, predate the floodway, and artificial flooding and natural flooding.

Natural flooding predated the floodway as well. Artificial flooding, in this case, is documented scientifically under some circumstances as being created by the operation of the floodway. That is what we are dealing with. There is not that connection that is scientifically documented in terms of ice jams being created by the operation of the floodway.

So I think the member is skipping over this, but I suspect that this is more of a general concern and I would refer the member to the study, the Acres study. We go on the basis of science. That certainly was the case prior to us being in government and we have done everything possible through the Acres study to update the science and make sure that is publicly available. It is publicly available on the Web site. It has been available through the public hearings and I would refer the member to that study. It clearly documents what is artificial flooding and what is, in this case, flooding above natural levels.

Mr. Goertzen: I thank the minister for his comments and the dismissal of the concern that was raised by the resident from Selkirk. Certainly, we will pass on that dismissal to that particular resident and to other residents of Selkirk as well.

Mr. Ashton: Well, Madam Chairperson, I did not dismiss the concern. I referred to what the scientific evidence is, and if the member, the critic, feels that his scientific knowledge is sufficient to challenge Acres and challenge the existing wisdom of the engineering community, so be it. I as minister rely on that and when members of the public do raise concerns we do what we have done in this case. We did an engineering study, the Acres study. We looked at those concerns. We did not dismiss the concerns, but what we did is what this act will require us to do, is look at the scientific definition in terms of artificial flooding. I think that is what the public would expect of us, the broad public and anyone impacted. We do not dismiss concerns. We do our homework. That is why we did the Acres study.

Mr. David Faurshou (Portage la Prairie): Madam Chairperson, I just would like to see the minister acknowledge in regard to ice, having been raised on the Assiniboine Floodway, very much a consideration is the amount of ice within the channel proper that has to be raised by the waters that are injected into the floodway proper. There is a significant amount of ice because the floodway does not totally drain and so there is added ice to the flow because of the channel's existence. So I would like to see that the minister acknowledge that there is more ice available for jamming because of the existence of the floodway.

Mr. Ashton: I assume that the member is referring to the Portage diversion in this particular case. The member mentioned the Assiniboine diversion, the Portage diversion?

Mr. Faurshou: I just wanted to add a personal observation being from the Assiniboine floodway experience, but speaking specifically of the Red River Floodway where the channel itself does not go to a zero volume of water outside of flood stage and those waters do freeze during the winter and do constitute a solid form in the spring time and do add to ice flow in the Red River. I just want the minister to acknowledge that without the existence of the floodway there would be less ice available for jamming.

Mr. Ashton: Well, I could get into the technical details of the entire project, and I appreciate that, and certainly we have had some questions in Estimates. The key issue here though, of course, is what we have done in addition to not only bringing in this specific clause in the legislation is put in place an engineering study conducted by Acres. It is public information and if the member has any information that he feels is not included, but members of the public can do so as well, to raise that concern.

That is why we are having the public hearings, by the way. I am not sure if the member has had the opportunity to attend them, but they have been well-attended by the public and not only are we not dismissive of those concerns, that is why we are having this process. It is a very open process and everything is being looked at including the definition of natural levels. So I appreciate the information and perhaps I will refer him to the very capable technical staff at the Floodway Authority.

Mrs. Mavis Taillieu (Morris): I am sorry that I am late in coming into the hearings here today, so the questions I may ask may have been presented by the presenters. I am concerned about what the definition of artificial flooding is because, as we have seen in the floodway hearings, what was stated in the presentations was that each flood event finds its own level and that is not always determined right at the specific time, but sometimes that actually changes after the flood event occurs, that the natural levels determine later than that. I have a concern with that, and, as well, the distinction between natural and artificial, natural being, I think, levels that would occur if the floodway did not exist.

* (21:30)

If there is flooding and people are destroyed, would there be any intent by the government to say, "Well, part of this was natural, part of this was artificial?" In which case, that would, I think, constitute a wrangling experience to determine what part of the flooding was due to natural and what part was due to artificial.

I think there is a lot of concern over what the level of artificial flooding is and actually how to really determine it.

Mr. Ashton: I appreciate that, and I know the member would appreciate, too, that there is coverage

on a disaster of financial assistance programming for flooding. One of the reasons this legislation is being brought in is it was, I think, fairly well demonstrated that and putting aside the issue of definition for one moment.

Regardless of how you define artificial flooding, and in this case we are moving ahead with an expansion. We know some of the experience of what happened at the original floodway, which is a very positive move for Manitoba, but it did create some difficulties, whether it be in terms of ground water, in terms of other issues that were raised by presenters here. It is important to note that, as has been raised by the presenters regardless of our disagreements, perhaps, in some of the terms and definitions in the act, it is a very unique circumstance, where you end up with any kind of artificial flooding. That is where the operation of the floodway would result in flooding above what would have occurred otherwise without the floodway or the other aspects of flood proofing in that area.

I appreciate it may be difficult at times, but I think the important element here and the reason we are dealing with this bill, statutory coverage for flooding above natural levels, is because it is a very different sort of situation. It was felt, and I am sure the presenters and the many people who have been at the hearings would have agreed with this, that there is a conscious decision that results in artificial flooding, to use that term, that is quite different from the overall programming that is available to any Manitoban under the disaster financial assistance program.

