

**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. 5 - 6:30 p.m., Wednesday, June 9, 2004**

**MANITOBA LEGISLATIVE ASSEMBLY**  
**Thirty-Eighth Legislature**

<b>Member</b>	<b>Constituency</b>	<b>Political Affiliation</b>
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FAURSCHOU, David	Portage la Prairie	P.C.
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OSWALD, Theresa	Seine River	N.D.P.
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**LEGISLATIVE ASSEMBLY OF MANITOBA**

**THE STANDING COMMITTEE ON SOCIAL AND ECONOMIC DEVELOPMENT**

**Wednesday, June 9, 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. Ms. Allan, Hon. Messrs. Chomiak, Sale, Selinger

Ms. Brick, Mrs. Driedger, Messrs. Faurchou, Jha, Mrs. Mitchelson, Ms. Oswald, Mr. Schuler

**APPEARING:**

Hon. Jon Gerrard, MLA for River Heights  
Mr. Leonard Derkach, MLA for Russell

**WITNESSES:**

Bill 39–The Residential Tenancies Amendment Act

Ms. Debbie Penner, Manitoba Park Owners Association

Bill 48–The Human Tissue Amendment Act

Mr. Christopher Snow, Director, Quality Management, Research and Development, Tissue Bank of Manitoba

Bill 43–The Personal Health Information Amendment Act (Spiritual Health)

Ms. Susan Skinner, Association for Healthcare Philanthropy

Ms. Val Coward, Executive Director, St. Boniface Hospital and Research Foundation

Mr. Andrew Ogaranko, Faith Coalition, Interfaith Health Care Association of Manitoba,

Manitoba Interfaith Council, Canadian Association for Pastoral Practice and Education  
Ms. Kathleen Rempel Boschman, Director of Spiritual Care, Bethania Mennonite Personal Care Homes Inc., Concordia Hospital

Bill 45–The Engineering and Geoscientific Professions Amendment Act

Mr. Dave Ennis, Executive Director and Registrar, Association of Professional Engineers and Geoscientists, Province of Manitoba

Ms. Veronica Jackson, Manitoba Association of Architects

Mr. Terry Danelley, Private Citizen

Mr. Don Oliver, Private Citizen

Mr. Guy Prefontaine, Gaboury, Prefontaine and Perry Architects

Mr. Andrew Bickford, AGB Architecture

Mr. David Penner, Private Citizen

Mr. Arnold Permut, Private Citizen

Mr. John Woods, Private Citizen

Mr. Steve Cohlmeier, Private Citizen

Mr. Brian Stimpson, Faculty of Engineering, University of Manitoba

Mr. Raymond Wan, Raymond S.C. Wan Architect

Mr. Kelly Baumgartner, Private Citizen

Mr. Francis Pineda, Private Citizen

Ms. Judy Pestrak, Private Citizen

**MATTERS UNDER DISCUSSION:**

Bill 39–The Residential Tenancies Amendment Act

Bill 43–The Personal Health Information Amendment Act (Spiritual Health)

Bill 45–The Engineering and Geoscientific Professions Amendment Act

Bill 48–The Human Tissue Amendment Act

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**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 39, The Residential Tenancies Amendment Act; Bill 43, The Personal Health Information Amendment Act (Spiritual Health); Bill 45, The Engineering and Geoscientific Professions Amendment Act; Bill 48, The Human Tissue Amendment Act.

We do have presenters registered to speak to Bills 39, 43, 45 and 48. It is the custom to hear public presentations before consideration of the bills. Is it the will of the committee to hear public presentations on this bill? *[Agreed]*

I will then read the names of the persons who have registered to make presentations this evening:

On Bill 39, The Residential Tenancies Amendment Act, Debbie Penner, Manitoba Park Owners Association.

On Bill 43, The Personal Health Information Amendment Act (Spiritual Health), Susan Skinner, Association of Healthcare Philanthropy; Val Coward, St. Boniface Foundation; Andrew Ogaranko, Faith Coalition (Interfaith Health Care Association of Manitoba, Manitoba Interfaith Council, Canadian Association for Pastoral Practice and Education); Rev. Kathleen Rempel Boschman and Henry Tessman, Concordia Hospital.

On Bill 45, The Engineering and Geoscientific Professions Amendment Act, Dave Ennis, Association of Professional Engineers and Geoscientists of Manitoba; Veronica Jackson, Manitoba Association of Architects; Terry Danelley, private citizen; Don Oliver, private citizen; Guy Prefontaine, Gaboury, Prefontaine and Perry Architects; Andrew Bickford or Arnold Permut, AGB Architecture; David Penner, private citizen; Allan Silk, private citizen; John Woods, private citizen; Steve Cohlmeier, private citizen; Brian Stimpson, professional engineer, Faculty of Engineering, University of Manitoba; Ray Wan, Raymond S. C. Wan Architect; Kelly Baumgartner, private citizen; Richard Prince, private citizen; Francis Pineda, private citizen; Mike Fritschij, private citizen; Judy Pestrak, private citizen.

On Bill 48, The Human Tissue Amendment Act, Christopher Snow, Tissue Bank of Manitoba.

Those are the persons and organizations that have registered so far. Is there 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, 20 copies of your presentation are required. If you require assistance with photocopying please see the Clerk of this committee.

I understand 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 out-of-town presenters first?

**An Honourable Member:** Yes.

**Madam Chairperson:** I would like to inform presenters 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 in accordance with our rules if there are fewer than 20 persons registered to speak at 6:30 the committee may sit past midnight. I would like to advise that as of 6:30 there are 22 persons registered to speak. Therefore, unless unanimous consent of the committee is given, the committee must rise at midnight.

Is there unanimous consent for the committee to sit past midnight? *[Agreed]*

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 first say the MLA's or the presenter's name. This is the signal for the Hansard recorder to turn your mike on and off. Thank you for your patience. We will now proceed with public presentations.

**Hon. Dave Chomiak (Minister of Health):** I am just wondering if there might be leave of the

committee. I notice we are going in numerical order of the bills. I notice the last bill has only one presenter. I wonder if, insofar as it might expedite matters, whether it would be appropriate to have the Bill 48 presenter moved ahead of Bill 45 insofar as there are 15 presenters, so the individual does not have to wait until the very end. I assume I am looking for leave to do that following out-of-town presenters.

**Mrs. Bonnie Mitchelson (River East):** I was wondering if we might extend that a bit. I notice there is only one presenter, which is an out-of-town presenter, on Bill 39 and one on 48, whether we could go 39, 48, 43, and 45, just to try to expedite the process and not hold anyone any longer than they need to be here. Thanks. *[Agreed]*

**Madam Chairperson:** That being the will of the committee, we will then proceed with Bills 39, 48, 43 and 45.

#### **Bill 39—The Residential Tenancies Amendment Act**

**Madam Chairperson:** The first bill we will be hearing is Bill 39, The Residential Tenancies Amendment Act.

Debbie Penner, Manitoba Park Owners Association. You may proceed, Ms. Penner.

**Ms. Debbie Penner (Manitoba Park Owners Association Incorporated):** The Manitoba Park Owners Association Incorporated is a provincial association that represents the interests of many Manitoba-based mobile home park operations. Parks throughout Manitoba face a number of regulatory problems that led to the creation of this association in order to be able to present a united front to the government in seeking fair and equitable resolution of the problems. We appreciate the opportunity to speak to you today regarding Bill 39, The Residential Tenancies Amendment Act.

\* (18:40)

My comments today are primarily directed to section 1, 1.3 to 1.6. These changes to The Residential Tenancies Act are the first step in the right direction in creating a fair resolution for park owners. I would like to express our appreciation to the Honourable Greg Selinger for analyzing the

circumstances and being committed and making these proposed changes to better mobile park operations. The changes allow park owners to pass on the property taxes, licensing fees for mobile homes not owned by the landowners and to have a regulated way to obtain judgements if these amounts are not paid.

We have 21 parks as members of our association, 4 of which are being assessed. The remainder of the parks are still on licensing fees. The municipalities who have by-laws allowing them to increase the licensing fees are increasing the licensing fees every year, which currently, from the examples I have seen are over the allowed rent increases amount, leaving the park owners nothing for the inflation increase allowed annually through Residential Tenancies Branch. The parks that are currently being assessed, the taxes change with every municipal budget and, in some cases, have increased as high as 7 percent. With these proposed changes, we will be able to separate rent from taxes and apply the increases for property taxes, licensing fees directly to the homeowners. We are in favour of Bill 39.

**Madam Chairperson:** Thank you very much, Ms. Penner. Are there questions for Ms. Penner?

**Mr. David Faurchou (Portage la Prairie):** I would like to know how many jurisdictions or how many municipalities are still linked to the licensing avenue for garnering revenues for mobile homes parks.

**Ms. Penner:** Right now, we have 17 that are part of our association that are still under the licensing fee system. I am not aware of how many are throughout Manitoba. I just know from the members who are part of the association at this point.

**Mr. Faurchou:** Is there indication these municipalities are going to change their way of assessment from licensing to property-based assessment for the revenues taken from the park owners?

**Ms. Penner:** From what my understanding is, Intergovernmental Affairs will and are encouraging all the municipalities to change over to assessment. I think there is a bill right now that is being heard tonight also. I cannot comment on what the municipalities plan on doing in the future.

**Mr. Faurschou:** I was just trying to garner a trend line as to whether that is the trend, whether more municipalities have been changing over from the licensing aspect to an assessment-based assessment for garnering fees of operation. Further to that, I was wondering: Is this the greatest impediment to expansion within your industry? I know it is a slow growth industry as far as mobile home parks throughout the province and has this been the primary impediment to that establishment of new parks?

**Ms. Penner:** Well, my comment would be, I think, because now the mobile home or the manufactured housing industry has come up to age, the homes are built the same as site-built homes, and it is becoming more of an affordable housing and alternate living solution for a lot of people. The changes in the legislation, I cannot comment on that. I basically represent the park owners and what they do with the legislation, I do not know the background on why they are doing this or what the ultimate plan will be.

**Madam Chairperson:** Thank you very much, Ms. Penner.

**Hon. Greg Selinger (Minister of Finance):** I would just like to thank you for coming out tonight and making a representation on this. I know this is not the whole solution to some of the issues you face, but it allows for at least the pass through of taxes and licensing fees and gives you a remedy in case they are uncollectible. I know you work closely with our staff on that so I appreciate that. I think we have a solution that at least makes things a little easier for your association. Thank you.

**Ms. Penner:** Thank you very much.

#### **Bill 48—The Human Tissue Amendment Act**

**Madam Chairperson:** We will now hear public presentations on Bill 48, The Human Tissue Amendment Act.

Christopher Snow, from the Tissue Bank of Manitoba. Thank you very much, Mr. Snow. Do you have copies of your presentation to distribute?

**Mr. Christopher Snow (Director, Quality Management, Research and Development, Tissue Bank of Manitoba):** Yes.

**Madam Chairperson:** Please proceed whenever you are ready.

**Mr. Snow:** My name is Christopher Snow, Director of Quality Management, Research and Development for Tissue Bank Manitoba, and I wish to speak in favour of the legislation.

Approval of organ and tissue donation is almost unanimous among Canadians. A recent Environics poll has shown 93 percent of Canadians either strongly or somewhat approve of it. The poll also reports 40 percent of Canadians say they have signed their donor cards or registered as an organ donor, and a large majority, 88 percent, say they have discussed their wishes with their family. However, actual donation rates particularly in Manitoba, are not consistent with these numbers. Consequently, Canada continues to face a shortage of organ and tissue donors in relation to the number of recipients in need of life-saving and life-enhancing donations.

In our opinion, one of the main reasons for low donation rates in Manitoba has been the lack of resource allocation to organ and tissue donation efforts. While most Manitobans are in favour of organ and tissue donation, and many of them would be eligible for one or more donation options, very few potential donor families are actually given the opportunity to consider donation at the time of a loved one's death. Family opinions are important because even if there is signed documentation indicating a person's wishes, such as a donor card, it is common practice for the next of kin to have the final say on donation. It is they who must sign the consent for donation. That is why those who have made a decision about organ and tissue donation should share their decision with their family.

Another reason for low donation rates is the current, outdated legislation governing donation. Current legislation puts the onus on the attending physician to consider donor eligibility and to approach families for consent, but this rarely happens, at least in the case of tissue donation, and is indeed inappropriate in most cases because of the numerous and significant changes that have occurred in the organ and tissue donation fields over the last decade which now require specially trained personnel to perform these functions adequately and for consent to be informed.

\* (18:50)

In order to help solve the first problem of lack of resources, the Winnipeg Regional Health Authority, in April 2003, created a new human tissue gift agency called Tissue Bank Manitoba, with a vision of relieving human suffering by providing human allograft tissue to restore health, and with a vision to provide accessible, quality allograft tissue for transplantation, education and research. When we talk about tissue, we mean skin, bones, tendons, ligaments, heart valves, veins and arteries. Allografts are components derived from tissues which have been processed and prepared for transplantation according to predefined specifications. A recent report from the Canadian Institute for Health Information estimates the annual demand in Canada for allografts to be from 34 000 to over 62 000 grafts.

The establishment of Tissue Bank Manitoba builds on the already established human tissue gift agencies in the province, those being the WRHA's organ donation and transplant program, and the Lions Eye Bank of Manitoba and Northwest Ontario, by increasing the number of donation options available to Manitobans and by increasing the likelihood those Manitobans who wish to donate will be able to do so.

The second problem would be solved with the passage of these amendments to The Human Tissue Act, which are now before you. These amendments will ensure that as many Manitobans as possible will be considered for the option of tissue donation in a timely manner, and families of eligible donors will have their donation options explained to them by appropriately trained and qualified health care professionals.

Madam Chair, these amendments will also provide clarification of the issue of remuneration and recovery of expenses as it relates to human tissue gift agency operations, including the cost of education, research and development.

Tissue Bank Manitoba is committed to working closely with the other two human tissue gift agencies and designated facilities to ensure optimal co-ordination of donation efforts. We are also committed to increasing tissue donation awareness in the general public and health care providers through our education and promotion programs. In this context we encourage all of you and all Manitobans to sign your donor cards and even more importantly to share your decision with your family. Thank you.

**Madam Chairperson:** Thank you very much, Mr. Snow. Does the committee have questions for Mr. Snow?

**Mrs. Myrna Driedger (Charleswood):** Thank you, Mr. Snow. I appreciated the presentation. Two questions, I guess. I realize that donation rates are not anywhere near what we would like to see across this whole country and it has been a problem for some time and that it is very difficult for doctors and nurses to be in positions of making the ask. I like how this has been streamlined in order to address that.

Two things, would you recommend anything else that maybe could be or should have been looked at or could be down the road to strengthen this bill even further? The second question is are there any problems that you still see in the bill the way it is set up?

**Mr. Snow:** Well, nothing is perfect. You can always refine things, but as far as we can tell there is nothing significant that needs refinement in the bill with the amendments at this time. Certainly, down the road there are more aggressive options to look at if these particular amendments are not as effective as we would like, but other jurisdictions have found that the step of routine referral which will be brought forward with these amendments has a significant impact in increasing the number of families that can be offered the option of donation. That might be suffice

One of the things that we are looking at for the not-too-distant future is a donor registry which has been used successfully in other jurisdictions, especially if it is an online registry where people at any time can sign up. Obviously, if the health care system has the necessary information technology to access that information quickly, that would certainly be a useful tool to add. I do not know, necessarily, that we would need legislative changes to do that, but there would be a cost to that, for sure.

**Hon. Dave Chomiak (Minister of Health):** Yes. I just wanted to thank you for coming out and making the presentation. I want to thank the Lions Bank, the WRHA and the Tissue Bank for your efforts to put this together and take this through the process and also my people in the Legislature for helping expedite this matter because of the significant impact it has on all Manitobans. So thank you and I thank my colleagues in the Legislature as well.

**Madam Chairperson:** Thank you very much, Mr. Snow.

**Bill 43—The Personal Health Information Amendment Act (Spiritual Health)**

**Madam Chairperson:** The next bill the committee will be hearing presentations on is Bill 43, The Personal Health Information Amendment Act (Spiritual Health).

Our first presenter is Susan Skinner, the Association of Healthcare Philanthropy.

**Ms. Susan Skinner (Association of Healthcare Philanthropy):** The presentation is actually a joint presentation of Val Coward and myself. I wonder if the piece that I am handing out includes both pieces, and I am wondering if—

**Madam Chairperson:** Is Ms. Coward here?

**Ms. Skinner:** She is here. Yes.

**Madam Chairperson:** She could come up beside you.

**Ms. Skinner:** We could do that as a joint trade-off at some point and the questions could be held until it is complete. Is that all right?

**Madam Chairperson:** Absolutely. Do you want it as a joint presentation, or do you want it as separate presentations?

**Ms. Skinner:** A joint would be fine. She will do one piece of it, but I happen to be the biggest piece.

**Madam Chairperson:** If that is the will of the committee to hear this as a joint— *[Agreed]*

Agreed. Thank you. So I will be recognizing you each sort of separately so that Hansard has that documented accurately.

**Ms. Skinner:** Thank you. Okay, we will stop when she comes on, but mine will probably be a little bit longer.

**Madam Chairperson:** Okay. Ms. Skinner, you can proceed whenever you are ready.

**Ms. Skinner:** Thank you so very much. Thank you for the opportunity to present to this committee representing the people.

I first would like to introduce you to the Association for Health Care Philanthropy and tell you who we represent. It is a not-for-profit organization with more than 3500 members. More than 1900 are from the largest health care facilities in the United States and Canada. Headquarters is located in Washington. There are over 400 members in Canada and Manitoba, of course, has representation. I sit as the provincial representative on the AHP Cabinet.

AHP members in Manitoba respect the confidentiality of private information through the AHP Statement of Professional Standards and its companion Donor Bill of Rights which are endorsed by members when they join our association. They are appendices in the piece that we have given you.

AHP Manitoba commends our Manitoba government for moving forward with specific emphasis in ensuring that protections are in place for personal health care information. This kind of legislation is critical for patients, providers and institutions to protect the privacy of personal information with which data custodians are entrusted and serves to inspire public confidence in the information management practices.

While we support the principles of health privacy legislation for the province of Manitoba and specifically Bill 43, as amended, to represent holistic health care and the importance of the spirit in healing and wellness, we welcome a process of consultation in order to improve the legislation to allow the relationship of health facility and donor to continue to grow in order to advance health care in Manitoba. Central to this effort is the "grateful patient" program, and we will refer to that later.

For your information, I have just come back from a conference about one o'clock a.m. eastern time, in the morning.

In 1967, there were 35 000 charities registered. In 2003, there are 80 819. The not-for-profit business and charities is a significant factor and I think that is part of our issue, the recognition of the charitable sector. In the United States, it represents 800 000 charities.

Twenty percent of the individual support from Canadians is for health care. In the U.S. that represents 240 billion. We do not have the U.S.



numbers. I think it is a sector worth considering. Fundraising is a critical component of health care in Manitoba. We believe the legislation should address the role of the charitable sector.

AHP understands and respects the principle of ensuring that confidential health care information remains private, however legislation which deals specifically with privacy and protection of an individual's personal health information has significant impact on fundraising activities in health care organizations. The Personal Health Information Act, PHIA, impedes the functioning of foundations and government in their mutual quest to increase private funding for the advancement of health care.

\* (19:00)

PHIA was drafted, Madam Chair, without consultation or consideration of the impact on philanthropy, specifically patient solicitation. Yet patient solicitation is a major source of non-governmental revenue for hospitals and health care organizations across Canada. Without patient financial support, governments and hospitals will face a crisis in health care funding.

Increasingly, fundraising initiatives are critical in supporting increased health care funding and needs to meet and promote a better co-ordination of care and wellness and enhance and sustain quality health care.

We believe legislation should not be constructed in a manner that places unnecessary roadblocks in the way of philanthropic efforts that are desperately needed to pave the way for an improved and stronger system.

We believe there is a way to amend or, and I would like to say, reinterpret or clarify the current PHIA legislation and to maintain the original focus and intent while acknowledging and addressing the unique role of the non-profit sector and the unique needs that charities have in their funding requirements.

Existing PHIA legislation creates a barrier to connection with key constituents, the individuals and families who use health care services. These barriers must be lifted in order for health care facilities to develop and maintain these relationships. Val will

talk to you about our response to tell us what you think.

I thought it would be interesting for you to know that regarding PIPEDA, the Privacy Commissioner of Canada has released a fact sheet that confirms that fundraising is not considered a commercial activity and therefore subject to PIPEDA.

In Manitoba, the health care system has benefited through philanthropy for well over \$25 million a year. It is a vital component. As fiscal challenges for health care services increase, so does the need for alternate sources of funding. To augment resources for health care in Manitoba is critical. It is critical that the public and private sectors work in tandem.

Philanthropy is a lynchpin to enabling health care changes to occur in a seamless and smooth fashion. Rules and funding formulas are changing. Communities and their health care facilities, privately, are being asked more and more to make up the differences in major project costs, a new approach. Demands upon health care fundraisers continue to increase while present PHIA legislation has hampered the efforts of health care foundations to achieve much-needed fundraising targets. Tools have been removed while targets and the need for co-operation increase.

We believe that legislation should not be constructed in a manner that places unnecessary roadblocks in the way of philanthropic efforts that are desperately needed to pave the way for an improved and stronger health care system.

The impact of philanthropy in health care goes well beyond bricks and mortar. In teaching hospitals, partnerships have flourished with various faculties of health sciences. Other funds are at work in community hospitals, providing seed money for new programs. Community outreach, educational and preventative seminars on health care issues are often hosted by foundations. Requests to support research infrastructure is increasing at a time when we should be supporting the work of scientists and clinicians. Communications from development offices and related foundations seek to both educate the community as well as generate—

**Madam Chairperson:** Ms. Skinner, can I just stop you for one moment? Can I have leave of the

committee to allow this presentation to go longer than 10 minutes in consideration of the fact that it is two presentations in combination? *[Agreed]* You can continue.

**Ms. Skinner:** Thank you so much. Through health care development programs, the community is afforded a viable partnership with the health care system.

The effects of privacy legislation: Successful philanthropic programs are donor-centered. This means that charities seek to develop long-term meaningful relationships with their supporters. True philanthropy is not transaction-based. It is an act of caring through sharing and is relationship-based. Philanthropy is based on values and development which often our departments are called uncovers those values.

Barriers to relationship development have been detrimental to the philanthropic sector resulting in significant and increased admin. costs, greater costs per dollar raised, and lower net funding to health care programs. Grateful patients and their families create the largest single pool of health care supporters. Just by way of clarification on that, it makes sense that you would talk to the people who have been using your services. They would be most inclined to support you, as opposed to a general mail-out to the entire province. There are people who are linked more closely to one institution.

There is a definition of grateful patient. It is in the piece that I have given you. I will not get into it. It obviously means people who use the system. It is important to note that good practices affect us to in fact eliminate people without mental capacity, abortions, significant issues that may be emotional and/or difficult, so those people are not considered when solicitations are involved, or children.

There is a piece that has the legislative overview. The bill was passed in 1997. The night before the bill was passed, or the day before, we spoke with the minister, who recognized at that point an amendment would be necessary and required. The philanthropic sector was not considered. Consideration was given there.

We did, in fact, employ several methods afterwards of working through the system. Consent is one. We will tell you it does not work. We feel it is

not ethical to ask for consent upon entry into the health care system. People are already under duress. It is a very, very difficult time to ask people. They feel like they will not be treated fairly unless they sign. During treatment is also inappropriate and puts stress on the health care provider as well as the patient who is there.

**Madam Chairperson:** Ms. Skinner, I would like to inform both of you that you have now reached 10 minutes, just so you are aware.

**Ms. Skinner:** Thank you. We feel discharge is equally bad. Especially with the advances in medicine now, we are shooting people out of our health care facilities very, very quickly. They are not necessarily completely healed. Also, having a system uniform and consistent would be difficult among the various institutions.

I will conclude that, while we strongly endorse the need to protect the privacy of our patients and foster the development and implementation of clear policies in this regard, we also must underscore the need to ensure that our ongoing efforts to support our health care system are not jeopardized by unworkable laws.

We have several guiding principles. We believe the intent of PHIA legislation is to protect an individual's right to privacy, not to prevent their basic right to choose. We believe all Manitobans have a basic right to express their appreciation for treatment received at our health care facilities in a tangible fashion. We believe legislation should acknowledge and address the unique role of the charitable sector and the unique needs charities have, in order to respond to community needs.

There are several recommendations: One, that an amendment should be enacted to allow hospitals, health centres and long-term care facilities to extend to patients, residents and their families the freedom to choose to provide support to a health care facility.

Secondly, that creating provision for ethical first contact with a potential donor by health care facilities and/or their charitable foundations, while maintaining the integrity and conceptual focus of privacy legislation, is possible.

Next, that an amendment to the legislation be approved that removes the penalty for hospitals using

the names of former patients for charitable purposes of donating and supporting health care in Manitoba as an expression of one's choice where a relationship is evident.

Next, that charitable purposes be considered an acceptable use for basic information for a health care institution and their foundation.

Next, that demographic information be approved for purposes of fund raising.

I am now going to pass this over to Val Coward, and we will entertain questions following her piece. Hers is responding specifically to the PHIA.

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

Ms. Coward, do you have information you would like to distribute?

**Ms. Val Coward (Executive Director, St. Boniface Hospital and Research Foundation):** It is included in the package.

**Madam Chairperson:** Thank you. Please proceed. Ms. Coward from St. Boniface Foundation.

**Ms. Coward:** Thank you very much. I welcome the opportunity to present to you today. Susan stole most of my thunder, so my comments are going to be very short.

I wanted to say we believe, as part of philanthropy, that we are partners in the health care system in Manitoba, and we are proud to be partners. Philanthropy is an expression of a civilized society. We work closely with individuals who either volunteer to support health care institutions and the donors who are very grateful for the services that they get.

As Susan indicated, in December 1997, PHIA was passed into legislation without direct consultation, actually I believe, honestly not realizing what the impacts were going to be on health care philanthropy.

\* (19:10)

I want to just touch on a couple of points in the scope of the questions: What do we think? Do we feel the definition of the personal health information

is appropriate? Personal health information as described in PHIA is recorded as information about "identifiable" individual that relates to: (1) the individual's health, health care history, including genetic information about the individual; (2) the health care provided to that individual and payment for health care provided to that individual.

The question of what makes individual identifiable is at issue here. Clarification also is required on the second point. Fundraisers require only basic information regarding an individual (name, address), not identifying information about their health complaint or services they received.

The division of the information under The Personal Health Information Act, under demographic or diagnostic, is very much supported by AHP and all our colleagues because, as good stewards of privacy with our own donors, we do not believe it is our responsibility to have any of that information.

In fact, in the system that is used under a grateful patient program, our other foundations do not see the information until the donor has made a donation. So that information is only passed on to us once there has been consent given through a cheque, through a donation.

The elements of consent from the trustee's perspective, collection of consent for charitable purposes at entry, have just proven to be dismal. Our hospital, for instance, would not even entertain the concept of asking a patient on admittance whether we could ask them for a charitable gift following, and most institutions were the same. Those who attempted it through the entry process found that it just was not workable, not comfortable and did not meet our ethical guidelines.

We believe that a grateful patient program offers an automatic consent or an opt out. A person can always file a request under G.

I think the general role of the Ombudsman is the other point that we wanted to really restate. Well, the statement is that the role is not to respond to complaints, but to avoid breaches in assisting trustees and assessing and monitoring their own health information policies and practices. We feel that the Office of the Ombudsman has been forced to take a role in interpreting the legislation, and we ask that you attempt to clarify the legislation. Clarification of this act regarding philanthropy, use

of the information, is also required and is stated rather than an expressed one.

Exercising the Rights of Another Person. Within the health care institution, those who are minors, who have mental incapacity, abortions, aged, those who are otherwise incapable of making sound decisions are excluded from any solicitation by the trustee itself. For many years it has been a practice of the solicitation of the grateful patient model to a lot of success for our institutions.

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

**Hon. Dave Chomiak (Minister of Health):** I want to thank you both for the presentation. I have a comment and a question. First is the comment. Perhaps all the members of the Legislature should be made aware of the fact that there was a mandatory five-year review of PHIA that was undertaken.

I have just looked through the list of presenters, and I take it that the presentation you have made today by both of you has also been made to the PHIA committee. Am I correct in that?

**Ms. Coward:** That is correct.

**Mr. Chomiak:** I also take it that, notwithstanding that presentation, your recommendation today is to further amend PHIA in line with the recommendations you made to both the committee and your presentation today, although you are supportive of the amendment that we are making today which is Bill 43. Is that correct?

**Ms. Coward:** That is correct.

**Mr. Chomiak:** I just wanted to provide that for members of the committee so that there is a rubric under which they can understand, perhaps will guide members in terms of posing their questions in this regard.

I will close by saying that the point made by you in terms of the gifting program, in terms of the consent or non-consent, et cetera, is similar to some other issues raised by other groups who have concerns with PHIA legislation, and we saw a fairly significant number of presenters. Now I guess that is not a question to you but I am just making an assertion for members of the committee. Thank you.

**Mrs. Myrna Driedger (Charleswood):** Thank you very much, Val and Susan. I do want to commend the work of hospital foundations and other foundations for the value of the work, the valuable contributions that are made to health care. It really has become a significant segment of health care, especially as health care funding becomes more and more challenged down the road you are going to continue to face formidable challenges in the future. I think that your requests today and your suggestions are very reasonable and I hope there is an openness for a consideration of all of that.

I would like to pose a question to you. You have been living now with the PHIA legislation for some time. What kind of decreases in donations have you seen over the past few years? Have you been able to put any price tag on that and, therefore, the effect that might have on what you are not able to do?

**Ms. Coward:** I can answer for our foundation. All foundations have looked at this. I took an example of two years, 1995 and '96, complete years before the legislation came into effect, and the long-term effect of those past patients to that solicitation to our hospital. The gifts from those patients, I want to be really clear that I am not overstating this, is \$560,000 from two years, from 800 past patients. In five years I could easily project that we are down about a quarter of a million dollars a year in revenue to the St. Boniface Research Foundation because of that.

**Mrs. Driedger:** How are you managing to raise donations now if you are not able to solicit your clients?

**Madam Chairperson:** Ms. Coward, and just to be respectful of the process, you have about 45 seconds to answer.

**Ms. Coward:** What we have to do now is solicit the masses so we use household mailings which are extremely expensive, drop a letter to the entire community and actually lose money on that to be able to obtain donors. We have not been able to develop anything that we believe is ethical to be able to do within the institutions ourselves.

**Madam Chairperson:** Doctor Gerrard, and you will have to be really brief.

**Hon. Jon Gerrard (River Heights):** Thank you. I have had an opportunity to meet with you before and

certainly am supportive of your effort. How urgent would you say this is?

**Ms. Skinner:** We are behind already. We have lost a lot. In trying consent I think, to date, I have 800 to process—

**Madam Chairperson:** At this point, I am sorry I will have to conclude the questions. I thank you very, very much for your presentations.

Mr. Ogaranko from the Faith Coalition of the Interfaith Health Care Association of Manitoba, the Manitoba Interfaith Council and the Canadian Association for Pastoral Practice and Education.

You may proceed, Mr. Ogaranko, whenever you are ready.

\* (19:20)

**Mr. Andrew Ogaranko (Faith Coalition, Interfaith Health Care Association of Manitoba, Manitoba Interfaith Council, Canadian Association for Pastoral Practice and Education):** Good evening and thank you so much for giving us this opportunity to present to this committee our support for Bill 43.

I am here this evening on behalf of the Interfaith Health Care Association of Manitoba, the Manitoba Interfaith Council and the Canadian Association for Pastoral Practice and Education.

With me as well this evening is Rev. Douglas Longstaffe, who is representing MIC and CAPPE in these proceedings here today.

This group has come together as a national faith coalition. Its purpose was to provide a unified position on how spiritual care and religious care issues should be addressed in the context of the health care system.

You should be aware that the coalition represents all of the faith-based hospitals, personal care homes and primary care facilities in the province and with that all major faith groups in the province including Hebrew, Catholic, Hindu, Muslim, Lutheran, United, Pentecostal, Presbyterian, Orthodox, Mennonite, Anglican, Buddhist and Aboriginal.

The coalition has been working long and hard for changes to PHIA legislation. It has sought and received the endorsement and support of a very broad base of individuals, churches, religious organizations, facility boards and religious leaders. In fact, as part of their efforts prior to the commencement of the PHIA review process, over 7500 persons, we have 7385, there have been petitions and letters subsequently, well over 7500 individuals have lent their support to the advocacy that the faith coalition has been doing.

So what is the objective? Mainly it is to make it clear in PHIA, as contemplated by Bill 43, that there is some recognition that spiritual health is an integral part of health. The objective of the amendments would be to conclude a debate that has arisen lately where spiritual care workers who are employees and agents of facilities can continue to access patient information on the same basis as other employees or agents, such as physicians, nurses or allied health care professionals. That on the one hand, and on the other hand is to provide that religious visitors, clergy persons designated by a particular faith can, unless the patient objects, receive the basic information that they need so that they can provide the religious services that the patient may require or want.

So the issue is how privacy laws and, in particular, PHIA affects, on the one hand, the ability of these spiritual care workers, who are very highly trained professional individuals from all faiths and cultures, to access patients and how they can provide spiritual care to those patients, and, on the other hand, the ability of religious care workers such as clergy or visitors designated by denomination to access patients of their own denomination and provide religious care.

The Minister of Health (Mr. Chomiak) and his deputy, in letters to regional health authorities and health care facilities and administrators, have acknowledged that the Department of Health is definitely committed to the concept of holistic care in the province of Manitoba as an approach to health care. There is a recognition that spirituality is a very important dimension of that health care, that spiritual care workers are integral members of the health care team. They have gone so far as to commit resources to training and establishing a spiritual care co-ordinator position. However, the regrettable part is that the government's sentiments are not universally accepted. Spiritual care is not expressly and

distinctly mentioned in PHIA. It is recognized only implicitly as a subset of either physical health on the one hand or mental health on the other hand.

In other words, it is a care or service which is offered to treat mental or physical health as the act currently is. It is not considered as a component of health in its own right, and even this implicit recognition has been challenged on some occasions as we have had with a very narrow and troubling interpretation of the legislation in this regard from the Ombudsman's office.

Although we believe the Ombudsman is mistaken in law, nevertheless, there was a signal sent with the interpretation that came out of that office to the RHAs and facility administrators which resulted in an environment of what we consider, PHIAnoia. It is a situation where privacy officers are the ones who are dictating to physicians and other health care workers what health information they require or make available to them in order to manage the risks of patient care which can result from such interference.

In our view there is no necessary conflict between a robust protection of individual privacy and insuring the access of patients who want it to spiritual care. There is much controversy, we believe, due to confusion over terminology, spiritual care versus religious care. It should be clear religious care is not spiritual care. Spiritual care deals with the chaplaincy of patients by highly educated and specially trained professionals. It includes activities such as grief and loss care; risk screening of individuals whose religious conflicts may compromise recovery; helping patients and their families to find meaning, dignity and comfort; assisting patients and families who must address ethical issues such as those connected with organ donation or foregoing treatment that may prolong suffering; improving the ability of patients to access other potential caregivers such as social or religious care givers.