There may be some issues in terms of the various overlaps in the programs, but I think it is quite different and that is why it does require a separate act, a separate act for flooding above natural levels.

Madam Chairperson: Seeing no other questions,

Clause 1—pass; clause 2—pass; clause 3—pass; clause 4—pass.

Shall clauses 5 through 8 pass?

An Honourable Member: No.

Mr. Ashton: I move

THAT Clause 5(2) of the Bill be replaced with the following:

Appeal to Court of Appeal

5(2) A decision of the Disaster Assistance Appeal Board under subsection (1) may be appealed upon a question of law to The Court of Appeal with leave granted by a judge of that court.

Application for leave to appeal

5(3) An application for leave to appeal must

(a) state the grounds of the appeal; and

(b) be made within 30 days after the date of the decision sought to be appealed, or within such further time as the judge under special circumstances allows.

Notice of the application must be served on the government in accordance with section 11 of *The Proceedings Against the Crown act*.

Madam Chairperson: It has been moved by the honourable minister—

An Honourable Member: Dispense.

Madam Chairperson: Dispense.

The amendment is in order. Debate may proceed.

Mr. Goertzen: I just ask the committee for a moment to confer with legal counsel on this.

Madam Chairperson: Leave is requested. Is leave granted?

Mr. Ashton: Perhaps if I could just provide a brief explanation.

Mr. Goertzen: I believe we are going to be looking at a subamendment to the amendment proposed by the Minister of Water Stewardship. Could the committee grant us a few moments for that?

Madam Chairperson: Minister Ashton, would you like to speak?

Mr. Ashton: While the subamendment is being drafted, I thought perhaps it would be useful to the committee to provide a brief explanation. I think it is important to note we have taken very seriously input from the public in the drafting of this bill. I note that I wrote, I believe in January, to many organizations.

In fact, there were a couple of presenters today who made written presentations. I think there was reference to a letter that was sent in May. That was sent in response to a letter I had sent, because we felt it was important to get input, not only in the committee which we are dealing with today, but also in the period in which we were drafting the act.

I think one of the areas that was quite clear in terms of feedback from the public and, certainly, members of the Legislature, and there were those who spoke, was the reflection of the fact that there might be certain circumstances where court action would be a warranted element that should be available to members of the public. This would clearly allow for an appeal to the Court of Appeal on a matter of law. We felt it was important to reflect that in the act.

The current wording certainly reflects the practice in a number of other areas, but I think it is well taken by members of this committee. I can only speak for my colleagues on the government side that there are some particular circumstances. That is why the amendment reflects, in this case, the ability to appeal through the Court of Appeal. I thank members of the public for raising this issue. It is an area that we do take seriously and I think that is reflected in the amendment.

Mr. Goertzen: I thank the minister for his comments.

I think it is unfortunate, however, because, as I understand it, and I will certainly give the minister the ability to clarify this, when we are dealing with an appeal on a question of law, it is a very narrow type of appeal. Those questions of law, I think, are fairly closely defined. It still relies upon the application of the originating law being somehow misapplied.

The question and the concern I think have been raised very eloquently by those who have presented here tonight is not on the application of the law itself. They are concerned about the adequacy of the compensation. I think they are concerned about the eligibility overall. That is the basis of their concern.

* (21:40)

In some ways I wonder. Again, I would like to see the minister clarify this, but in some ways it

seems like something of a smoke screen to be able to deflect criticism, to be able to say, well, now, we have—in that sake it might be a nifty sleight political move, but it does not address the real issue. If we are talking about just allowing an appeal on the basis of the question of law, I do not believe that would allow applicants to discuss the appropriateness of their claim in terms of its eligibility, the adequacy of their claim in terms of the amount of compensation. It would simply restrict the applicant to determining whether or not the legislation itself was applied appropriately.

Unless I misunderstood the comments that were put forward here tonight by the many presenters on this bill, I do not think that was the concern they were raising. I did not hear anybody say, "We are concerned that this particular act might be applied inappropriately by the appeal commission, by the disaster financial appeal commission." There were some concerns raised about measuring compensation from EMO, but I do not think anybody was suggesting that it was the act itself that might be misapplied. The concern was whether or not we heard it in relation to those who were going through a type of mediation that they feel to have been coercive, they were concerned about the amount of compensation they have received.

They have concerns, of course, regarding the process and that the application on a question of law might deal with elements of process, but the minister still, I believe, has insulated himself from questions regarding compensation. So, if the minister perhaps could clarify whether or not an individual would have the right to appeal to the court regarding the amount of compensation or the eligibility of compensation under the amendment that he has put forward here this evening.

Mr. Ashton: We can each interpret the presentations that were made. In fact, I have also received many written presentations from members of the public as part of our solicitation of input. Certainly, the member is free to introduce amendments or subamendments. I believe that is the intent here, and I suspect that would be the best way of resolving this.

I can indicate that I hear members of the public saying they felt it was unfair that the current wording, as it is stated, that the disaster assistance appeal board's decision, without an appeal, is final

and not subject to any further appeal. Clearly, we are dealing with that here.

If the member wishes to move a subamendment, we can debate. That, I think, is probably more productive than debating this back and forth. It is not a smoke screen. I think members of the public raise concerns. I heard reference to the Charter of Rights and whether this section violates the Charter of Rights or not. I think there were a lot of concerns about due process and a lot of concerns that this would be strictly an administrative disposition of the matter. So I am certainly prepared to see what happens in terms of the many amendments the members might offer.

There are also other stages of this committee. I just want to indicate that there were a number of issues that were raised. What I always do as minister, and I know other ministers, ex-ministers do that as well, we will be looking at a number of the other suggestions that were brought forward by members of the public, but this was drafted prior to this committee meeting, based on a lot of the feedback.

If the member has suggested amendments then he is free to move them. We feel it is an improvement over the current clause that is in place that may reflect current practice for other areas, but I think the public has said that clause 5(2), as it is currently put in place, is not appropriate for this kind of act. We are, and I just note the motion that is on the floor, moving that we replace 5(2) with what will allow an appeal to the Court of Appeal.

Mr. Goertzen: The minister, I am certain, has had some type of legal advice on this particular amendment before he brought it forward here today. I asked a very clear question, and I will ask it again. From his advice that he has received on this particular amendment, would individuals be able to appeal to the court on the basis of the compensation they have been provided?

Mr. Ashton: I can only repeat what the amendment states, and I encourage the member, if he feels it is not appropriate enough—the amendment says on a matter of a question of law, and a question of law, I believe the member has a legal background, he will know what a question of law is, in terms of specific items of compensation, that is dealt through the Disaster Financial Assistance board. That is covered in the rest of the act.

The specific amendment that was of concern to the members of the public states, and I will just read the subtitle. We are changing this, it says, "Appeal Board's decision final." What is made clear in terms of this is that would not be the case and there would be an opportunity on a matter of law to appeal to the Court of Appeal. All the other issues in regard to compensation are covered in the act by the Disaster Financial Assistance board. The member knows the situation in this case, so we are allowing, under this amendment, matters of law or jurisdiction to be appealed. There was concern expressed that the current drafting of that would not allow that.

Mr. Goertzen: The minister is correct to have an understanding of what a matter of law is, and I understand how restrictive it is to launch an appeal on a matter of the law. It is probably one of the most restrictive applications of the law one can find. It is one of the most difficult, one of the most heavy burdens of onus to put on an applicant to try to prove that somehow the law was misapplied in their case. It is a very, very difficult onus. Then, to place it on individuals who clearly have some dissatisfaction with the compensation they have received through the process, I think is absolutely disturbing. This is really a sham.

I think that residents both south and north of the floodway operation will realize it for what it is. This is an attempt by the minister to mute the criticism that he has received regarding the inability to launch an appeal of compensation on eligibility, so he throws in a clause that is the most restrictive that he could possibly find. Quite honestly, I am not sure of the use of it. If a court would find that there was a question of law that was misappropriated, one might assume that the court would send it back then to the original body, the appeal commission, to reconsider that position of law, but I do not suspect that it would affect their compensation. Even if, on the unlikely occurrence that an applicant was successful before the courts to argue that their question of law was one that needed to be reconsidered, if the court did not deal with it themselves or chose to send it back as it normally would to the original appeal mechanism for reconsideration to ensure that particular area of law is properly applied, it still would not deal with the issue of compensation.

I need to remind the minister that this is called, we have been talking about it, the Red River Floodway compensation act. This is about

compensation. The minister himself has stood up in the House and said, "This is about compensation. We will be looking to see how members opposite will vote on the issue of compensation."

I heard him say it today in the House. He was very clear that this is an act about compensation. So now, of course, when he raises an amendment, he is quick to say, "Well, you know, this may not deal with compensation." I think he made the admission at the end of his last statement. He said that this would not necessarily deal with compensation.

Well, this is what the act is about. It is about dealing with compensation, Madam Chairperson. People are here today because they are concerned about their future compensation. Oh, issues were raised about the process and about the Charter of Rights and Freedoms, but I think if the minister would reflect back on Hansard, he would see that they all reflected concerns about compensation.

When the issues were raised about the Charter of Rights and Freedoms and whether or not it would withstand a Charter challenge, it was because people were concerned that they might not be able to appeal their compensation that was handed down to them by the Disaster Financial Assistance appeal board. That is what this was all about. That is what it has all been about all this evening. It has all been about compensation.

*(21:50)

The minister himself has said this has all been about compensation, but now he puts up this public smokescreen and hopes that we will all be looking another way and think that this is a wonderful response by the minister because he has brought in an amendment that says you have the right to appeal virtually nothing.

Virtually nothing, and if you are successful in your appeal of virtually nothing, you still will not be able to reconsider the issue of compensation. All you will be able to reconsider is the issue of law when it gets turned back to the board that made the official decision. And the minister shrugs, you know, and so what, I guess, eh? But I guess he is not getting flooded out, so what does he care about compensation? *[interjection]* What does he care about the compensation? He is not living there—

Madam Chairperson: Excuse me. Excuse me for a moment. There is no participation from the gallery. I just wanted to draw that to your attention. Thank you.