Religion, it should be pointed out, is only one of the factors a spiritual care provider considers in attempting to understand the patient's psyche. They assist patients to come to terms with decisions they must make about themselves and their interactions with their families, work colleagues and hospital staff generally. They can assist individuals from different faiths and religions. They are not confined

to assisting co-religionists. It is not about being a religious care provider.

Religious care, on the other hand, means assisting a patient to connect with rituals, texts, beliefs and liturgy of a particular faith. That is a very distinct service that is provided within the context of the health care system. It is the confusion between these two that we believe is a great source of the problem. The WHRA policy has indicated the release of personal health information, for example, to a spiritual care worker is predicated on the religious affiliation of that patient.

The Ombudsman has taken religious affiliation issues pertaining to religious visitor lists which deal with disclosure of personal health information and applied the same principles to spiritual care workers who are health care professionals within a facility and should have the ability to use the information based on the discretion of the trustee. If the spiritual care worker is an integral part of the health care team, it is personal health, not religious affiliation that should be the governing consideration.

Bill 43, which provides that PHIA be expressly amended to recognize the spirit, as well as the body and mind, is an integral dimension of health, is a most welcome and timely clarification which the faith coalition believes is going to settle some of this confusion. It is very important for members of the Legislature to recognize that spiritual care has been recognized by other Manitoba statutes as an integral part of health care. The Workplace Safety and Health Act and The Sustainable Development Act both define health as the condition of being sound in body, mind and spirit. The World Health Organization defines health as a state of complete physical, mental, social and spiritual wellbeing, and not merely the absence of disease and infirmity. It is important to recognize that definition has essentially been adopted by the Canadian Council on Health Services Accreditation, which is the accreditation body for all the health care facilities in the province. Bill 43, we believe, will make that definition consistent with other legislation and what is happening elsewhere in the health care—

\* (19:30)

**Madam Chairperson:** Mr. Ogaranko, you have about 20 seconds left to sum up.

**Mr. Ogaranko:** Thank you.

We submit this change would actually then recognize spiritual care providers as part of the core team and will enable the delivery of spiritual care to those people that want it. It is not only timely but, we believe, long overdue to have this clarification put in place. We strongly urge you to expedite the processing of this bill and passing it into legislation.

**Madam Chairperson:** Thank you, Mr. Ogaranko. Would the committee members have questions?

**Mrs. Driedger:** As a nurse that worked at St. Boniface Hospital for 20 years, body, mind and spirit, holistic care, was an integral part of what we did, and there was never really any question about it. It was just there and it was something that happened all the time. I certainly came to value the significance of this. I guess as a nurse, I was trained to look at patients in a holistic way.

My question, I have a couple, I guess, is do you think this bill, in and of itself, is going to help you clear any hurdles. It is changing the definition, but are those hurdles still there, left to be jumped because the processes and policies out there are obviously going to have to be put in place? Do you see this bill helping to get past those hurdles? And my second question is are you asking for access to lists or access to information that is in the charts.

**Mr. Ogaranko:** In response to your first question, this bill is going to go a long way in assisting the industry and clarifying what has to date been, we submit, a gross misinterpretation of how the act reads today because it is not recognized in PHIA that health care and health is a holistic notion. It was very restrictive, restricted to physical and mental, and there was no mention of spiritual.

When facilities or health authorities were looking at the legislation as it currently exists, they did not see the word "spirit" in there, so consequently policies were prepared and procedures were developed which would have avoided any reference to that except with hurdles patients would have to go through or spiritual care workers would have to go through in order to receive that. We think the amendment would give credibility and validate the notion that spirit is very important and the spiritual care workers are an integral part of the health care

team and should be treated as such, insofar as use of information is concerned, as distinct from disclosure.

Referring to the disclosure of information, we are also very interested in having lists made available to clergy or designated religious visitors on an implied consent basis. We have made that submission to the review committee together with some proposed language we feel would work. It is consistent with what is happening in the United States with HIPAA. It is the type of process that has been adopted by facilities like the Mayo Clinic in their regime. We believe it is a concept that is eminently workable in Manitoba and in fact is the historical practice that has been in existence here up until the introduction of PHIA.

**Mr. Gerrard:** I just want to thank you for a pretty clear presentation.

**Mr. Ogaranko:** Thank you.

**Mr. Chomiak:** I concur. Again, thank you for taking the time for a well-crafted presentation.

**Madam Chairperson:** Thank you very much, Mr. Ogaranko.

**Mr. Ogaranko:** Thank you.

**Madam Chairperson:** The last presenters we have on Bill 43 are Rev. Kathleen Rempel Boschman and Henry Tessman from Concordia Hospital.

**Ms. Kathleen Rempel Boschman (Director of Spiritual Care, Bethania Mennonite Personal Care Homes Inc., Concordia Hospital):** Henry Tessman, our CEO at Concordia Hospital, is regrettably unable to make it today.

**Madam Chairperson:** Okay. Do you have a presentation?

**Ms. Boschman:** Yes, I do.

**Madam Chairperson:** You may proceed whenever you are ready.

**Ms. Boschman:** Thank you very much for the opportunity to speak to you here this evening. My name is Rev. Kathleen Rempel Boschman. I am the director of spiritual care for Bethania Mennonite Personal Care Homes. Bethania supplies chaplains

for a variety of personal care homes as well as Concordia Hospital.

Health professionals are becoming increasingly aware of the linkage between spirituality and health. Over the next few years, the National Institute of Health in the United States plans to spend 3.5 million on mind-body medicine. According to *Newsweek's* cover article, dated November 10, 2003, entitled "Spirituality and Medicine," over half of the medical schools in the U.S.A. now offer a course by the same title.

Last week, I attended the Third North American Multidisciplinary Conference at the Faculty of Medicine, University of Calgary. The topic was spirituality and health, and the purpose of that conference was to examine and explore the following themes.

I will read the first bullet only: the science and research that validates the effect/impact of spiritual practices on health and well-being.

Much of the research that is being reported at conferences such as the one mentioned empirically demonstrates that spiritual care makes people healthier. Spiritual care workers help patients or residents come to terms with the decisions that they must make about themselves, their work and their relationships. Spiritual care has empirically been shown to reduce the demand for pain medications, shorten hospital stays and other evidence as listed.

Keeping people healthy spiritually may also require access to religious care. Religious care is specific to a person's own belief system. It helps a person maintain connections with their religious community, draw upon the resources of their faith tradition to understand and cope with their illness, pray and worship in a way that has meaning for them, participate in significant healing rituals of their faith tradition and prepare for death in a way that has meaning for them and their family.

The impact of PHIA on spiritual and religious care. As PHIA has come to be interpreted and applied to spiritual and religious care within facilities, many people have been denied access to these services. At present, upon admission, all patients are to be presented with the notice to collect information on religion. This is the disclosure piece of PHIA.

Eighty percent of admissions to Concordia Hospital are through emergency. Many admissions are swift. As a result, the notice to collect information on religion is not presented to the patient or next of kin, and I can testify to that. It happened to me last year.

On the other hand, some patients do not expect that they will be admitted to the hospital, and therefore they pass on the question. Following their admission, there is no mechanism for them to give consent. They are therefore denied access to a service they may wish to receive.

The underlying assumption of the notice is that chaplains visit only people who are overtly religious. As chaplains, we find that many people who state their religion are part of a religious community and receive exceptional religious care from their religious community. Our training specifically allows us to visit all people and to determine whether or not spiritual care outside of religious care is appropriate and beneficial to a patient or resident.

The second aspect of PHIA with respect to spiritual care is the aspect of youth. The notice to collect allows the facility to collect patient or resident religious affiliation and to compile a religion list. The PHIA subcommittee on spiritual care informed us that such information would be available only to chaplains who attended ward rounds for the patient or resident under consideration.

This restriction stems from the fact that, in the act as it is presently written, spirit is not in the definition of health. At a faith-based facility such as Bethania/Concordia, chaplains are considered to be part of the health care team. Furthermore, we greatly value the care that is provided by community clergy and lay religious volunteers.

In order to continue the service of spiritual religious care, as well as to comply with the act, Concordia has asked that all community clergy and lay volunteers who wish to see the denominational list go through a process of orientation whereby they become volunteers of the hospital. They are oriented to PHIA. In addition, they sign a legal contract with the hospital entitled "Spiritual Care Agreement." This agreement has been lifted out of the act and adopted for spiritual care allowing them to become PHIA trustees.



As the director of spiritual care, I am pleased to know the exact number of volunteers that are coming in and out of the hospital and to have references from their superiors. At Concordia Hospital I have a team of over 100 volunteers that come weekly to bring prayer, holy communion and spiritual support to members of their own denomination. This community support in the role of healing should not be underestimated. Without it people enter hospitals afraid, anxious and often very alone. Religious and spiritual support of patients helps to significantly eliminate these emotions and thereby promotes physical healing.

\* (19:40)

When the volunteers go through the PHIA orientation and sign the agreement, they ask many questions, such as: Can I tell our parish priest or pastor that I have visited our church member? Can I place the person's name on our prayer list of our church? Can I say the person's name when we meet to pray for one another?

Well, the correct answer is always to ask the person if that is their wish. Sometimes a person is not *corpus mentus* and cannot respond to the question. The volunteers are becoming afraid to share information that could be shared in the confidential and respectful manner for the benefits of the patient or resident. Existing volunteers tell me that they are finding it hard to recruit new volunteers from their churches as they fear breaking the law.

If I lose my volunteers, I lose an important source of healing for the patients and residents, and we as a society lose the faith community support for our health care facilities, which is very important to the fabric of our society.

With all due respect to the Ombudsman, I would like to make a response to the article which appeared in the *Winnipeg Free Press* on Saturday, April 17, and specific to the quote: People have a right to spiritual care, but that does not mean that spiritual care staff should automatically have access to people's medical records.

The Difference between Hospital Staff and Community Clergy. Community clergy are not allowed to read medical records. I have spoken with nursing staff at all levels, program managers, clinical resource nurses as well as front line nurses since I

have read this article. I asked them the question: At any time in your career have you ever seen a community clergy come into a hospital, open a patient's chart and read it? Nobody at any level has indicated that they have seen it happen. I myself have practised as a chaplain for almost 20 years and have never seen this happen, and it should not happen.

I have also been a community clergy for six years. Since PHIA was implemented I was made aware of the fact that I will receive no information about my parishioner's health when I came into a hospital. I knew that the only people I would gain information were the next of kin or my parishioner, him or herself.

The Training of a Hospital Chaplain. Hospital chaplains are specifically trained to be members of the health care team. While I do not speak for all facilities, I do speak for Bethania and Concordia Hospital. Our hiring criteria require that a chaplain have an undergraduate degree. For example, myself, I have a B.Sc. in Physiotherapy from the University of Manitoba. As well, we must have or be working towards completion of a Master's degree in Divinity or Theology from an accredited seminary or university. Following this course of studies, a chaplain requires accreditation from the Canadian Association of Pastoral Practice and Education, which offers clinical training as a member of the health care team. In the Winnipeg Regional Health Authority training is offered at the various sites listed there.

In addition, a chaplain must demonstrate endorsement from his or her religious tradition, such as ordination or commissioning. I received my training for ministry in Chicago at the Theological Consortium. In the state of Illinois there is a law which requires all clergy to keep all matters entrusted to them confidential unless the matter will cause the person harm or another person harm. This is the training I received in my chosen profession. I am glad that all disciplines in the health care field are now required to keep matters of personal health information confidential.

I believe PHIA is a necessary legal requirement. In some respects, however, the implementation of PHIA with respect to spiritual care has been to the detriment of patients and residents. Therefore, I welcome this review.

I conclude this section by stating that a chaplain is a highly trained and skilled member of the health care team requiring access to the patient's medical record for information on a need-to-know basis as per any other member of the health care team.

My recommendations: That as proposed in the amendment, Bill 43 "spiritual" becomes a part of the definition of health in the act. Two, that as per other health care disciplines, patients and residents be given the option to opt out if they choose. A standard, large-print document such as the following posted on the walls of waiting or admitting rooms in all facilities could be used. This service provider practices holistic care. During your stay here you will be seen by a number of health care staff from various disciplines. Additionally, your service provider welcomes the involvement of your community clergy or designated visitors while you are here. Should you choose not to have a visit from the latter, please inform the admitting clerk. Three, that community clergy and lay religious volunteers have access to the total patient religion list as occasionally the parishioner is not classified in the correct category; and, four, that chaplains, community clergy, and lay spiritual care volunteers requiring access to these denominational lists be required to receive training in PHIA.

Once again, thank you very much for your time and attention.

**Madam Chairperson:** Thank you very much, Ms. Rempel Boschman.

**Mr. Ron Schuler (Springfield):** Reverend, first of all, I would like to thank you for coming to this committee. We appreciate you coming and making your presentation. On page 2, you have a really incredible quote, and I would like to read it. "This community support in the role of healing should not be underestimated. Without it, people enter hospitals afraid, anxious and often very alone. Religious and spiritual support of patients helps to significantly eliminate these emotions and thereby promotes physical healing."

I can tell you I have had family work for Concordia Hospital. I have had numerous broken bones taken care of in your fine institution, family members provided for, and we have seen loved ones pass away in Concordia Hospital. In all of these experiences, I have found Concordia Hospital and

Bethania to treat all of our loved ones, myself included, with utmost respect, and I have always found the care provided, whether it was some spiritual counselling or otherwise, has always been tremendous. We certainly appreciate both of those facilities.

On page 3, you talk about the difference between hospital staff and community clergy. I think that is really important for the committee to take to heart that at no point do community clergy have access to medical records. I think there is a real misunderstanding out there that somehow a person comes in and gets access to personal records. That, of course, has never been the case, certainly not where I have been involved.

We appreciate your presentation and we really appreciate what you do as a hospital, as a faith-based hospital. That is how it started out. Our community backed it way back then when it was a small building, and it has grown to what it is today. I agree with you it has a very important component, and we would like to see it continue to be done in a proper fashion like you do. We certainly appreciate you coming forward and making a case. Thank you very much.

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

**Mrs. Driedger:** Thank you, Reverend Boschman. You have certainly cleared up a lot of points with the clarity of your presentation and I thank you for that.

I have one question. I am assuming pastoral care workers, perhaps in the city, get together or there are organizations and groups that get together. Would hospitals and personal care homes, for instance, in Winnipeg, all be working under the same protocols as you have described carried out at Concordia, or would different facilities have different protocols in terms of how this is managed. Might rural Manitoba be very different, and might that be where Barry Tuckett, perhaps is hearing some of the issues he is hearing?

**Ms. Rempel Boschman:** Yes, I believe that could be where confusion is developing. As I mentioned, Concordia, in order to be in compliance with the act, with the desire to still deliver spiritual and religious care, developed their own recommendation, which was to have the volunteers come through volunteer services and then sign a spiritual care agreement

which was lifted out of the act. We are the only hospital in the Winnipeg region that went to that extent. Other hospitals have managed the situation differently, according to their understanding of the act.

So there is confusion going from hospital to hospital about what is the exact limit to which community clergy can receive information, or a chaplain can receive information. I cannot really speak knowledgeably about the rural areas but I do know this much, that in rural areas where there are not funds or someone available to be hired as a chaplain, there can be an agreement between hospitals and community clergy that the community clergy would act in the role of a chaplain in the facility and so, in fact, without pay that community clergy may be receiving personal health information.

\* (19:50)

**Madam Chairperson:** Mr. Gerrard, and there are only about 30 seconds.

**Mr. Gerrard:** Just to say thank you. I worked for a number of years as a team and part of the time as a leader of the team looking after children with cancer. We had a chaplain as part of our team and she was treated as an integral part of the team.

**Mr. Chomiak:** I have some comments but because we are running out of time I will make them to Committee as a Whole regarding the recommendations. I am assuming the members of the committee should know that this amendment deals with recommendation 1, but your recommendation 2, 3 and to a certain extent 4 were made, I assume, to the PHIA committee and are not necessarily part of this particular amendment but clearly recommendation 1 is.

**Madam Chairperson:** You can answer that orally, if you do not mind.

**Ms. Rempel Boschman:** Yes, that is correct.

**Madam Chairperson:** Thank you very much, and thank you for your presentation.

**Ms. Rempel Boschman:** You are welcome. Thank you.

#### **Bill 45—The Engineering and Geoscientific Professions Amendment Act**

**Madam Chairperson:** The committee will now hear public presentations on the remaining bill which is

Bill 45, The Engineering and Geoscientific Professions Amendment Act.

Our first presenter is Dave Ennis of the Association of Professional Engineers and Geoscientists of Manitoba. Once again, I would just like to remind all presenters there are 10 minutes for your presentation and then the committee has 5 minutes to pose questions. Thank you.

You may proceed, Mr. Ennis.

**Mr. Dave Ennis (Executive Director and Registrar, Association of Professional Engineers and Geoscientists, Province of Manitoba):** Thank you. Madam Chairperson, ministers, committee members, I am the executive director and registrar of the Association of Professional Engineers and Geoscientists of the Province of Manitoba, for short APEGM. I am also a professional engineer.

Needless to say, I speak in favour of the bill. The purpose of the bill is to clarify APEGM's ability to firstly, sponsor a range of initiatives that are in the public interest; foster public awareness of the significance of the professions of engineering and geoscience and their advantages as career choices for young Manitobans; and thirdly, to be in a position to participate in and add value to public and government consideration of safety related and other public-interest issues by drawing on the expertise of its members. With all that, of course, as stated in the bill, "In a manner that is in the public interest."

It is worth noting that the term the "public interest," the Legislature has had the foresight to define the term in The Engineering and Geoscientific Professions Amendment Act. It is defined as "the well-being, convenience and concern of the public at large."

Some may wonder why such an amendment is needed, so I will comment. The background is that APEGM recognized, through the recent completed Building on Strengths campaign, the University of Manitoba's need for financial assistance in replacing the Engineering Building. It then decided to make a contribution in its own name and to facilitate contributions from the APEGM membership, approximately 70 percent of whom are Manitoba engineering graduates.

The vehicle that was chosen to make the contributions is a separate corporation, APEGM

Foundation Inc., which is a charitable organization, which has charitable organization status, so that the contributing APEGM members can be issued with receipts for tax purposes. However, in engaging legal assistance to establish that foundation, we were advised that the APEGM did not have the authority in the act to give away money, even though it had been given out cash scholarships and other prizes for many years.

Also, the authority to undertake public awareness, to promote the value of their professions and to provide a position on issues, could be debatable. So, to facilitate the cash contribution and to provide for a greater certainty, the amendment was requested.

Incidentally, the pledge to the university is not insignificant and is directed to support both engineering and geoscience, and not just at the University of Manitoba, there is Brandon University too.

The overall pledge is \$370,000, with \$350,000 of that going to the Engineering Building, money that the taxpayers of Manitoba will, if the bill goes forward, not have to come up with.

So, then, among the funding initiatives and public awareness activities that APEGM wishes to be able to continue to support, both financially and in-kind, are: supplementing the needs of the engineering and geoscience facilities and departments at Manitoba universities; scholarships for students in engineering and geoscience programs at Manitoba universities; student governance activities at those same universities; programs such as the Engineering Access Program or ENGAP at the University of Manitoba, which is designed to assist the students of Aboriginal ancestry to have access to the Faculty of Engineering and to provide appropriate supports that enable these students to obtain a Bachelor of Science degree in engineering; North America's largest science fair, the Manitoba Schools Science Symposium; individual school initiatives in science and technology, for example the 2003 Sisler High School team, which won a national competition in robotics in 2003; our own provincial engineering and geoscience week activities, which focus on career choices and publicizes accomplishments in engineering and geoscience; and our Spaghetti Bridge building and testing program that has

provided outreach and career awareness to some 100 Manitoba schools.

In the other area, the types of issues we believe that APEGM can add value to Manitoba for Manitobans by providing comment and putting forward the position of our professions are: avoidance in Manitoba of the circumstances that led to the August 2003 electrical blackout in eastern North America; the regulation of evolving technologies such as nano-technology and its application in biomedical engineering; geoscientific issues involved in resource development and their associated investments; assuring the safety of the province's water supply; assuring safe implementation of alternative energy supplies, such as wind and bio-gas; infrastructure issues in general; and the significant progress of projects such as the Winnipeg floodway.

We see these activities as the promotion of the professions of engineering and geoscience and their continued development as stated in the bill, bearing in mind all the time that the public interest is not to be compromised. In that regard, APEGM has consistently endorsed the principle enunciated in the 1994 Law Reform Commission report on regulating professions and occupations, namely, the purpose of occupational regulation should be to protect the public from harm resulting from improper performance of an occupational service. It should not be used to benefit or reward practitioners. The public of Manitoba has the right to have the benefit of the knowledge of APEGM members and their willingness to contribute to the public interest and the Manitoba economy. With that, I will take questions.

**Madam Chairperson:** Thank you very much, Mr. Ennis.

**Mr. Ron Schuler (Springfield):** Thank you very much for coming to the committee. Certainly, over the years, I have appreciated working with both you and your organization. On May 10, I had the opportunity to send a letter and the legislation to you and your organization, amongst others. I would like to thank you for coming out. We met May 27 and then June 7, again, and certainly appreciated the documentation and all the information that you gave us.

\* (20:00)

I have three questions. The first one is I understand you were in close contact with the department. You have been working on this for a while. How long have you been working on this particular piece of legislation?

**Mr. Ennis:** I believe the first approach was made to the Department of Labour and Immigration towards the end of September of 2003.

**Mr. Schuler:** On page 2, you mention, amongst other things, you certainly have quite a list of things and causes you would like to donate to. You say there is a \$350,000 pledge going to the Engineering Building. Is that time sensitive? Is that something that has to be forwarded shortly, or is that something you see being done? Is it over several years? Is it something that will be done at the end of the year? When is that supposed to be transferred over?

**Mr. Ennis:** Yes. The schedule of funding is over a six-year period. We are rapidly reaching the end of the second year. At the moment there is roughly \$200,000 waiting to be passed to the university.

**Mr. Schuler:** I thank the committee's patience with all my questions. Mr. Ennis, I was wondering if you could tell the committee: In the last week or so have you been approached in regard to any amendments to the legislation that is before us? Perhaps you have not, but in either case would you be supportive of any amendments to the bill that is in front of us right now?

**Mr. Ennis:** I was not approached as to any particular amendments. I was aware from the department that the Manitoba Association of Architects may be suggesting an amendment. I had some speculation as to what the nature of, what would have promoted or caused the amendment. I did at one point suggest to the department a possible amendment, but I really think that the way it stands right now is the most appropriate wording. It is the wording which was provided to us by the Legislative Counsel. The very first text we sent to the government was, I think, not exactly the same as what the Legislative Counsel provided. I remarked to our association that the Legislative Counsel managed to say the same thing with much fewer words. I think it is pretty good.

**Hon. Nancy Allan (Minister of Labour and Immigration):** I would just like to thank you very

much for taking time this evening to come and make your presentation. Thank you.

**Madam Chairperson:** Thank you, Mr. Ennis.

Veronica Jackson from the Manitoba Association of Architects. Ms. Jackson, do you have written presentation?

**Ms. Veronica Jackson (Manitoba Association of Architects):** I do, thank you.

**Madam Chairperson:** You may proceed whenever you are ready.

**Ms. Jackson:** I might say at the outset that I am here on behalf of the Manitoba Association of Architects. What has been distributed is really my speaking notes, but for something for the committee to follow along with. You will note that there is a reference to my making four points. As I was writing, I actually decided I would be making six. So I have scratched out four points.

I am here to speak against the bill as presented. I am mindful that my time is limited, and there are others, I know, who will be speaking about some of the specific issues relating to the practice of architecture, but I will be making some general overview comments.

First, let me briefly make a comment about the lack of consultation and communication with architects in this province regarding this bill. Until the honourable representative from Springfield mentioned just now and inquired as to how long this issue has been with the Department of Labour, we did not know that it has been discussed for several months, since September of 2003.

At no time did the Association of Professional Engineers and Geoscientists of Manitoba ever bring these proposed amendments to the attention of the Manitoba Association of Architects. That is completely different than the way proposed legislative changes have been dealt with in the past. In fact, these amendments have only been brought to the attention of the Manitoba Association of Architects by the correspondence of the Labour critic for the opposition.

Architecture and engineering are very closely connected professions. They share involvement,

albeit very different types of involvement, and functions in the construction of buildings, and because of their close relationship, the two professions share a legislative joint board. They have in the past, as I say, when proposing changes, given each other the heads-up so that anything that can be agreed upon can be agreed upon in advance.

Not only did the APEGM not consult with the MAA on these proposed changes, we did not even know that they were being put forward, and I can tell you, on behalf of the Manitoba Association of Architects, we have some significant concerns about the language and the purpose of these proposed changes. I can tell you, and you will hear from others, that architects in this province are extremely upset about, as I say, the lack of consultation, and that said, I want to turn to the substance of my presentation.

You will hear from another member of the architectural profession how engineering and architecture are different, and they are very different. But let me just say this as a layperson: Architects are not artists who make buildings look pretty. There is far more to the practice of architecture. Architects are, by analogy, like a physician, a treating physician who is given assistance from other specialists, like radiologists and neurologists, lab technicians, but they see and they oversee the big picture, because that is what their training, their education and their expertise allow them to do.

You will be hearing, as I say, about the difference between architecture and engineering, but all this committee needs to know is that that issue has already been decided and they are separate professions regulated distinctly by separate pieces of licensing legislation.

The MAA is the regulatory body for architects. It is created by statute, and it is the body which has been given the responsibility of deciding who in Manitoba is qualified to safely do the things that are the practice of architecture. By saying, "not everybody should be allowed to do this," the government is saying, as it says for doctors and nurses and accountants and lawyers, that the public needs to be protected from people undertaking these acts who are not qualified to do them.

The APEGM is the regulatory body for engineers, and it decides likewise who is qualified to

practise engineering, and I just want to say a role about the regulatory body. The mandate of a regulatory body is to make sure that only people who have the requisite education, experience and skills are licensed and permitted to carry on a certain profession or occupation.

The Legislature, as I said, in passing licensing legislation and giving that responsibility to the MAA, has determined that architecture is such a profession. I am quoting, as did Mr. Ennis, from the 1994 Manitoba Law Reform Commission report on regulating professions and occupations, and it said, "The purpose of regulating members of a profession is to protect the public from preventable harm."

That is a regulatory body's mandate, and it is a regulatory body's only mandate. It is currently the only mandate of the APEGM. Again, I am quoting from that Law Reform Commission report, "Indeed, its purpose," and its purpose is referring to occupation regulation, "should not be to serve the interests of practitioners at all but should only be implemented when it is in the public interest to do so." I have made reference to the other provinces, which include Alberta, Ontario, B.C. and Québec, who have followed the same policy.

The Legal Profession Act was recently redone. That is the regulating licensing regulation for lawyers. Its purpose is very clear and it is consistent with what the government has attempted to do to avoid a conflict of interest where one body is looking after what is in the public interest and what is in the profession's interest, because there is often a conflict.

\* (20:10)

The Law Society's purpose is very clear. The purpose of the Law Society is to uphold and protect the public interest in the delivery of legal services with competence, integrity and independence. In pursuing that purpose, the Society must establish standards for the education, professional responsibility and competence of persons practicing or seeking to practise law in Manitoba and regulate the practice of law in Manitoba. The architects' legislation is similar. The engineers are, I am suggesting, attempting to do much more.

A regulatory body should not be the advocacy arm of a profession. It should not be the advocacy for a profession and it is not to promote the profession

and it is certainly not to promote its members. It is provided by government to act strictly in the public's interest.

Now I am not suggesting and MAA is not suggesting it is not appropriate for engineers to contribute as do other members of professions to works such as the University of Manitoba Faculty of Engineering Building, but you do not do that through your regulatory body. You do that through the foundation that Mr. Ennis has already indicated has already been set up. You promote the profession through that organization. The Law Society restricts its operations to regulating the profession and making sure that the public is protected from people who are not qualified to be lawyers. It is the Canadian Bar Association and the Manitoba Bar Association that acts and promotes the profession of law. Likewise, it is the Manitoba Medical Association that promotes the interest of doctors. The College of Physicians and Surgeons has one mandate, and that is to act in the interest of the public.

Now we have been advised by the Deputy Minister of Labour, Mr. Parr, that APEGM has submitted the proposed amendments and has described in doing so that these are merely financial in nature and Mr. Ennis has made references to that. With the greatest of respect, we disagree that that is the extent of the impact of these amendments. The amendments go far beyond simply allowing the gifting of money by APEGM, and, in fact, APEGM current legislation expressly permits them to do that.

**Madam Chairperson:** Ms. Jackson, I just want to tell you that you have a minute and a half left in your presentation.

**Ms. Jackson:** Thank you very much.

The current provisions, and I have cited them and they are in the current legislation, permit the APEGM to give money in anyway it is used and there is no restriction at all. As Mr. Ennis, says they have been doing so for some time.

The real agenda is that APEGM is establishing a framework using very broad, very vague language and increasing its purpose to include the promotion of its association and its members to encroach into the area of architecture. This has been something that

engineers have been doing for 12 years and architects have been continuously battling against it.

The legislation is very clear. Architecture is an exclusive practice. It is only done by architects in Manitoba and there is a reason for that. Engineers, their legislation says this is the practice of engineering, and defines what that is, and it makes it very clear that nothing in the engineering legislation takes away the ability of any other regulated profession—

**Madam Chairperson:** Ms. Jackson, you have 15 seconds to conclude.

**Ms. Jackson:** —including architecture to practise theirs. It is a restricted scope, it is not exclusive. So I am suggesting the solution that we are asking is the tabling of this legislation. The Manitoba Association of Architects believes that the legislation can be crafted and word-smithed in such a way to achieve the goals that APEGM wants to achieve, the concerns that the MAA has, in such way that the public interest is still protected by making sure—

**Madam Chairperson:** Ms. Jackson, I am sorry I am going to have to interrupt you so that we have respect to the other presenters who want to be here.

I will now entertain questions.

**Mr. Schuler:** Thank you very much, Madam Chair. It is with great difficulty that I take on this issue. On May 10, I sent the legislation out to all the stakeholders. In this case there were three, far easier than some of my other pieces of legislation where there are 750 different stakeholders. On May 18, I received a letter from your organization asking for a meeting and laying out a lot of concerns and June 1 we met and, until that point in time, I thought what was normally done, and it has always been done when these types of changes are made to an organization's act, and far be it for me to correct you, but I have always been under the impression it was the government's role to see to it that all stakeholders saw the legislation. In fact, it is not the association's role, because legislation, until it is tabled, is actually not supposed to be out in the general public.

On June 1, and I tread lightly here, to my horror I found out from three individuals from your organization, that you had, in fact, not seen the legislation. Until that point in time, I had indicated to

the opposition caucus, my leader, and my caucus members, that this was general housekeeping, clearly everybody would have been informed, and that was not the case.

I take it the first time you heard about this was when you received my letter, and secondly, since June 1, have you had a meeting with the minister, and then I will ask my subsequent question?

**Ms. Jackson:** The Manitoba Association of Architects requested a meeting with the minister and we were denied that opportunity. We were allowed to meet with the Deputy Minister, Mr. Jeff Parr, and we did that.

**Mr. Schuler:** Well, I am sure I speak for committee members. That is terribly disappointing to hear, because any time that we have this kind of legislation, there should be an opportunity for all stakeholders to meet with the minister. I have to tell you that in your presentation—and I suspect we are at 16 presenters right now, so we are going to hear more of this. On behalf of the committee, I am appalled that we have two of our finest organizations who helped to build this city and this province, are at each other's throats, and—

**Madam Chairperson:** Mr. Schuler, in respect to the other committee members who also want to pose questions, if you do have a question, I would ask you—

**Mr. Schuler:** Well, we will give leave; perhaps then they can ask, too. This is very serious, Madam Chair. Thank you.

I am appalled at even the kind of language and—

**Madam Chairperson:** Mr. Schuler, Ms. Allan has a question. Thank you.

**Mr. Schuler:** Okay, I will finish my question and then I will move on. My question to you is is there any way that we can bring the groups together and reconcile some of the differences we have.

**Madam Chairperson:** If you could keep your answer brief, to 20 seconds, 30 seconds, I would appreciate it, as the Chair. Thank you.

**Ms. Jackson:** The Manitoba Association of Architects believes that there is the potential to come

back and provide input to come up with a resolved or a reconciled proposed amendment. We believe that that is absolutely possible, but not at the eleventh hour.

**Madam Chairperson:** Thank you.

**Ms. Allan:** I just want to comment on the misunderstanding, apparently, that the organization has in regard to the fact that you were denied a meeting with the minister. I think it is very important to clear up that misinformation.

My understanding is that we received a letter from you. You are the lawyer for the association, and this was the first time that we realized that there were some concerns with regard to the scope of jurisdiction. When I received the letter, of course, we wanted to look into it right away. I forwarded it to officials in my department. They wanted to meet with you right away to get some sense of how serious this was.

This was a scheduling issue. No one has ever been denied a meeting with me. In fact, my understanding was that you were having an initial meeting with officials in my department in preparation for a meeting with me. So I certainly would not want people to think that you were being denied a meeting.

**Madam Chairperson:** Ms. Jackson, did you want to respond?

\* (20:20)

**Ms. Jackson:** Well, I will just respond. The information is that we requested a meeting with the minister and were denied that opportunity.

**Madam Chairperson:** Thank you very much. Our next presenter is Terry Danelley, private citizen.

There was another question. I do not know whether that is going to be allowed? Is there leave? Actually, there is no leave. At the beginning, we were beyond our number of presenters. I will apologize for that. We are at 22 presenters, which takes us beyond midnight, which means the committee, in all honesty, will be probably be here until 3 o'clock in the morning.

So, as the Chairperson, I am going to respectfully suggest that we hear our next presenter. Thank you very much.



**Floor Comment:** I appreciate that there are a number of people that want to speak. Thank you, Madam Chair.

**Madam Chairperson:** Terry Danelley, private citizen. Mr. Danelley, you have a written presentation you would like to distribute?

**Mr. Terry Danelley (Private Citizen):** Yes, it is being distributed now along with actually a letter—

**Madam Chairperson:** You know what? We will wait until the presentation is distributed. Okay?

**Mr. Danelley:** What you have in front of you are 75 to 80 letters from our members, opposing this particular Bill. I have to say—

**Madam Chairperson:** At this point, you know what? I will recognize you. We will go on the clock if you do not mind. So please proceed with your presentation.

**Mr. Danelley:** Thank you. So you have there in front of you 75 to 80 copies of a letter that was sent in by our membership on extremely short notice. Why we wanted to distribute this was really to indicate the level of frustration by our membership with respect to this particular bill, but also the longstanding disagreement between our respective associations. I hope that does reinforce the message. This was issued less than 24 hours ago and that is the response that was received. Over half of our membership responded by submitting that letter to you.

I am before you this evening as an architect to voice my opposition to Bill 45 and to make you aware of its hidden agenda and the concerns of the Manitoba Association of Architects. I must also express my indignation with respect to the lack of consultation by APEGM, or by this legislative body with the MAA, on this important issue which has the potential, if implemented, to have serious repercussions on my profession.