Floor Comment: It is hard to stomach.

Mr. Goertzen: Well, yes, I hear people say it is hard to stomach this, and it is hard to stomach it for those of us on the committee as well, because, you know, I think I might have respected the minister more if he had done nothing on this, because at least he would not be trying to pull the wool over people's eyes.

He could have at least said right from the get go, "You know what? We do not really care what people think on this particular issue about their inability to appeal," but he has done almost the opposite. He has gone one step worse, Madam Chairperson, because what he said is, "Well, let's try to fool all the other people who aren't going to be affected by this compensation. Let's try to fool those who won't be impacted by artificial or other flooding north or south of the floodway. So let's throw this in and then I'll go out there and send out a news release."

I cannot wait to see the news release that the member is going to send out from his department saying, "Oh, there has been an amendment and now there is a right to appeal." It is a shame, because there is a right to appeal virtually nothing.

Mr. Ashton: Madam Chairperson, I want to indicate on the record, my comment to the member was if he is opposed to the amendment to vote against the amendment. I think his comments, you know, were really uncalled for, because I put on the record, the member has a subamendment that he has already indicated he is going to move, if he has suggestions on how to improve this, he can move the subamendment. If he is opposed to having the right to go to court of appeal, guaranteed under this act in terms of this proposal, he can vote against that. That is what we have the committee process for and the member indicated he had a subamendment. This deals with one of the elements that were raised and if the member wishes to vote against it, that is obviously his prerogative.

That was my suggestion. Vote against it or amend it. I would suggest, Madam Chairperson, we are certainly prepared to either deal with this amendment or, I believe the member has a

subamendment, in which case it might be more productive to deal with that first.

Mr. Goertzen: Well, the minister's comments are simply outrageous and I would challenge him to read Hansard from this committee, I would challenge him to read the concerns that have been raised publicly in newspapers, I would challenge him to get the transcripts from concerns that were raised on the radio, and if he can find anybody who says that they were worried about a question of law, I would like to see it because I certainly have not heard it once in all those comments that have come forward before this committee.

Madam Chairperson, I would like to move a subamendment.

Madam Chairperson: Mr. Goertzen, please proceed with your subamendment.

Mr. Goertzen: I move

THAT the amendment to Clause 5(2) of the Bill be amended by striking out "upon a question of law" in the proposed replacement for Clause 5(2).

Madam Chairperson: It has been moved by Mr. Goertzen that the amendment to Bill 23 be further amended as follows:

THAT the amendment to Clause 5(2) of the Bill be amended by striking out "upon a question of law" in the proposed replacement for Clause 5(2).

The subamendment is in order. Debate may proceed.

Mr. Goertzen: It is very clear what this subamendment is intended to do and the minister earlier today in the Legislature in Question Period, I think it may have been in response to a question from the Member for Morris (Mrs. Taillieu), said that he was looking forward to seeing how members of the Chamber would vote on the floodway compensation act.

Well, I say, I am looking forward to seeing how the minister and members opposite on this committee, members of the government, will vote on this subcommittee, because if they vote down this subamendment, they are voting down the ability for people to appeal for compensation, they are doing it, I think, vindictively, I think, in spite.

I think it is a very, very inappropriate amendment that the minister brought forward. I look forward to seeing how the minister is going to vote. I look forward to seeing how members of the government will vote. I look forward to seeing how the Member for Selkirk (Mr. Dewar) is going to vote.

Madam Chairperson: Are there any other members wishing to speak to the subamendment? Seeing no other members, is the committee ready for the question?

An Honourable Member: Question.

Madam Chairperson: The question before the committee is the subamendment moved by Mr. Goertzen, which reads as follows:

THAT the amendment to Clause 5(2)–

An Honourable Member: Dispense.

Madam Chairperson: Dispense. Shall the subamendment pass?

Some Honourable Members: Yes.

Some Honourable Members: No.

Voice Vote

Madam Chairperson: All those in favour of the subamendment, please say yea.

Some Honourable Members: Yea.

Madam Chairperson: All those opposed to the subamendment, please say nay.

Some Honourable Members: Nay.

Madam Chairperson: In my opinion, the Nays have it.

Formal Vote

Mr. Goertzen: May I call for a recorded vote?

Madam Chairperson: A recorded vote has been requested.

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

Madam Chairperson: The subamendment is accordingly defeated.

* * *

Madam Chairperson: We will now return to the amendment. The amendment is in order. Are there any other members wishing to speak to the amendment?

Seeing none, is the committee ready for the question?

An Honourable Member: Question.

Madam Chairperson: The question before the committee is the amendment moved by Honourable Minister Ashton, which reads as follows—

Some Honourable Members: Dispense.

Madam Chairperson: Dispense. Shall the amendment pass?

Some Honourable Members: Yes.

Voice Vote

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

Some Honourable Members: Yea.

Madam Chairperson: All those opposed to the amendment, please say nay.

In my opinion, the Yeas have it.