APEGM is promoting these amendments to their existing governing legislation on the premise that they are necessary in order for them to further their philanthropic endeavours. However, Bill 45, as currently written, is simply another attempt in our opinion on the part of the engineers in this province to expand their scope of practice to include the practice of architecture and in direct contravention to

The Architects Act. There is nothing more, nothing less.

It is consistent with their actions over the past 12 years and is in direct response to the MAA's successful legal challenge of the Denoon case in 2000. In that case, Justice Monnin, now the Chief Justice of the Court of Queen's Bench of Manitoba, determined that the engineer in question had in fact contravened The Architects Act by practising architecture when unlicensed to do so. The engineer was convicted and fined.

In 1998, the APEGM, after consulting with the MAA, as has been the history of the two professions when proposing changes to their legislation, put forward amendments to their act. At that time, APEGM assured our association and the Minister of Labour that the proposed amendments were more restrictive, and I underline that, relative to their scope of practice. This representation was the basis upon which the MAA agreed to the proposed amendments. It was agreed between the Minister of Labour, the MAA and APEGM that this representation about the intended restrictive nature of the new practice definition of the practice of engineering would be read into the Hansard record by the minister as background to the legislation.

Shortly thereafter, when our association notified the authorities having jurisdiction of the Monnin decision and the requirement that architects must be involved on all part 3 buildings and certain part 9 buildings, APEGM responded with a letter to those same authorities indicating that recent changes to their legislation made the Monnin decision irrelevant. This is not true, and it illustrates the tactics that APEGM is prepared to utilize to further their own agenda. Such actions fuel our mistrust of the intentions of APEGM and these proposed amendments to their legislation.

They are attempting to repeat history with Bill 45, which is so broadly written that we have no doubt it will be utilized to advance their self-serving interests. Please do not be manipulated or duped by their stated philanthropic intentions. APEGM knows exactly what they are doing, and the language of Bill 45 has been left purposefully broad with the intention of allowing them, finally, with the legislated authority, to practise architecture, for which their members have no formal education or training.

A case in point: Our firm recently completed a \$3.5-million addition to an existing elementary school, completed by an engineer in the late nineties, with no involvement by an architect. The engineer in question was a former employer of mine, a senior engineer with over 30 years of experience and was at one time a partner in a large, local, multidisciplinary engineering firm. When I asked him why he chose not to pursue the second phase of the project, his response to that was that his experience on the first days had not been good, that he felt he may have been in over his head, and, further, that he thought the project would be more appropriate for an architect to undertake.

The point here is that you cannot dabble in architecture. Buildings are complex entities and growing more complex with each passing year. They require the specialized skills, knowledge and training that only an architect possesses. Our education, our internship program, our registration requirements, our continuing education program and our association, which regulates our profession, are all focussed on providing the necessary skills, knowledge, and support to our members directly related to the practice of architecture.

The same cannot be said of the education, training and regulatory support of the engineers. It would be akin to saying that a general practitioner in the medical profession is capable of successfully doing brain surgery. He or she might be, but would you be willing to take the risk?

The fact that this bill was introduced to the House without consulting the allied professions who would be affected by it or providing them with adequate time to fully understand the implications of the amendments and respond accordingly must surely underscore the motivation of APEGM to sneak this bill through the House and thereby circumvent the democratic process. What other possible explanation can there be?

This action only seeks to heighten the growing atmosphere of mistrust between our respective associations. Our frustrations grow daily as our members continue to see ever larger and more complex public buildings being completed by non-architects, with the increased associated risks to the public who unknowingly occupy and use them. This has to stop.

You cannot, as our elected representatives, sanction this practice. I implore you to table Bill 45 so that it can be properly reviewed to accurately reflect its purpose or accept the changes that our association has brought forward to restrict its interpretation and meaning.

Finally, enforce the laws of this province with respect to who can practice architecture. The legislation is clear and has been interpreted as being so by the justice system. There is no gray area here. You have a moral and a legal responsibility to do so. The law is being flagrantly violated and yet it continues to be sanctioned through the Department of Labour. Will it take the loss of life when a building fails to have you uphold the law of the land? I sincerely hope that it will not come to this. Thank you.

**Madam Chairperson:** Thank you very much, Mr. Dannelley.

#### Point of Order

**Mr. Schuler:** I would like to just, on a point of order, ask the committee if they would agree to recess for 15 minutes and perhaps the minister would like to meet with the two groups and see if there can be some kind of resolution. Or is it the intent to continue to go through this process?

**Madam Chairperson:** Mr. Schuler, I am sorry, but we did at the beginning ask for leave to go beyond our normal sitting time, which would take us to midnight. We have 22 presenters.

**Mr. Schuler:** I asked if the Chair would please canvass the committee to see if there is leave to give the minister and her department an opportunity to meet with both groups—

**Madam Chairperson:** Just a moment. Is there leave from the committee to briefly recess? Is there leave from the committee?

**Some Honourable Members:** Yes.

**Some Honourable Members:** No.

**Madam Chairperson:** Leave has been denied.

\* \* \*

\* (20:30)

**Mr. Schuler:** Well, Mr. Danelley, I thank you very much for coming to committee. I also had an opportunity to meet with you, and I expressed at that time my concern that you, as architects, had not been consulted. This is not about engineers and I do not think this is about architects. This is about a government that has bungled a process. My question to you is very straightforward.

How do we get out of this without having two fine organizations, great organizations, with tremendous people who help to build this province—how do we get the government out of this mess?

**Mr. Danelley:** Mr. Schuler, there are two solutions to this problem.

**Madam Chairperson:** If you could just speak up, even I am having a hard time to hear.

**Mr. Danelley:** There are two solutions to this problem. Table the legislation. Give us the time and the opportunity to meet with the representatives from the APEGM to fully understand what it is they are trying to do, and to put forward then properly worded legislation that will allow them to do so.

The other option is to restrict the legislation that they currently have put forward, so that it, in effect, restricts what they do to the practice of engineering and geosciences. But our preference would be to table the legislation.

**Mr. Schuler:** Thank you very much for that, and I will keep myself very short because I know others wish to speak.

**Madam Chairperson:** Just a second, I am sorry. Excuse me for a moment. Mr. Faurschou, if all side conversations could be discontinued, just so I can hear.

**Mr. Schuler:** I will keep this short. I have to tell you that this is a very disappointing evening to have to sit through this and see two organizations having to duke it out at committee because a government bungled a legislative process. It is very disappointing as a member of this Legislature.

**Madam Chairperson:** Mr. Schuler, was there a question you were posing?

**Mr. Schuler:** I am finished, thank you.

**Hon. Jon Gerrard (River Heights):** Thank you. One of the points that was brought up earlier was the difference between a regulatory body and a funding or promotional body. I wonder if you could sort of give us some words of advice in terms of how this fits into the mixture of what an engineer does and an architect does.

**Mr. Danelley:** I am not sure I fully understand the question. I can certainly talk to you about the differences between what an architect does and an engineer does. I think the point that Veronica was trying to make was that it really is not the position of a legislative body to necessarily promote the interests of its membership.

The purpose of a legislative body is to protect the public. So we are questioning these amendments, which in our opinion are not necessarily in the public's interest and, in fact, could be against the public interest depending upon how the engineers would choose to interpret their by-laws. But to speak then to the differences between the two professions, there are significant differences. One of our members is actually going to get up shortly and speak to you on those differences.

But architects are trained for one thing. They are trained to design, build and implement or oversee the implementation of buildings. We do look at the broader picture. It is our responsibility to oversee the work that is being done by the engineers in co-operation in terms of the systems of the building, and that education and that internship and our registration process are geared directly to those responsibilities.

The engineers, as I stated in my presentation, their education, their training and their association's support are different. So, fundamentally, they are not trained in the same way that architects are trained and educated to build and oversee the construction of projects.

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

**Mr. Danelley:** Thank you.

**Madam Chairperson:** Minister Allan, just one moment.

**Ms. Allan:** Thank you, Mr. Danelley. I would like to thank you for taking time out of your busy day to be

here this evening. I just had a couple of comments that I would like to make.

The previous presenter, Veronica Jackson, commented that the two organizations have separate pieces of legislation and are two totally separate regulating bodies. I am sorry. I have 10 seconds all night long? That is all I have?

**Madam Chairperson:** Finish please.

**Ms. Allan:** There is a dispute mechanism in both of your acts to resolve disputes within the two organizations, and the dispute language is exactly the same in both of your acts.

I also wanted to table two documents for the committee. You mentioned, Mr. Danelley, that this is a long-standing disagreement between the two organizations. I believe those were your very words when you started your presentation this evening. This long-standing disagreement is around scope of practice between the two organizations. I understand a lot of work has gone into this in regard to the two organizations.

I would like to table the memorandum of intent that is dated February 20, 1997, that established the Engineering, Geosciences and Architecture Inter-Association Relations Joint Board. I would like to table that.

**Madam Chairperson:** Prior to allowing the minister to continue, I would like to ask how long leave is for this particular presenter.

Just one moment please. How long is leave for this particular presenter? From the committee, I will put a suggestion on the record that leave is five minutes for this presenter. Is that agreed by the committee? *[Agreed]*

Thank you. Proceed.

**Ms. Allan:** I understand that the two organizations did a lot of work at the joint committee to resolve the whole issue around the scope of practice. My understanding is that there was a memorandum of agreement between the two organizations. I would like to table that memorandum of agreement. It was a draft memorandum of agreement. It is my understanding that the agreement was going to be signed by both organizations and, at the last minute,

the architects rejected the memorandum of understanding and walked away from the table.

My department was not advised of this immediately. We just found out about this situation in March. The chair of the joint board, my understanding is, has quit. We have just had the opportunity to appoint a new chair of the joint board. The new chair, my understanding is unanimously agreed to by both organizations; so, we are very pleased with that. I just wanted you to know that we will make the commitment, as the Minister of Labour, that we will continue to work with you in whatever way we can to facilitate the work at the joint board level.

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

Mr. Danelley, we appreciate you coming forward to make the presentation to the committee.

**Mr. Danelley:** Is it possible just to make one short comment in response to—

**Madam Chairperson:** Yes, it is actually because you have leave so you can do that.

**Mr. Danelley:** Thank you. With respect to the memorandum of agreement between our joint boards, let me just say that this was two years in coming. It was initially supposed to be a three-month exercise which our council just kept extending and extending on the understanding that we were finally going to make some progress on this.

Our members who are on the joint board negotiating with the engineers came back to us extremely frustrated and put before us what they considered to be the best deal that they were able to cut. In fact, when we looked at the deal that was put before us, it was rejected because we felt it violated The Architects Act. Therefore, we could not sanction it.

**Madam Chairperson:** Thank you very much, Mr. Danelley. I appreciate your presentation as a private citizen.

Our next presenter on the list is Don Oliver, who is presenting as a private citizen.

Mr. Oliver, do you have a presentation to distribute?

**Mr. Don Oliver (Private Citizen):** Yes, I do.

**Madam Chairperson:** Thank you very much, Mr. Oliver. You can proceed whenever you are ready.

**Mr. Oliver:** Well, I must start by saying that I am very disappointed that I have to come before this committee and voice my displeasure with this proposed legislation. The architectural and engineering professions are integrally related, and I find it unconscionable that the PC Labour critic was the one that informed us about this legislation and we are forced to have to address it here in a confrontational manner. It has never been our way to resolve issues between our associations, and this makes me question what went wrong.

I am upset that the Association of Professional Engineers and Geoscientists of the province of Manitoba is forcing our government into this embarrassing situation. I find it less than honourable to think that it is felt that this piece of legislation could be slid through the House without the related professions being involved or informed.

Government now has a bill before it that is broad in wording and is hotly contested by the membership of the Manitoba Association of Architects. By passing this bill, the government will be sanctioning the activities of one profession to the detriment of another. Our government should never have been placed in this situation. Their time and resources are scarce enough. Using a new minister to further one's hidden agenda is not acceptable in a democratic society.

Past amendments to the architects and engineers act required sign-off by all related organizations, either professional or non-professional, which could include technologists, prior to being accepted by the government sponsor for presentation to Legislature. In the past, this resulted in most of the contentious issues being resolved and poor, misleading, or ambiguous wording being revised.

Good legislation results from proper consideration by a wide variety of viewpoints and respects the mandates of others.

*Mr. Bidhu Jha, Vice-Chairperson, in the Chair*

How are we able to give our feedback to the amendments proposed in Bill 45—

### Point of Order

**Mrs. Bonnie Mitchelson (River East):** Point of order, Mr. Chair. I am listening quite intently to the presentation that is being made, and I believe the deputy and the minister are sitting at the head of the table laughing and conversing with each other. I hope they would give the presenter the respect of their full attention. Thank you.

**Mr. Vice-Chairperson:** No point of order. Go ahead.

\* \* \*

**Mr. Oliver:** How are we able to give our feedback on the amendments proposed in Bill 45 in a non-confrontational manner if we were omitted from the process? APEGM is aware of past procedures; why were they not followed?

\* (20:40)

It seems odd that in a letter dated June 7, 2004, addressed to Ron Schuler and copied to Terry Danelley, our president, Mr. David Ennis, the director and registrar for APEGM, speaks to an issue being debated between our professions, the resolution of the wording that is now being discussed for the Manitoba building code. Mr. Ennis states, "The proper place to structure a resolution in the public interest is with the Engineering Geoscience Architects Interim Association Relations Joint Board." It has been discussed before.

Why is this bill application not being presented to the board for consideration?

Every day my firm is faced with competition of non-professionals in what is supposed to be a restricted scope of practice. Drafting firms and interior designers continue to be able to practise architecture without a licence because a small number of APEGM members sell their seals to get drawings approved by the authorities having jurisdiction.

APEGM supports this practice by its members, which has served to undermine the legislated intent of The Architects Act. This activity has also been seen by an increasing number of engineers as a growth market for their profession.

Why would I support APEGM's attempt to expand their mandate to, quote, "Promote the

professions of engineering and geoscience and their continued development," when APEGM refuses to respect the limited scope of practice defined in The Architects Act?

Earlier in Mr. Ennis's June 7 letter, he states APEGM's position related to the practice of engineering with respect to the practice of architecture. His position is shrouded in rambling rhetoric and, in practice, relates to members of APEGM being able to practise architecture as long as they call architectural engineering. The government should not be put in a position to sanction the promotion of this position as it clearly does not reflect the best interests of the public.

Tabling this bill will give the government the opportunity for all related stakeholders to develop a better bill in a non-confrontational manner. The result of this process would be a bill that more clearly defines the intent of the changes and will serve the engineering profession well. Its philanthropic purposes pursuits will be realized without watering down their rightful mandate as a governing and regulatory body for their profession.

I thank you for the opportunity to exercise my democratic right to voice my concerns.

**Mr. Schuler:** Thank you so much, Mr. Oliver, for coming to committee. It takes a lot of courage to get up and state one's opinion, and especially for the record. The question you asked, basically, was how did we get into this mess. My question is how do we get out of this mess. It would please this committee to no end if the minister would take a break and see if there is any common ground to stop what is going on here tonight, but I sense there is no political will.

Mr. Oliver, where is the common ground? How do we get out of this?

**Mr. Oliver:** We have a legislated joint board which is mandated to work through the issues that are of common interest between our two professions. That is a natural location for this to be referred to and to be able to develop more succinct wording to come forward as an act proposal.

**Mr. Schuler:** Again, I appreciate your contribution to committee and the fact that you came out, not just in the times that you took away from your business

to meet with myself, but also the fact that you came to committee. Thank you.

**Mr. Oliver:** Thank you.

**Ms. Allan:** Thank you very much, Mr. Oliver, for taking time out of your busy schedule to be here this evening and make your presentation.

**Mr. Oliver:** Thank you.

**Mr. Gerrard:** Just to come back to this issue of a regulatory body versus a body which would be involved in promotion and fundraising and so on. In the architects' side of things, you have a regulatory body and an association which might be involved in promotional activities from a different perspective. How does it work?

**Mr. Oliver:** For smaller organizations whose numbers do not warrant or cannot support two bodies, one is a regulatory body and one is an advocacy body, the organization has to be very, very careful on how it presents its members. As an example, dentists, the Dental Association has one body that represents its membership. As a regulatory body, it can promote the regular visits to its members as being something that is beneficial to the public. It cannot promote going to your dentist and getting your teeth whitened, because that is a very fine line that is crossed in promoting the business interests of its members and the interests of its members' use for the public good. Is that an example?

**Mr. Leonard Derkach (Russell):** Mr. Oliver, I think what we are viewing here this evening is a rather unfortunate incident of where we have, unfortunately, two organizations who probably have not been consulted adequately to resolve the issues here.

I guess my question to you, Mr. Oliver, is has the department or the minister met with you and your organization to discuss this legislation fully so that there is some understanding in the professional organizations? I have to say that I value and respect the professionalism of your organizations, both the architects and the engineers in this province. Certainly, they are held in high esteem, I think, across this province and in some of the work that is done across this province. We certainly do not want to see this kind of an attitude develop here. I am wondering whether or not you can answer for us

whether or not you have been adequately consulted by the department and the minister in the preparation of this legislation.

**Mr. Oliver:** The timing of this was very unfortunate. We have had a meeting with the deputy minister to discuss our concerns about Bill 45 and some other issues, but I think the timing has been very short. We were given a very small window in which to—

**Mr. Vice-Chairperson:** You have 30 seconds to answer.

**Mr. Oliver:** —very short period to react. The consultation has been very brief and not to the full resolution of the issues.

**Mr. Vice-Chairperson:** Thank you.

Now we have another presenter. Mr. Prefontaine, do you have documents to circulate?

**Mr. Guy Prefontaine (Gaboury, Prefontaine and Perry Architects):** No, I do not. Unfortunately, I was out of town up until today. Given the brief notice we had, I had no time to prepare one. I will just read from my speaking notes.