* * *

Madam Chairperson: Amendment—pass; clause 5 as amended—pass; clauses 6 through 8—pass; clause 9—pass; clauses 10 and 11—pass; clauses 12 and 13—pass; clause 14—pass; clauses 15 and 16—pass; enacting clause—pass; title—pass. Bill as amended be reported.

Bill 31—The Floodway Authority Act

Madam Chairperson: Does the Minister responsible for Bill 31 have an opening statement?

Hon. Steve Ashton (Minister of Water Stewardship): This act deals with the governance of the floodway. It is a very important act.

Madam Chairperson: We thank the minister.

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

Mr. Kelvin Goertzen (Steinbach): We have raised a number of concerns regarding The Floodway Authority Act, specifically not so much The Floodway Authority Act as the operation of the Floodway Authority in relation to how it is that we got into this particular situation with, first, potential forced unionization and now, apparently, the potential for forced union dues, although I have yet to hear the final edict from the minister, although I know he made comments to *The Winnipeg Sun* last week that by the end of last week the recommendations in terms of what the government planned to do with the recommendations from Wally Fox-Decent would be acted upon.

Now, here we are on Monday, and there still is no announcement on how those recommendations will be proceeded upon. That is not a surprise, because we have certainly seen this government delay and delay and deflect in terms of this particular act. I know that, had the Leader of the Opposition (Mr. Murray) not raised concerns regarding forced unionization, had he not rallied public support together with employers on this particular issue, that, in the darkness of night, the former Minister of Labour, now the Minister of Water Stewardship (Mr. Ashton), would have moved forward on his plan for forced unionization.

* (22:00)

Of course, he gave us a preview, I think he gave us a preview of what he thinks of the Wally Fox-Decent report, when several weeks, maybe even a couple of months ago, he stated that all people would have to pay union dues on the floodway project, that that was the Rand Formula. It was somewhat of a prophetic statement foreshadowing what the recommendations would be and foreshadowing what his response to those recommendations from Mr. Fox-Decent would be. Whether they come in one day, two days, five days or five months, I would be surprised if the minister does not act on his own words that he believes all employees should have to pay union dues.

I think it should be clear to him that this is not an application of the Rand Formula. He will be well

aware that the Rand Formula application is in response to those who receive benefits under a negotiated or a collective agreement, that those who receive those benefits should have to pay for those benefits, however, it has been clearly stated by employers and by others that the issue is up for negotiation between the Floodway Authority and between the union representatives.

We are still waiting to see if there will be employers at the table like Mr. Gilroy had recommended at one point several months ago, that employers have a seat at the table. Clearly, there are issues regarding training that can be handled as they always have been by employees. Issues regarding wages can be handled under The Construction Wages Act. Issues regarding safety can be handled under regulation or under legislation like they have been in the past.

So there is no necessity for this collective agreement and therefore the Rand Formula need not apply. The minister, of course, conveniently overlooks that reality by standing up and trying to baffle people by his knowledge of the Rand Formula, but I think what he is really motivated by, not so much a defence of the Rand Formula, but by a motivation to have non-unionized workers pay these union dues.

We have raised a number of these concerns regarding the Floodway Authority, regarding the operation. Certainly, we hope that employers will be invited to be involved in this process. We think it would be sad if they were not invited to be involved.

I certainly think the minister bears a great deal of responsibility for the difficulties that we have seen regarding negotiations before real work has been done in terms of physical work on the floodway. The minister has found himself bogged down in a labour and employer dispute. Now he finds himself delaying and deflecting on recommendations from Mr. Fox-Decent which were, I think, commissioned around two months ago. I think it is shameful that we find ourselves as Manitobans in this position when all of us would like to see the floodway expanded and built for the protection of those residents who are looking for that protection.

Madam Chairperson: We thank the member.

During the consideration of a bill, the table of contents, the enacting clause and the title are

postponed until all other clauses have been considered in their proper order.

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

Is that agreed? *[Agreed]*

Clause 1–pass; clauses 2 through 5–pass; clauses 6 and 7–pass; clauses 8 through 12–pass; clauses 13 through 16–pass; clauses 17 through 20–pass; clauses 21 and 22–pass; clauses 23 and 24–pass; table of contents–pass; enacting clause–pass; title–pass. Bill be reported.

Bill 33–The Public Servants Insurance Amendment Act

Madam Chairperson: Does the Minister responsible for Bill 33 have an opening statement?

Hon. Greg Selinger (Minister responsible for the Civil Service): No.

Madam Chairperson: No statement.

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

Some Honourable Members: No.

Madam Chairperson: No statement.

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

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

Bill 34–The University of Winnipeg Amendment Act

Madam Chairperson: I will continue with the next bill. If I could have the indulgence of the committee, I would appreciate it.

Does the Minister responsible for Bill 34 have an opening statement?

Hon. Diane McGifford (Minister of Advanced Education and Training): No, I do not.

Madam Chairperson: Thank you.

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

An Honourable Member: No.

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

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

Bill 35—The Credit Unions and Caisses Populaires Amendment Act

Madam Chairperson: Does the Minister responsible for Bill 35 have an opening statement?

Hon. Greg Selinger (Minister of Finance): No.

Madam Chairperson: Does the critic from the official opposition have an opening statement?