**Mr. Vice-Chairperson:** Mr. Prefontaine, go ahead, sir.

**Mr. Prefontaine:** I am presenting the perspective of a private practitioner. On any given day my practice and my peers deal with between \$2 million and \$250 million of capital construction. That is an onerous responsibility and a very, very well-defined one. Upon acquisition of a contract we immediately engage professional engineers as our sub-consultants to handle their domains of expertise. We oversee their work; we co-ordinate their work; we make corrections between each of their works; we give consultation, and we give back to the client.

The terms of our work are well defined with every document of legislation. The terms of our work are the basis of all the regulatory contracts. The Royal Architectural Institute of Canada document 6, our documents of practice, the Canadian construction documents all refer to the duties and responsibilities as well defined.

\* (20:50)

This is also reflected in the way we serve our public and the way we serve the private, the way we serve municipal, provincial and federal bodies in the delegation of all of our duties. These, again, are very well defined. These are not ad hoc in any way, shape or form. The reason I am so concerned is that the legislation that is being proposed here puts all sorts of gray areas into everything that we do. It puts at jeopardy the very legislation. Mr. Ennis's presentation was actually very, very interesting in that he brought three points forward that gave me great cause for concern.

One was that this document was in the works for a great, great period of time without any level of significant consultation from any of the body concerned. Second was the obvious shift between the presentation made and the wording. One had absolutely no relationship to the other and were completely independent of each other. Third, which was probably the most concerning of all, was the fact, and I quote, "That the Legislative Counsel itself provided the wording, architectural engineering, therefore putting itself in breach of the laws of its own province." Putting yourself in breach of The Architects Act by the use of that term as opposed to engineers is, I think, an act which is wildly reckless and reprehensible.

When I go through what is going on here, it gives me great pause to wonder why this came forward, why this was accepted and why there was such a great participation by the government at this level to support this act of legislation, especially given the fact that all of the bodies of architects are here. Making our concerns known means that the government here is fully aware of the liability that they incur by pursuing this legislation. That is a wilful act of liability, and because our mandate is first and foremost a protection of the public good, there is a reckless endangerment of the public safety here which is at hand. At the very least, it is reckless and, at the very most, as was stated by some of my colleagues, there are issues of libels and neglect which are on the table at this current time. The obvious continuance of this bill in any way, shape or form without any rigorous review and comment is continuance of that neglectful act. Thank you.

**Mr. Schuler:** Thank you very much for your presentation. Thank you for coming to committee, especially after you had to wait through all kinds of

other presentations. We appreciate that very much. We appreciate the brevity of it as well.

You mentioned that you do work with architects. My concern is that after we go through this bloodletting at committee that there is not the same kind of working relationship between architects and engineers. That is something that certainly we, on the opposition, on the Conservative side, would like to see mitigated at all costs.

How do you see us getting the government out of this nightmare that they have gotten the committee into?

**Mr. Prefontaine:** The point is very interesting because a number of the learned gentleman engineers here have by this legislation affected the legal contracts we have with them in the performance of their duties to my firm. So that is a very, very serious point.

As far as the mechanism, at the very least tabling of this bill is the minimum that can happen to affect this. Actually, I wanted to also comment on Doctor Gerrard's question between regulatory bodies and promotional bodies. It is as clear as night and day. A regulatory is to enforce law legislation and regulation. A promotional body is to promote the betterment and the well-being of a group of individuals. The fact that they are using a promotional and funding body to effect changes through a regulatory body means that they are trying to make changes, very dramatic ones, to the regulations, to the laws that govern the regulatory body. It is very, very simple.

**Mr. Gerrard:** What you are saying in terms of the difference between a regulatory and promotional body would suggest that it needs to be a separate organization which is involved in promotion from the regulatory body.

**Mr. Prefontaine:** Absolutely, because they are at complete cross-purposes. One is the protection of the public. One is the promotion of the members. These two tend to be quite conflictual and actually the most glaring example of it is this document. It should have been put before us.

**An Honourable Member:** Thank you for your time.

**Mr. Vice-Chairperson:** I would just like to advise that I had indicated two speakers at No. 6, Mr.

Bickford and Mr. Permut. I would like to advise committee members that Mr. Permut is to be listed with Mr. Silk at No. 8. This is just for clarification.

Now, I would like to call Mr. Andrew Bickford of AGB Architecture. Go ahead, Mr. Bickford.

**Mr. Andrew Bickford (AGB Architecture):** I am a registered architect of the province of Manitoba, in Ontario and a member of the Royal Architectural Institute of Canada. I am an associate member of the American Institute of Architects, and I am certified by the National Council for Architectural Registrations Board. I have been practising my chosen profession for the past 23 years and have completed hundreds of projects as the principal of a small design-oriented firm.

I have included a copy of the white paper published by NCARB. I respectfully request you read the document in its entirety. The topic is "Architecture As It Differs from Engineering."

The paper, first published in 1982, was reissued by the National Council of Architectural Registration Boards to assist its member boards, of which Manitoba is one, in their continuing effort to prevent the unlawful practice of architecture by unlicensed persons. In many jurisdictions, chronic problems arise from engineers seeking to use their registration under the engineering registration act as a basis for designing buildings for human habitation.

In almost every state and province, engineers are registered generically, with no distinction made among electrical, structural, mechanical and civil engineers, on the one hand, and aeronautical, agricultural, geological, et cetera, engineers on the other hand. The first group may have some connection to and interest in building systems employed in designing buildings for human habitation, while the latter have no such connection. All the disciplines, however, are registered as engineers.

The paper focusses on the first group of engineering disciplines which, because often involved in designing components for building, have laid claim to the right to practise architecture. NCARB prepared the paper to demonstrate how the education, training and examination required of architects for registration differs substantially from that required of structural, mechanical, electrical and



civil engineers. NCARB believes that comparison illustrates why most legislatures have assigned the responsibility for designing buildings for human habitation and occupancy to architects rather than to members of the engineering profession.

The architect has a more diverse education than does the engineer. A typical architectural curriculum covers a broad scope of subjects, both functional and aesthetic. An engineering curriculum, in contrast, addresses a single technology focussed on one of many functional systems that a building comprises.

The training requirements for interns in architecture is prescriptive and translates the knowledge required at the university into an equally broad range of professional skills. For the engineer, the training, like the education, is more narrowly focussed. It is not incidentally governed by prescribed requirements. NCARB, in its Intern Development Program (IDP), has designated specific areas of training and established appropriate percentages of time to be spent in those specific areas. Those areas are as wide-ranging as the scope of architectural education. Engineers, in contrast, are expected to gain experience in their specific discipline in preparation for a licensing examination in that discipline. Since training guidelines comparable to the IDP do not exist among engineering professions, there is no guideline leading an engineering intern into a broad training experience.

As the material within the white paper demonstrates, a registered architect is expected to prove his or her ability to understand, assemble and co-ordinate over all disciplines and specialties that a building comprises. A registered architect must have demonstrated the capacity to act as a generalist in the design process. In contrast, the education, training and examination of a registered professional engineer demonstrates the engineer's competence as a specialist dealing with one branch of engineering knowledge.

\* (21:00)

Quote from the eminent structural engineer, Professor Mario Salvadori:

"A good architect today must be a generalist, well versed in space distribution, construction techniques and electrical and mechanical systems,

but also knowledgeable in financing, real estate, human behaviour and social conduct. In addition, he is an artist entitled to the expression of his aesthetic tenets. He must know about so many specialists that he is sometimes said to know nothing about everything."

As architects, we strive to bring poetry into the spaces we inhabit. Light, window placements to maximize the feeling of space and to admit sunlight in deep winter. We work with the scale of space, the experience of being in the space, the ability to feel comfortable, developing buildings which respond to the urban fabric, have cultural continuity, create reverence and are tied to their function. Our training encompasses the humanities, philosophy, colour theory, texture, safety, accessibility and the implementation of imagination. We push the envelope of design, creating buildings which are special to the people who use them and we believe good design makes a difference.

Our firm has designed a number of community-based schools which encompass the goals and objectives of the students, the teachers and the parents. We have developed a process of gentle design development which empowers the creative energies of the people we are creating with to the point where these schools become an expression of an ideal for the community.

As a design-oriented firm, we have made a commitment to education. We attend education conferences where we are exposed to innovations in learning, multiple intelligences learning, how our brains process and store information. We study new innovations in education in many other parts of the world to bring our knowledge and our experience to our clients. We are committed to practising and creating good design to the best of our abilities, and we believe we provide our communities with inspiration, comfort and variety.

We believe this legislation leaves a crack open, which I am here to put my finger in. I have worked with many engineers over the years and we have pushed our engineering consultants to use their expertise and experience to create innovative, responsive environments.

I was asked by a structural engineer to design a porch for his cottage several years ago. When he saw the design proposed, he made the comment that it fit

perfectly and added a creative element to a box which he could not have imagined. He lives in and enjoys the spaces created.

Good design does make a difference, and it makes even a greater difference when architects and engineers work together, bringing their knowledge, their experience and their expertise in a creative manner. I speak to the flaw in this legislation being a spark which will provide years of conflict rather than continuing a long-standing relationship.

To end, I would like to read a letter to the editor published in the *Free Press* this past Monday. It was written by Gail Asper. "I was very concerned to read that Steven Harper, a potential prime minister, does not approve of the Esplanade Riel Bridge and Restaurant. It troubles me to think that he does not believe Winnipeg deserves this kind of beautiful structure, and I am curious to know what he would suggest in its place. Does Winnipeg only merit the usual slab of cement and utilitarian but ugly structure as has been our practice for the past 30 or 40 years?"

"I think Winnipeg does deserve beautiful architecture and I think the hundreds of people I saw walking across the bridge recently would agree with me. People want to live in and travel to cities that are beautiful, and creating public spaces helps build pride in citizens and certainly helps to attract tourists who enhance our economy.

"If Mr. Harper doesn't see any point in beautiful bridges, I can only imagine what his view would be on a beautiful Museum for Human Rights, which is currently planned to be an architectural icon and a huge tourist attraction. Our civic, provincial and federal leaders have got to start recognizing that beautiful cities are extremely important for keeping our citizens here and attracting new ones.

"Other cities like Toronto and Calgary have certainly recognized this, and Winnipeg has been at an outrageously competitive disadvantage because of the lack of investment in exciting and interesting architectural structures. As anyone knows, if you are trying to make a good impression, you don't step out of the door in a dirty pair of sweatpants, filthy T-shirt and greasy hair. When you dress for success, people believe you are successful.

"It is time at long last for Winnipeg to start dressing for success so we can project the image of

the world-class city we know Winnipeg once was and ought to be again. If that means building an expensive bridge, so be it, and by the way, whatever our bridge cost, I guarantee it would have cost two or three times more to build in any other city because we here in Winnipeg know how to do things well and cheaply.

"I find Mr. Harper's comments most distressing and depressing because the world he would have us inhabit in Winnipeg would be a far bleaker, uglier—

**Mr. Vice-Chairperson:** You have one minute left, sir.

**Mr. Bickford:** —and I for one believe that the spiritual and economic well-being of Winnipeggers is far better served by placing a value on beauty."

**Mr. Vice-Chairperson:** Thank you.

**Hon. Tim Sale (Minister of Energy, Science and Technology):** I want to thank you for your presentation. My son is a landscape architect, and I appreciated your comments about building beauty.

Your presentation is very interesting, but could you, in just as few words as possible, tell us specifically and as clearly as you can what the problem with the amendments that are being proposed is, if you can bring your attention to the specific amendments because it is an issue of great concern to us.

**Mr. Bickford:** I believe Veronica dealt with that issue earlier on in that we feel there are two legislative bodies who are governing two professions and we are now looking at legislation which gives one of those bodies more power than just simply legislating.

The other issue that I have been finding over the past five, six years is I am being asked by clients to intercede on architectural projects that have been sealed by engineering consultants and I am finding that more and more prevalent.

**Mr. Sale:** Just to be clear, is it the promotional aspects of the amendment that you find most troubling? I understand the general dispute has been going on for years. There is nothing new about that and this does not really specifically deal with that but

it kind of exacerbates it, but is it the promotional issue?

**Mr. Bickford:** I believe the promotional aspect is one that concerns me at great length. Yes.

**Mr. Schuler:** Thank you very much for coming to committee. I will just read one sentence out of your presentation: "I speak to the flaw on this legislation being the spark which will provide years of conflict rather than continuing a long-standing relationship." That is clearly my concern, that this could have been mitigated if all parties would have been consulted. All of this should have been done within a department and not done here in public. Where do we go from here?

**Mr. Bickford:** As previously suggested, I think that the legislation, given consultation between the architects and the engineers, could be amended to be equitable to both parties.

**Ms. Allan:** Thank you very much for your presentation. It shed quite a bit of light on a difficult topic and I want to thank you for attaching Gail's letter. I loved the Esplanade Riel bridge. I think it is absolutely beautiful. I have the pleasure of having it very close to the community that I live in and I think it is spectacular.

**Mr. Bickford:** I think our previous speaker had a little something to do with that.

**Mr. Vice-Chairperson:** Thank you.

Now I would like to call upon Mr. David Penner. Mr. Penner, do you have any presentations to hand?

**Mr. David Penner (Private Citizen):** No, I do not.

**Mr. Vice-Chairperson:** Thank you. Then go ahead, please.

**Mr. Penner:** I am not very well prepared this evening, I apologize but, of course, we did not have very much time to prepare because we were only told at the last minute.

I do have a lot of concerns. I think the reason that you are hearing this evening a lot about the role of the architect and the services that architects provide is that we feel that the proposed amendments will, in fact, erode The Architects Act.

It will certainly act to erode the ability of our association to enforce The Architects Act and in doing so, it erodes our environment. There is no question that our environment and the public's well-being is at jeopardy. I am confident that the monies that are being talked about, that are being offered to the university, can be given through other means, not through amendments to legislation.

\* (21:10)

*Madam Chairperson in the Chair*

I am also confident that the amendments proposed do have ulterior motives. I find that the wording is very vague but, again, I and my association have not had a chance to review it in any depth, so I can not even really explain, you know, what the implications are. I guess I would urge you to table it and allow the associations to work together to either bring forward something that does work, or find another way of donating money. That is all I have.

**Madam Chairperson:** Thank you, Mr. Penner.

**Mr. Schuler:** Thank you very much, Mr. Penner, for coming forward on a beautiful evening like this. I am sure you had other things you would have liked to do, and we appreciate that you came here.

I think the two associations working together is something we would love to have seen in the last three, four, five months, and we would have mitigated the bloodletting here at committee. Do you see this as being a major friction point between the two professions? Does this have the potential to deteriorate relations between the two professions?

**Mr. Penner:** I see it as enhancing an already struggling relationship. More importantly, though, I think it has the ability to erode The Architects Act.

**Mr. Gerrard:** What I hear you suggesting is instead of having sort of equivalent promoting or donating activities in The Architects Act, what would be better is a completely separate vehicle for the money which is going to be donated to the university to be provided through. Is that correct?

**Mr. Penner:** My understanding is it could probably be done through a by-law or through the forming of

an independent foundation, independent, but related foundation.

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

Mr. Allan Silk, or Mr. Arnold Permut, private citizens. If you could just indicate your name?

**Mr. Arnold Permut (Private Citizen):** I am Arnold Permut. Unfortunately, Mr. Silk was unable to be with us tonight. There are 20 copies.

**Madam Chairperson:** You can proceed whenever you are ready.

**Mr. Permut:** Madam Chairperson, members of the committee, I would like to thank you for this opportunity to speak to you in support of Bill 45. I do note the time is getting late and we have had an inordinate number of presentations. I do appreciate your forbearance and patience with the presentations. That being said, I cannot shorten my presentation, but I will try to talk faster. How is that?

**Madam Chairperson:** You have 10 minutes.

**Mr. Permut:** Thank you. As I did say, Mr. Allan Silk, has asked me to present a joint presentation. Unfortunately, he was unable to attend this evening.

I have always been proud to be a registered professional engineer within the province of Manitoba and I wish to impart to you why it is so important to me to support this bill. As a private citizen speaking to this bill I wish to address why it is so important not only to me but to others in my circumstance and most importantly, and you must appreciate this, to the general public.

I will begin by giving you some background information on myself. I manage a group of engineers and chemists who monitor the city's drinking water supply, the water pollution control facilities and landfills. This group is also responsible for the control of industrial and hazardous wastes within the city of Winnipeg. Additionally, this group provides advisory services to others who are operating the city's water supply, waste water treatment and solid waste systems.

My personal background is in the area of environmental engineering. The reason you need to

have this background is so that it becomes obvious my practice of engineering has nothing whatsoever to do with the practice of architecture. Notwithstanding this, these proposed changes are important to me.

Dr. Doug Ruth, the Dean of Engineering at the University of Manitoba, has called engineers the enablers of civilization because everywhere you look, from electrical plugs to water faucets, to automobiles, to airplanes, to the entire infrastructure these vehicles use, to the food systems, to manufacturing systems, to virtually every structure or system you see today, you will see evidence of the practice of engineering.

When we look at all these marvellous works, you will find we have just scratched the surface of what yet needs to be done. The environmental concern of nutrients entering Lake Winnipeg is but one example of this.

Just as the services of other professionals will be required as civilization moves forward, engineering will need to flourish in the future if the people of Manitoba expect to maintain the high standard of living they now enjoy.

Who in Manitoba is going to promote this profession to the kids in schools? Who is going to support the young adults who have been called to this profession on their journey through university and during apprenticeship? Who is going to take the special interest required to ensure those who have not been able to answer the call of this profession because of cultural and gender barriers will be able to take their place within this profession?