An Honourable Member: No.

Madam Chairperson: Thank you very much.

During the consideration of a bill the enacting clause and the title are postponed until all other clauses have been considered in their proper order. Also, if there is agreement from the committee, the Chair will call clauses in blocks that conform to pages with the understanding we will stop at any particular clause or clauses where members may have comments, questions, or amendments to propose. Is that agreed? *[Agreed]*

Clauses 1 and 2—pass.

Shall clauses 3 through 5 pass? Just a moment, we have an amendment.

* (22:10)

Mr. Selinger: Yes. I would like to move

THAT Clause 3(2)(b) of the Bill be replaced with the following:

(b) by striking out "French-speaking residents of Manitoba" and substituting "French-speaking individuals who, except as otherwise permitted by this Act, are resident in Manitoba".

Madam Chairperson: It has been moved by—

Some Honourable Members: Dispense.

Madam Chairperson: Dispense. The amendment is in order. Debate may proceed.

Honourable Minister Selinger, did you want to make a comment?

Mr. Selinger: As I explained to the Member for Carman (Mr. Rocan), this would allow the members of the caisses populaires boards to be French-speaking, but up to 25 percent of them could be non-Manitoba residents, so it allows that additional flexibility.

Madam Chairperson: Are there any other members wishing to speak to the amendment? Seeing no other members, is the committee ready for the question?

Some Honourable Members: Question.

Madam Chairperson: The question before the committee is the amendment moved by Honourable Minister Selinger—

An Honourable Member: Dispense.

Madam Chairperson: Dispense.

Amendment—pass; clause 3 as amended—pass; clause 4—pass; clause 5—pass; clause 6—pass; clauses 7 and 8—pass; clauses 9 and 10—pass; clauses 11 and 12—pass; clause 13—pass; clause 14—pass; clauses 15 through 19—pass; clauses 20 through 23—pass; clauses 24 through 26—pass; clauses 27 through 31—pass; clauses 32 through 36—pass; clauses 37 through 39—pass; clauses 40 through 44—pass; clauses 45 through 50—pass; clause 51—pass; enacting clause—pass; title—pass. Bill as amended be reported.

Bill 38—The Fisheries Amendment Act

Madam Chairperson: I would like to thank the committee for their patience. We are now on Bill 38.

Does the Minister responsible for Bill 38 have an opening statement?

Hon. Steve Ashton (Minister of Water Stewardship): This bill is important for protecting our fisheries.

Madam Chairperson: We thank the minister.

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

An Honourable Member: No.

Madam Chairperson: During the consideration of a bill the enacting clause and title are postponed until all other clauses have been considered in their proper order. Also, if there is agreement from the committee, the Chair will call clauses in blocks that conform to pages, with the understanding we will stop at any particular clause or clauses where members may have comments, questions or amendments to propose. Is that agreed? *[Agreed]*

Clauses 1 and 2—pass; clauses 3 through 5—pass.

Shall clauses 6 through 13 pass?

Mr. David Faurischou (Portage la Prairie): Under clause 6, it is requested that section 13 be repealed. I would like to ask the minister why he and his department feel it now necessary to control the brokering of fish by Manitoba entities. This is the section that gives exemption to out-of-province sales and brokering of fish and fish products. Why does the minister now feel the department has to regulate these types of sales and marketing?

Madam Chairperson: Just for clarification, Mr. Faurischou, you are not moving an amendment, you are just asking a question, right? Thank you.

Mr. Ashton: I believe the member is referring to section 13, which currently suggests fish destined for export are exempt from the authority of The Fisheries Act, even though it is not known whether fish are destined for export sale until they are packed and shipped from The Freshwater Fish Marketing Corporation Transcona plant. To manage our Crown-owned fisheries in Manitoba, we have to be able to exercise jurisdictional prerogative by ensuring those who deal with fish in Manitoba do so within the

constraints of Manitoba allocation of conservation priorities. That is the intent.

Mr. Faurischou: Madam Chairperson, clearly section 13 that the minister wants to repeal under this act which amends The Fisheries Act states, "the purchase of out of province, territory or outside of Canada fish and fish stocks." Why does the Freshwater Fish Marketing Board want to participate in the sale and purchase of fish stocks that originate outside the province? I have no idea why it is necessary for the minister to control the sales marketing.

Mr. Ashton: Well, Freshwater Fish Marketing Corporation purchases fish from a variety of jurisdictions so this is aimed in terms of the jurisdictional issues from our side, but I think the member may wish to acquaint himself with the mandate of the Freshwater Fish Marketing Corporation which does purchase fish from outside Manitoba and which does create the difficulty.

My suggestion is, if the member has concerns, obviously he can vote against the new section 6 which repeals section 13, but I would suggest if he would like a thorough briefing, I would be more than glad to make that available to him, as I have done on other acts.

I certainly appreciate his point, but I think the member may be somewhat confused about the focus of the Freshwater Fish Marketing Corporation. It is not strictly Manitoba based.

Mr. Faurischou: Well, I will say no to this section. There is no question of that because I do not see any reason that this particular section be repealed that basically says to sell or to purchase fish for delivery in another province, territory outside of Canada. So I do not know why the minister, after this has been in the act for decades, I do not know why at this time it is now the feeling of this minister that he needs to have full and complete control.