As with other professions in this province, the vital task is in the hands of today's engineers looking forward to the future. In noting what other regulatory organizations within Manitoba are doing to promote their profession, you need look no further than the Institute of Chartered Accountants in Manitoba who made a donation this year of \$162,500 to the Asper School of Management at the university. This represented the second instalment of a 10-year commitment made to the university. The Manitoba Pharmaceutical Association presently has a \$75-per-member, per-year levy added to registration fees. The proceeds of this levy go directly to the Faculty of Pharmacy at the University of Manitoba. These

professions know if they do not take the lead in promoting their profession today, the next generation of Manitobans will be seriously impacted.

One specific example of the serious adverse effects of not passing this bill is very close to my heart. I have initiated a program whereby the engineering profession will work together with the Faculty of Engineering at the University of Manitoba to further promote interest and enhance opportunities for Aboriginal students within the faculty and the profession of engineering.

The existing program is known as ENGAP or engineering access program. This is a wonderful program that takes into account the cultural backgrounds of students as well as provides additional training in the first two years of study in some of the fundamentals that may have been lacking at the high school level. This would include supplementary training in math, physics and chemistry. The cultural and social aspects of the program involve mentoring of younger Aboriginal students by more senior students who have proven to be successful and understand the challenges facing a First Nations student, particularly in an urban setting.

\* (21:20)

It is my understanding the overall plan is for APEGM to arrange for volunteers to go into the high schools having a high proportion of Aboriginal students and provide insight into the profession and, hopefully, generate increased interest. I see many benefits accruing to the profession, the individual students and to society as a whole as a result of a thriving ENGAP program. One advantage I would like to mention is the Aboriginal communities should benefit from a greater understanding of their specific needs and hence receive culturally appropriate engineering services and designs. You may be interested to know the ENGAP program in the Faculty of Engineering at the U of M is the most successful such program in Canada. This program is clearly in the best interests of the public. Please consider this terrific initiative will be in jeopardy if the passage of Bill 45 is compromised in any way.

I mentioned at the beginning my practice has nothing to do with the practice of architecture. I must point out my practice of engineering involves the application of scientific principles taught in chemistry, microbiology and the environmental

sciences. You do not see here today any presentations put forward by chemists, microbiologists or environmental scientists. These folks clearly understand these proposed amendments are transparently intended solely for the good of the public and not any perceived self interest of engineers. This is consistent with the objective of The Engineering Act as I understand it.

It is fully understood The Engineering Act is a public protection act, not an income protection act as implied by others here. I felt it necessary to bring this to your attention because it is obvious there are unresolved issues between the two organizations of engineering and architecture. My point in doing so is to demonstrate that when you consider the broad scope of the practice of engineering, there are very few engineers who are affected at all by the unresolved issues existing between the architects and the engineers.

It is my belief the overwhelming majority of professional engineers within Manitoba have no interest whatsoever with the profession of architecture. These longstanding unresolved issues, though not unimportant to the profession of architecture and a small minority of professional engineers who practise within this narrowly defined area, have nothing to do with nor should they be used to hold ransom a bill that will allow the profession of engineering to continue in the future.

They should not be allowed to compromise the future economy of Manitoba whose sustainable growth is so dependent upon an equally sustainable supply of trained engineers. A strong Manitoba economy is clearly in the public interest. These problems must be addressed within the proper forum which, in this instance, is the joint board where each profession is equally and adequately represented under the watchful eye of a chairperson that represents the Manitoba Department of Labour.

It is my belief the engineering profession has recently gone the extra mile in agreeing to the Manitoba Association of Architects' suggestion to have Dr. David Witty, who, I must stress here, is the Dean of Architecture at the University of Manitoba, to chair this joint board. I believe our association agreed to this because they understand all professional engineers hope these issues can be resolved expeditiously with the interest of the public being the paramount consideration.

There are two issues here which I believe should not be conflicting. The first is the Association of Professional Engineers and Geoscientists requires legally the ability to help people understand their professions and support the educational systems that produce engineers and geoscientists for the future. The second is the resolution of this contentious issue between the architects and the engineers. Bill 45 addresses the former. The appropriate vehicle for the latter is the joint board of engineers and architects. I believe the two are independent and should be kept that way. Thank you very much.

**Madam Chairperson:** Thank you very much, Mr. Permut.

**Floor Comment:** Excuse me.

**Madam Chairperson:** I recognized Mr. Gerrard prior to you. He had his hand up previous to you having it up before Mr. Schuler.

**Mr. Gerrard:** We have had some discussion about the nature of a regulatory body and the nature of a promotional body. I am interested in your views here and on the comments that there might be another way of having the money flow rather than through the regulatory body.

**Floor Comment:** Well, first let me address the—

**Madam Chairperson:** Mr. Permut. I must recognize you, Mr. Permut.

**Mr. Permut:** Oh, I am sorry. Let me address the issue of the money flowing. Notwithstanding, and with all due respect to what the members of the architecture profession have said, we have had legal advice on this matter and the legal opinion is it is not in the mandate of our act to give money to any other organization. In order to allow the money to flow in a legal fashion, we had to alter our act to make this legally possible.

With respect to the amendment to our by-laws, this was not a possible option, although it was an attractive one, inasmuch as our by-laws cannot violate what is said in our act. The act is supreme. Therefore the act must be modified first before the money can flow, and that is why we are here today. It is that simple. There are no other alternatives or other motives for this.

**Mr. Schuler:** Thank you very much, Mr. Permut, for coming to committee. As you know, this has become a very contentious bill. Obviously, you have heard the arguments in that the architects were not consulted which is usually normal practice on behalf of the government to consult all stakeholders.

You mention the appropriate place for a lot of these discussions is the joint board. Is there any kind of room within your organization to see this bill go to that board to have this discussed, or do you believe that this legislation must go through posthaste?

**Mr. Permut:** First, I think the joint board is a wonderful venue to address a lot of issues of concern between the engineers and the architects. I just do not think this is one of them that needs to go there. My judgment is that there has been much ado made about nothing.

The intent or the word of "promotion" which I believe has been raised here is used in the context of making others aware of the benefits of becoming an engineer, and that being students making, in particular, Aboriginal students aware through going into schools. We are looking at going into northern schools in particular, and promote the practice of engineering so that the Aboriginal students will know what engineering is. Many of them have no knowledge of what an engineer does, what the benefits of becoming an engineer are, and that was the context wherein we used the word "promote." It had nothing to do with the economic gain of our members, nothing whatsoever, and that was misconstrued.

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

**Ms. Allan:** I just wanted to say thank you very much for being here this evening and taking time out of your busy schedule to make your presentation.

**Mr. Permut:** You are welcome.

**Madam Chairperson:** Thank you, Mr. Permut.

Mr. John Woods, private citizen. Good evening, Mr. Woods. Do you have a written presentation to distribute?

**Mr. John Woods (Private Citizen):** I do, thank you.

**Madam Chairperson:** Please proceed whenever you are ready.

**Mr. Woods:** Thank you very much, Madam Chairperson, honourable members and committee members. I thank you for this opportunity to speak on behalf of this bill.

My name is John Woods, and I am a professional engineer registered in the province of Manitoba, as well as Ontario, Saskatchewan, Alberta, British Columbia, Northwest Territories, the Yukon and Nunavut. I graduated from the Faculty of Engineering at the University of Manitoba in 1983, and I have been in the engineering business ever since. I am also president of the Consulting Engineers of Manitoba, CEM, which is a non-profit organization representing engineers who provide consulting services for a living. However, today I am here as a member and a representative of APEGM which represents and regulates approximately 4000 engineers in the province.

The reason I state my background is that I hope to impress upon you that I have a good understanding of, not only the issues related to this bill, but also the general aspect surrounding what appears to be a delegation here to block the passing of this bill. First and foremost, I wish to state that it is my personal position as well as the formal position of CEM, that any and all jurisdictional disputes which involve architects and engineers must be dealt with at the Engineering, Geosciences and Architecture Inter-Association Relations Joint Board. That is its legislated purpose.

\* (21:30)

However, in reading through Bill 45, I cannot find any reference to anything but engineering, and our ability to self-govern which is our legislated right under the act being amended. For anyone to state or imply that there are other motivations is purely speculation and, in my opinion, impinges on our rights to self-govern. Without this amendment, our ability to provide as an organization, the dearly and urgently needed funds to the University of Manitoba Engineering faculty are jeopardized. These funds have been contributed by engineers for the future engineers of this province and they are significant, as you have heard.

Therefore, I implore you to look beyond any speculation with respect to the motivations and allow

us, as engineers, to govern ourselves in the best interests of the people of Manitoba, and to allow us to assist the Government of Manitoba and the present and future students of the Engineering faculty in helping to fund this new and essential facility. That is the end of my formal statement that I gave you. However, in hearing a few of the comments that have been up here, I do have a couple of things to add.

There has really been an attempt here to suggest that this bill is somehow about architects or lack thereof. It is not. However, unlike my architectural colleagues, I will not use this committee to debate jurisdiction over the difference between engineering and architecture. I reiterate this bill is about engineers and self-governance, not any joint or interrelated issues. In addition, there have been some very slanderous statements made under the guise of a democratic process here today, and these statements, I believe, are now part of an official record.

I also note the MAA member skirted around the question of having an advocacy group as well as a regulating body. They do not have an advocacy group. However, based on the turnout here of at least 10 or 12 architects, they are obviously doing some advocacy; that is why they are here. To suggest APEGM is trying something along these lines by way of this bill is hypocritical at best. That is the end of my statement.

**Madam Chairperson:** Thank you very much, Mr. Woods.

**Mr. Schuler:** Mr. Woods, thank you very much for your presentation. I agree with you this is really starting to get out of hand. Unfortunately, when a bill like this comes forward, and one group feels they have been blindsided, it tends to elicit that kind of response. I think it is very unfortunate for both professions because it is important everybody work together to do what is best for Manitoba.

Back to your presentation, as I have asked others, where do you feel we go from here?

**Mr. Woods:** I believe our position is this does not have anything to do with interrelations between architects and engineers. This is strictly about engineering. That is probably one of the reasons it was never broadcast because it is about engineering. I believe there is no reason this bill should be tabled.

I think it should proceed as written. Again, the wording actually came out of the writings of the Legislature. We made some suggestions. There were changes and that is what we are suggesting should be adopted here. I do not believe this is an issue for the joint board.

**Mr. David Faurschou (Portage la Prairie):** Thank you very much for your presentation. I do want to ask, though, if you were to extrapolate this particular piece of legislation into other professions as has been mentioned here, accountants, lawyers, doctors, essentially, as it does allow for promotion, as previous speakers have said, to high school students, the value of a career in this profession, do you see all professional groups should have this put into their legislation to act in the same capacity, or do you see potential conflicts arising if every profession has the opportunity to do as you are proposing?

**Mr. Woods:** Well, I think the intent has been stated very clearly by members of APEGM here today. The intent is to provide funding for promotion of engineering. I do not believe there is any conflict whatsoever there. To project that on other professions, I do not think I can really do that. However, I will reiterate something Mr. Oliver stated that when you have a small group, you cannot always be raising the rates and raising the fees. Sometimes you have to ask for contributions for these kinds of things.

In Ontario, they actually have the Ontario Society of Professional Engineers, which is a separate organization. However, they also have probably 100 times the resources we have here. When you have that many people and that much money being thrown into the pot, you certainly can afford to hire some advocates and go that route. First of all, that is not the intent of this bill. Second of all, like the architects, we do not necessarily have the funds to do that.

**Mr. Gerrard:** This question of the separation of the regulatory body and the promotional or funding body, what essentially you are saying is with a relatively small organization, you have to be the regulatory body and you have to do the other within sort of a limited scope of activity. Is that correct?

**Mr. Woods:** That is correct.

**Ms. Allan:** I would just like to thank you for taking time out of your busy schedule to be here this

evening and share your presentation with us. Thank you.

**Madam Chairperson:** Thank you very much, Mr. Woods.

Steve Cohlmeier, a private citizen. Mr. Cohlmeier, you can proceed. We will distribute your presentations.

**Mr. Steve Cohlmeier (Private Citizen):** Thank you. My name is Steve Cohlmeier. I am a Fellow of the Royal Architectural Institute of Canada. I have been in the profession for 35 years, former president of the Manitoba Association of Architects. I am registered to practice architecture with the Manitoba Association of Architects, the Ontario Association of Architects, the Architectural Institute of British Columbia, Ordre des Architectes du Québec. I am licensed to practise in the U.S., as well, and I am an adjunct professor at the University of Manitoba. My firm has received publication and international design awards for projects we have been involved with.

I have a piece to go over with you, but I would like first to address some of the questions that have been raised, and I will get as far as I can in the –

**Madam Chairperson:** Mr. Cohlmeier, if I could ask you if you could just speak up just a little bit.

**Mr. Cohlmeier:** Yes. Has everybody understood everything so far?

**Madam Chairperson:** That is great.

**Mr. Cohlmeier:** I would like to address some of the questions that have come forward, first, and then see if there is time for me to get through all or most of what I have prepared. I would request if I do not, please read it, because I think there is a fair bit of content in what I have put together. I have been involved in this issue for a number of years.

First of all, the memorandum of understanding from 1997, which was spoken of, is technically an expired and void document. That expiry was a formal occasion, carried out between the two professions. The joint board, which has been referred to a number of times as a place to resolve issues, is not a place to resolve issues, it is a place to discuss and review issues for recommendation. If there is



one side that can win by delay, they can win by infinite delay which is the proof of why it should not be a body assigned to the job of resolving issues. It should only be a body assigned the duty of review and recommendation. If recommendation and consensus cannot be reached, there are other mechanisms for resolution, so I think it is unfortunate it has been referred to in that way.

A question was asked about what our real concerns are as architects in relation to the engineers, the proposed amendments. I think the issue of promotion is an issue I would like to come back to in a second, but there is one word in the proposed legislation which has a serious concern for us and it is the word "development" of the profession. It is a very innocent-sounding word, but it is a word which, based on past experience in the conflict between the two professions, we have particular antenna out for. Development can easily be heard as expansion. The Association of Engineers is already talking quite formally on paper about using the term "architectural engineering," which they think they are entitled to use. They are not entitled to use it by law. It could easily be seen as development.

Therefore, I would like to suggest those are the main reasons we are objecting. I think it is important those issues be clarified. "Development" is not a bad word, nor is "promotion," if it is controlled, but clarifying those things, there is a mention by the president of APEGM a moment ago about misconstruing the word "promotion." That is just what you look out for as legislators are words that can be misconstrued. I would like to suggest it is time to go back and review and make sure words cannot be so quickly misconstrued, and make sure that either on Hansard in the record intent is clearly stated or the wording of the legislation is stated clearly enough to avoid future misreading. We had misreading already and we have not even gotten there. Therefore, I think the main reason to table is not 12 years of some disagreement between two professions, but because both the word "development" and the word "promotion" are easily misconstrued and can be used in inappropriate ways.

\* (21:40)

A final comment about "promotion," which has been mentioned a number of times tonight. First of all, I should mention the architects do have an advocacy group and it is a national one. It is the

Royal Architectural Institute of Canada. So we have one. I do not understand any concern about conflict between the two sides of our lives in the Manitoba Association of Architects.

I believe that you as legislators should be extremely cautious about allowing "promotion" to be explicitly put into any act of the Legislature in a restricted-scope profession. I would say it is a bad word to have in there and if you are going to break the precedent which exists in all professions in the country, you should do it with great care. That is, I believe, the main reason you should table this to review that issue and you can forget whether architects are objecting or not.

I think it is a very dangerous word, and I think it steps over a huge number of precedents in restricted-scope legislation. So I think, yes, I can say that as a non-architect without any concerns at all. I think it is something you should be very, very careful about. I think it is the main reason why you should table this legislation and reconsider the wording and either articulate it or articulate it on the record in Hansard.

That said, I will start reading and tell me when I reach my end and I will skip a little bit just to try and get through.

**Floor Comment:** I find it much more interesting if you just summarize your argument rather than read it, given the time.

**Mr. Cohlmeier:** Okay. I will do a bit of skimming.

You are all aware, I believe, because it has been mentioned and you are all legislators, about what restricted-scope practices are. What they really are is the statement that one different, specific kind of services can only be offered by those who are licensed to offer those services. The restricted-scope service in architecture is, in quote from The Architects Act "the planning or supervision for others of the erection, enlargement or alteration of buildings by persons other than the architect."

That organization and development and management of building projects is the purview of architecture, period. The purview of engineering has to do with systems and systems within buildings and systems within our normal infrastructure. The courts have decided that and the decisions of the court stand firmly in demonstrating that.

I have a section, I am just going to read it, on the level of education architects get which has been mentioned a bit tonight but you can read that. I request that you do.

Going back to the issue of the disagreement, the long standing disagreement between the architects and engineers, it grew out of a desire at the level of drafting of the National Building Code to recognize that the scheme of legislation between architects and engineers varies subtly from province to province. So they inserted intentionally open language so that the interpretation would be directly and in line with the legislation of each individual province.

There were different words that have been used to try and solve this problem, whether it is architects and engineers, or architects and/or engineers, architects or engineers, or even in some cases the word "designer" has been used to try to clarify and leave the meaning of the law open to everybody who has to interpret it.

In the case of the, excuse me, could I have a glass of water? I am drying out here.

**Madam Chairperson:** The page will get you a glass of water.

**Mr. Cohlmeier:** Okay, sure. I am drying out here. In Manitoba, the solution was to insert the words, "architect or engineer," and the authorities having jurisdiction have used that to decide well, we will just use either one. The way that it has been used is if you say you are good enough to do this, we will just accept that you are. This, of course, voids the problem of law where The Architects Act has a specific restricted scope which is to help other people get buildings built. Architects are the only people in the province who are entitled to assist people getting buildings built. The law is very clear on that matter.

The other issue which has come up is the case decided by Justice Monnin. Are you aware who Justice Monnin is? He is probably the most highly regarded jurist in our province, my lawyer friends tell me, and certainly that is reflected in his being the Chief Justice of the Court of Queen's Bench.