Mr. Ashton: Well, we have some real challenges out there with fish that is being purported to be legally caught fish and then is sold as such, either to Freshwater Fish Marketing Corporation obviously, afterwards, more generally. One of the key elements that we have determined in our review of our current legislation enforcement approach is that we clearly have to recognize that that is a part of the challenge

we are facing, not just people catching fish illegally, but then purporting to market illegally caught fish as legally caught fish. In many cases, we have problems we have identified with fish that clearly were not caught in a lake for which the quota it was alleged to have been caught was listed in terms of the shipping process.

* (22:20)

So we are taking a clear view on this that we have to look at all movements of fish and make sure that each and every one of those fish movements involves legally caught fish. That is the intent of this entire legislation. I certainly would be more willing to get into the details of it but we have had cases, significant concerns expressed, many cases by commercial fishers themselves, that there is movement of illegally caught fish under the guise of legally caught fish. So, without getting into all the details of the rest of the bill, that that is the intent we are dealing with here.

Madam Chairperson: Seeing no other questions, shall clauses 6 through 13 pass?

Some Honourable Members: Pass.

An Honourable Member: No.

Mr. Faurschou: In regard to section 16, I am wondering why the minister feels it necessary to repeal this section which essentially provides for the opportunity to appeal to the minister decisions made within the department? Clearly, by my inquiries this has not been an onerous task on the shoulders of the ministers previous to hold the position that the current minister has. I am wondering why the minister feels now that he wants to give up this responsibility which he was elected for.

Mr. Ashton: Madam Chairperson, I know the member is looking for something fishy in this act, and I appreciate his very detailed work in going through the sections. Part 2 has been repealed by the proposed act and part 2 of the act is currently redundant. It relates to the inspection of fish processing facilities. That is now covered by The Public Health Act and whitefish grading and inspection which now is addressed by the Canadian Food Inspection Agency as part of Canada's export trade responsibility. So this was dealing with an area

of the act that has become redundant because of the application of other provincial and federal acts.

Mr. Faurschou: Madam Chairperson, the minister is saying that the department now has abdicated from all responsibilities of inspection, grading, marketing and other matters of this act. Could I have that point clarified?

Mr. Ashton: Well, I just want to indicate, you have a combination in this case of the inspection of the facilities themselves which is covered by The Public Health Act, which is provincial and the grading and whitefish grading inspection which is now by the Canada Food Inspection Agency as part of Canada's export trade responsibility. That is not unique to fisheries. That exists for other foods as well. In this case, it is not a question of abdicating. This is covered by other acts and certainly the Canada Food Inspection Agency would provide appropriate grading.

I think probably the most important question that the member would be asking would be in terms of the inspection facilities, and that is covered by The Public Health Act. It is not a question of abdicating responsibility. In this case, it is the response being exercised outside of the fisheries minister, and I would certainly say that it has just become redundant relative to other agencies that could perform the functions certainly as capably as the Fisheries section of Water Stewardship.

Mr. Faurschou: Now, is this then the end result of the signing of an agreement between the federal Department of Fisheries and Oceans in the province, because the fish and fish stocks within the province of Manitoba are a natural resource clearly under the constitutional responsibilities of the provincial government. I am wondering now how then does one exercise that particular responsibility when, in fact, the years past it was clearly a provincial responsibility. Is there a new agreement in place that changes the situation?

Mr. Ashton: I appreciate the member's jealous protection of Manitoba's interests, but I can assure him The Public Health Act, which of course is our jurisdiction, protects on the health issues, and quite frankly, the grading that is done through the CFIA is quite appropriate.

I think the member has a point, I would argue in other areas. In fact, we have signed a memorandum

with the federal government on fisheries habitat issues. We are working very hard actually in many cases to get the federal government to use greater discretion particularly with the Department of Fisheries and Oceans, which the member knows well in the application of its mandate, so we are working in other areas. I can assure the member in this case, this is a section, section 2 of The Fisheries Act, that is now covered by the other areas. We do not consider it a jurisdictional issue.

In this particular case, the grading issues, quite frankly, I think it would be to our advantage to have the federal government do that, and, dare I say, pay the costs so that we can focus our energies on other issues such as fisheries habitat, and improving fisheries in Manitoba. I appreciate the member's eagle eye in picking this up, but I can assure him that this is really nothing more than a redundant section.

Madam Chairperson: Seeing no other questions, Clauses 6 through 13—pass; clause 14—pass; enacting clause—pass; title—pass. Bill be reported.

Madam Chairperson: What is the will of the committee, the hour being 10:30?

Some Honourable Members: Committee rise.

Madam Chairperson: The hour being 10:30, committee rise. Thank you very much for your patience.

COMMITTEE ROSE AT: 10:30 p.m.

WRITTEN SUBMISSIONS PRESENTED BUT NOT READ

Re: Bill 23

I am currently and have been for 29 of the last 34 years a resident of Selkirk, Manitoba. Furthermore, my residence during the 29 years in Selkirk have been on the Red River or the Selkirk Golf Course which is on the Red River.

I was not able to attend either Floodway Expansion Workshop, Round 1 in Selkirk in February 2004, and Round 2 in East Selkirk in April 2004. This brief submission is in response to the information that arose from Round 2 and was reported in the *Selkirk Journal* of April 25, 2004.

It is well known that the Red River is particularly vulnerable to spring breakup ice jams in the Selkirk area, from the bridge to East Selkirk and north (International Red River Task Force, International Joint Commission). While these ice jams/dams are predominantly natural events they may be initiated/exacerbated by artificial structures, e.g., bridges.

It is a matter of record and observation that the majority of the numerous spring flooding events from the floodway outlet north or downstream are associated with the rapid rise of water behind an ice jam. Furthermore, despite what has been alleged by the Floodway Authority, a significant and accelerated rise of water level is often seen when an ice jam is associated with the initiation of operation of the floodway.

This fact is in stark contrast to the comments attributed to Mr. Doug McNeil, Authority vice-president of hydraulics as reported in the *Selkirk Journal* noted previously. Mr. McNeil stated, "The majority of the water flowing through the Floodway has no impact on river levels except to break up the ice jam." In the same article Mr. McNeil had apparently previously stated that for 2004 a rapid rise of the water level occurred following an ice jam at the bridge to East Selkirk, days before the floodway was operated and had reached a plateau prior to floodway operation.

I believe the facts differ from this statement. A permanent Government of Canada hydrological gauge is mounted on the western shore of the riverbank between the river and the dike surrounding the Selkirk Golf Course. This gauge is approximately one kilometre upstream from the bridge to East Selkirk. I routinely walk on the dike past the gauge twice a day. I noted that, following the previously mentioned ice jam, the river level rose rapidly on the gauge between March 31 and April 1. Within 36 hours the level on the gauge appeared constant. It is my understanding that floodway was put into operation at 6:30 p.m. on April 2, 2004. On Saturday morning, April 3, at approximately 10 a.m., the river had risen one metre, over three feet, on the gauge.

This observation was 15.5 hours after initiation of floodway operation. This rapid rise of river level after the initiation of floodway operation in association with an ice jam in the Selkirk vicinity is not unusual but this year an upstream gauge was

present for observation and quantification. Within 24 hours, the ice jam at the bridge had broken and moved north to jam and flood Breezy Point.

The foregoing represents documentation of what has been witnessed for years, i.e., ice jams/dams on the Red River in the Selkirk area associated with a transient increased flow caused by the confluence of regular Red River flow and floodway flow with a shorter transit time to the floodway may result in flooding between the floodway outlet and the ice jam.

The events and causation discussed represent the hazard that the current floodway operation poses to the area. How much more flooding will be caused by ice jams and a much-increased flow at the outlet of an expanded floodway? While it has been stated and undoubtedly correct that large river flows break up ice jams, the fact is that ice jam breakup is not likely to be instantaneous and immediate and prior to this a catastrophic river level rise may occur for a short period of time, perhaps only hours. Regrettably, it only takes a short period of time to inundate many properties with river water.

While I believe it is only reasonable to provide protection for Winnipeg against a 1-in-700-year flood event, I do not have the knowledge or experience to offer an opinion which of the options is the best. However, it is only moral, ethical and common sense to suggest that an option that protects one group of citizens, albeit a large number, must be considered carefully when it disadvantages another group of citizens even if far fewer in number. Therefore, if floodway expansion is the chosen method of protection for Winnipeg, I would respectfully suggest that at least as far as protection of citizens north of the floodway outlet is concerned, the Province should agree in writing to:

- 1) Institute ice weakening/removal strategies on the Red River downstream of the floodway outlet;
- 2) Erect adequate permanent dikes, when possible, on flood-prone property downstream of the floodway outlet;
- 3) Fully compensate property owners for flood damage whether the flooding is deemed to be natural or artificially caused;
- 4) Compensate owners of flood-prone property by a reduction in property tax to reflect a probable decrease in property value by virtue of its increased likelihood of flooding.

Thank you for the opportunity of expressing my views on the above matter.

G.K. Bristow

* * *

Re: Bill 35

Over the past number of years, a Law Review Committee comprised of officials of various organizations having responsibility to represent the views and interests of the Manitoba Credit Union and Caisses Populaires system have engaged in discussions with officials of the Province of Manitoba's Financial Institutions Regulations Branch towards identifying and drafting a package of act amendments that would serve as a sound legislative framework for the future of our system. The process has involved considerable discussion and consultation with local credit unions and caisses populaires over that period.

In that regard, the undersigned representatives of the committee wish to confirm our unanimous support for the package of amendments to the credit union and caisses populaires act that is now being placed before the Legislature for approval.

Mr. Garth Manness
Chief Executive Officer, Credit Union Central of Manitoba

Mr. Fernand Vermette
General Manager, Fédération des caisses populaires du Manitoba, Inc.

Mr. Bill Saunders
Chief Executive Officer, Credit Union Deposit Guarantee Corp.

Mr. Claude Bru
General Manager, Société d'assurance-dépôts des caisses populaires

Mr. Bob Lafond, Credit Union Central of Manitoba