His decision is clear and extensive—

**Madam Chairperson:** While you take a break, you have about a minute left, okay, Mr. Cohlmeier?

**Mr. Cohlmeier:** Okay. His decision is very clear. A request for appeal was registered and rejected, which means the appeal was not heard, which means in law that Mr. Justice Monnin's decision is law, not the rejection of the appeal. That does not revert one to the previous state.

The reason for the rejection of the appeal was that a new definition of engineering had come forward in the meantime. There are two objections to that. One is that new laws that come forward after an infraction of a previous law do not allow one to suddenly say you are innocent because we changed the law. That is something that is a truism in law, but that is the way that the law has been treated, which is totally inappropriate in the judicial framework we are supposed to exist in Manitoba.

Sorry. My mind is wandering, but I probably lost my time.

**Madam Chairperson:** If you could summarize to just conclude, that would be great.

**Mr. Cohlmeier:** Maybe I should read just my last paragraph. No. Sorry. I think I have said what I had to say.

**Madam Chairperson:** That is great. We will entertain questions.

**Mr. Schuler:** First of all, Mr. Cohlmeier, thank you very much for coming and making your presentation. I know that you have sat through a lot of these and seen the kind of friction that we wanted to avoid in a public setting, and unfortunately here we are. If you would just take a moment and just go a little bit more into the promotion. You mentioned promotion is the key problem word. Lay that out really clearly for the committee and for the minister, if you would, please.

**Mr. Cohlmeier:** Yes, thank you. None of us can quite get that rhythm. I have two heads when you ask the question. One is I believe that promotion is an issue which is very dangerous as a legislative precedent, period, without the architects even involved in the discussion, because promotion of a profession is supposed to be outside. The norm for all professional legislation across the country and, I believe, all across the United States is that one does not put promotion as in the purview of the legislated body. I think that is something you as legislators should be very cautious about.

I would put that outside the battle of the architects versus the engineers. Sorry. It is a promotion on the other side. Well, let us go and compete. I do not mind competing with engineers when we are playing on a level legal playing field. If we both get promoted, we could promote, but I think that would be very dangerous ground as well. I believe that other groups are there to promote and to set up a framework where promotion is an entitlement. It is certainly contrary to everybody else's law in the country and something you should do very carefully.

**Mr. Gerrard:** In reading through your presentation, one of the points that you make very clearly is that there is a problem in that The Architects Act as written, as interpreted by Justice Monnin, is not being enforced by the Province and by the municipalities. It would seem, if I read your points correctly, that one of the major points of dispute could actually be settled if, in fact, the Province and the municipalities were enforcing the law as it exists and has been interpreted.

**Mr. Cohlmeier:** Sorry. The quick answer to that as a question is yes. This is very much our point of view. We think the answer is very easy to reach. There is some negotiation currently going on with, I believe, the Department of Labour regarding an amendment to the building code which would clarify where and when architects and engineers are required and move away from the ambiguity which is in place. I think if I were in authority having jurisdiction, I might feel I was in the same position. A point of view has been established and a methodology has been established in the province for issuance of building permits.

It is, as determined by Justice Monnin, an illegal decision or act every time they exercise that decision, but it is very difficult as an administration or a government to admit something you have been doing for 12 or 15 years is illegal. It exposes all kinds of admissions of guilt and possible exposure to liability. I suspect that is one of the reasons for the caution in going in the correct direction and obeying the law, but that still does not give the authority to the Department of Labour or the municipalities issuing building permits to violate the law.

\* (21:50)

The law is very, very clear. It is extremely clear. To use the argument of a new definition of

engineering or a rejected appeal, it was not an appeal that was overturned. It was not an appeal with a successful overturning of a decision. If the decision stands, the governments, the municipalities and the provincial government primarily through the Department of Labour have no authority—this is me pretending I am a lawyer—but have no authority to act outside the law. If you acted within the law, as determined by the acts that are in place and by the decisions of the courts, we will all be smiling.

**Mr. Faurschou:** Madam Chairperson, I would just like to ask if there is a willingness within the committee to see Mr. Cohlmeier's written presentation entered in its entirety to the record of this committee.

**Madam Chairperson:** Is there leave? *[Agreed]*

Seeing no other questions for Mr. Cohlmeier, I thank you very much for your presentation, Mr. Cohlmeier.

Mr. Brian Stimpson, Faculty of Engineering, University of Manitoba. You may proceed whenever you are ready, Mr. Stimpson.

**Mr. Brian Stimpson, (Faculty of Engineering, University of Manitoba):** Thank you very much for giving me the opportunity to speak. I would like to, first of all, before I get to my very short presentation—it is just one page—comment on the word "promotion." The section 3 which is to be replaced says, "promote the professions of engineering and geoscience and their continued development in a manner that is in the public interest."

I do not want to expand on that, but I think to just talk about promotion without seeing it in the context of the whole phrase in this proposed amendment is an important thing to consider, particularly in a manner that is in the public interest.

I am the Associate Dean in the Faculty of Engineering. Dean Ruth would have preferred to have been here, but he is away. I am a geological engineer. I have nothing to do with architects and neither do most of the engineers that I know. This dispute is with a very small number of engineers and the architects. That needs to be clarified, I think, quite frequently. Most engineers will not run into architects.

The passage of Bill 45 will clarify the ability of an APEGM to support the education of future engineers and geoscientists in Manitoba and to promote public awareness of engineering and geoscience as careers. The vital role of engineers and geoscientists in sustaining and growing real wealth in the province lies at the heart of the purpose of Bill 45.

In the context of engineering education, the Faculty of Engineering, as the only engineering school in the province, produces 200 to 240 graduates a year in biosystems, civil, computer, electrical, mechanical and manufacturing engineering, and about 75 percent of these graduates will find employment in Manitoba, so very important to the Manitoban economy.

The range of initiatives that constitute the promotion of "the professions of engineering and geoscience and their continued development," in a manner that is in the public interest I should add, are many, and examples have already been given tonight in the submission from Mr. Dave Ennis, the Executive Director and Registrar of APEGM.

They include initiatives to assist (a) the universities offering engineering and geosciences in Manitoba, (b) students in these programs, and (c) outreach. From my perspective, therefore, as an engineering educator, the intention of Bill 45 to strengthen and clarify APEGM's supporting role is a most positive development.

In these times of limited government funds, a community effort is more and more required to ensure the sustainability of quality post-secondary education. Geoscience and engineering are no exceptions. Indeed, not to sustain and strengthen them would have serious consequences for the province.

This community effort is exemplified by the ongoing construction of the Engineering and Information Technology Complex at the University of Manitoba. This effort, \$55-million worth, I should say, is unprecedented in the history of the 97-year-old Faculty of Engineering. APEGM and its members are part of this community effort. Bill 45 can only but assist and clarify APEGM's role in ensuring that the province will have strong and enduring geoscience and engineering professions.

My last comment would be that I was also blindsided tonight by hearing some of the concerns of the architects. I have not been able to address that in here. I can assure you there is no nefarious or clandestine scheme to undermine the profession of architecture. This is very much about helping the professions of engineering and geoscience at the educational level.

**Mr. Schuler:** Thank you very much, Doctor Stimpson. We appreciate very much that you came in front of this committee, and I appreciate the brevity of the presentation. It was very concise and right to the point.

One of the presenters posed the question, how did we get here? I have been posing the question, where do we go from here? You have mentioned, to your surprise, some of the comments that have been made and, probably to the surprise of everybody here, the kind of passion that a lot of these have been presented with.

In your opinion, sir, and I would suspect that in your line of work you do a lot of conflict resolution, where do you think we go from here? How do you we resolve this so that we do not have what has been said here continue with lingering bad feelings between two very important professions in the province?

**Mr. Stimpson:** Yes, it is true I do deal with conflict resolution in my position, and I am speaking as an outsider to the conflict, as I am a geological engineer. But I think that the first thing we need to do is to have the two parties talk and just get the temperature down. I think some things have been said tonight which I regret I have heard, and I hope the people that said them might have a second thought about it. There is no clandestine scheme here. So I think that for me, as a conflict resolution person between students and staff sometimes, would be the first thing to take. Just get the temperature down.

**Mr. Faurchou:** In regard to your comments just made, looking to have a little bit of time to digest what has taken place here this evening, would you then, as a proponent of this legislation, like to see a cooling-off period and perhaps this bill could be revisited at a later date and potentially carried forward at that time, after some of the considered comments tonight have been able to be effectively worked through and digested?

So would you see this as of the utmost urgency to have this bill passed tonight, or would you be willing to see a little bit of time lapse?

**Mr. Stimpson:** Yes, as we have heard from Arnold Permut, and as for myself at the university, having the money come and having the ability to use those funds as soon as possible is certainly of top importance to us.

**Madam Chairperson:** Doctor Gerrard, before, I would just ask if you could bring your mike down and bring it closer to you. Thank you.

**Mr. Gerrard:** Just two points. One is an alternative has been suggested, instead of this being part of the legislation covering the regulatory body, setting up a separate foundation. And we have had many examples of acts. One recent one would be the Helen Betty Osborne Foundation to accept contributions and to then provide those to a worthy cause.

In this case, we are talking about the university and helping to make sure that there is ongoing efforts at the university and encouraging engineers, and so on, which are all very worthy causes. So I would like your comments on that.

The second point that I would like your comments on is on this issue of, we heard from the recent presenter, from the architect, Steve Cohlmeier, that one of the fundamental problems here is not getting the architects and the engineers together. The real problem is that the Province is not enforcing the laws which govern the conduct of the professions, and that if the Province started enforcing the laws properly this would probably sort a bunch of this problem out.

\* (22:00)

**Mr. Stimpson:** Question No. 1, I am not in a position to say, other than what Dave Ennis told you, and I think Arnold Permut—that the legal advice was that this was the only way that funds could flow through APEGM to the university. If there is another way, I am not aware of it and I am not a lawyer, so I cannot comment.

On the second question, it looks like a cop-out, but I am a geological engineer. I do not have any relationships with architects at all. I was asked to make an appearance here as a university Faculty of

Engineering representative, and how important this bill is for the faculty, so I would prefer not to comment on that.

**Madam Chairperson:** Thank you very much, Mr. Stimpson. Your time has expired.

Mr. Wan from Raymond S.C. Wan Architect.

Did you have a written presentation, Mr. Wan?

**Mr. Raymond Wan (Raymond S.C. Wan Architect):** No, I do not. My intention to come here, my senior colleagues and a lot of engineers have talked about their piece, I am just coming here to talk about common sense.

**Madam Chairperson:** Please proceed.

**Mr. Wan:** I am a small practitioner in the city of Winnipeg, graduated from the U of M in 1987, worked for a private practice for about nine years and eventually got encouraged to settle down in Winnipeg and start my own practice. Looking at all the successful architects and architecture in the city of Winnipeg, I was very encouraged to stay. Actually, a lot of your members around your table and the back of room have been in my building before, the building that I have been able to participate to create for the citizens in the city of Winnipeg or province of Manitoba.

We hire engineers on a day-to-day basis. We retain their professional expertise to help us create the living environment today that we all enjoy today. But we are here arguing about a fact about a promotion, a terminology that can potentially create an unfair practice between the architect and engineer. I think that is the point we are talking about here.

We are here talking about a legislation and act that has not been properly implemented by the local jurisdiction having authority. I am not sure how many times I personally come across a situation where I directly compete with engineers and proposals on design-built projects, the building of publicly funded by other municipality or Province. I am not sure how many times that my clients have made a comment to me and said: "Hey, Ray, if I can do this project, why do you not just give me a pretty picture? I will just go and get an engineer or a draftsman and have an engineer stamp the drawings, so I can do without an architect through the courts." I

can cite a lot of examples. Those are horror stories in our profession.

To this day, I sat through about two and a half hours, three hours of presentation here, and to this point, I still do not understand why an engineer needs to change an act that has been legislation for all this time in the province of Manitoba that governs a professional body, no different than the MAA or The Architects Act. Why do they need to change an act simply to give money to the University of Manitoba? If the interest is truly to promote professions, I think two things they need to do is find a better media, not to find a way to further escalate the mistrust level between the architects and engineers. We are here to work together. We cannot do without them. We have a lot of trust level for them as trained professionals. Why do they think, architecturally, they can simply just walk in because they know how to put a structure up because they know how to do a mechanical system or electrical outlets that we see every day? I think those comments are irrelevant.

I think here is the time that we need to put our foot down and look at the entire legislation. I can cite you many, many buildings in rural Manitoba that the building has been simply stamped by engineers. A public building, an assembly building, that you have more than one, two, three people, like some engineers like to cite industrial building. When you have arenas, when you have your kids playing hockey, playing hockey at night, going through hockey school, you have buildings that are created by engineers, stand by engineers, built by a contractor, permit issued by the Department of Labour, without an architect, assembly building. I do not want to get too aggressive in terms of examples, but those are the realities that architects face every day, unfair practice in a lot of jurisdictions.

When we go for a building permit, why is the national building code the jurisdiction that we have to all follow the guidelines, but when it comes to interpretation of architects and engineers who qualify for it, it goes into the Manitoba building code? Why can we not follow what other provinces do, clearly define the area of expertise between engineers and architects, what type of building an architect should do, what type of building the engineers can do?

Never mind just the engineer competing for the marketplace. We have technical people,

draughtsmen, coming out from Red River or other technical schools. We have people that are interior designers or not professionally interior designers. When they get involved in projects they simply hire engineers and stamp the drawings, they can get building permit. Where is the public being protected in terms of the built environment?

I hear this question about where we should go from here. I think we should take one step further than just not tabling Bill 45. We should invite the legislation to be involved in the process aggressively to get rid of this 12-year-long problem of what buildings should be done by architects or involvement of an architect or solely just engineers. It is a bigger problem we are dealing with. It is a bigger problem that I have faced in the last 17-18 years of my career. I think I ran out of steam here. I have said my piece.

**Madam Chairperson:** Thank you, Mr. Wan.

**Mr. Schuler:** Thank you very much, Mr. Wan, in that you came forward. Perhaps one thing that this bill has done, it has brought the difficulties between two organizations to the public attention. It has put it on the record. I do not know how healthy the whole exercise has been, but I guess history will let us know.

You sort of answered my question: Where do we go from here? You have suggested looking at the long run. I would appreciate if you would give us a little bit more of how you would like to see this done. I mean, clearly we have some relationship rebuilding to do. Unfortunately we got to this point, and we all know why. What steps would you like to see take place to bring the two organizations together and move forward in a positive way?

**Mr. Wan:** I am speaking as a member of MAA. I am not involved in a lot of councils or anything like that, as some of the senior members that we have over here on the floor, the previous presenter. My perspective in terms of resolving this issue, I would like to talk a little bit more grassroots. I think a mediator is required. A joint board is a good avenue, but the joint board should come with people that are truly involved on a day-to-day basis with regard to this particular conflict.

The people that are going to be the mediators have to understand what is the ongoing conflict

between engineers and architects. I heard earlier some of the members indicated there is only a small fraction of the engineer members that do get involved in that kind of conflict, but I would strongly disagree with that. They are not a small fraction of them.

The issue is much bigger than what has been related earlier on. I think a mediator from the provincial government and the joint board with practitioners on board, people that actually practise, to alleviate the problem. There are situations that engineers do have, a licensed engineer. Being a contractor for 20-30 years I have seen those engineering stamps on drawings. As an ongoing practitioner, I have a big, big question mark on that.

I know we are not here to talk about that particular issue, but that is where most of the concerns are. Just because you have that seal, all you have to do is pay your dues. I do not think that is appropriate.

**Ms. Allan:** Thank you, Mr. Wan, for your presentation. The other day when officials from my department met with the architects association, there was a discussion in regard to the very issue that you have raised around the infractions around the building code. The Deputy Minister of Labour has asked the architects' association to provide information to us in regard to those particular infractions.

So I would also just like to comment that if you have any—I do not know if you have received the e-mail that was sent out in regard to the request for that information, but if you have any information in regard to those particular kinds of infractions that you have discovered over the years of your practice in the community, we would be more than pleased to have that information.

\* (22:10)

**Mr. Wan:** I would be more than pleased to do that, because we encounter that problem on an ongoing basis. If I may correct my earlier suggestion to your suggestion about who should be taking part in that particular mediation effort, I think the judicial enforcement, like, say, the Department of Labour, those would probably be the better party to be participating rather than on the political level.

**Madam Chairperson:** Thank you very much for your presentation, Mr. Wan. Thank you for coming out.

Seeing no other questions, I will call the next presenter, Kelly Baumgartner, a private citizen. Please feel free to proceed whenever you want to start.

**Mr. Kelly Baumgartner (Private Citizen):** I am passing around a copy of an e-mail I sent out today. Some of the wording is a little heated because I was little angry at the time and I apologize for it. I will read through it and basically present what I see is happening.

I am an architectural intern. I am not a registered architect. I came to the province 16 years ago, studied architecture at the University of Manitoba. Six years and \$50,000 later I am in the intern program, another three years, nine professional exams; it is a long haul. Even I can see the problems that this province has when it comes to dealing with the jurisdictions between architects and engineers.

I will paraphrase a lot of this letter, but I feel I must express my opinion and concern regarding a number of events which are currently in progress. I am going to bring up three points, but they are all interrelated and they all come back to this bill.

I would like to formally express my opposition to the recently tabled Bill 45. This bill is a blatant attempt by the engineering association to expand their scope of practice into architecture. This is a piece of self-serving legislation, is inconsistent with the role of a regulatory body and it is not in the interest of the public.

On a related subject, I feel it necessary to bring forward the actions of the Office of the Fire Commissioner. Now I know this sounds like it is a tangent, but I will come back to it. The Office of the Fire Commissioner routinely accepts and recognizes drawings prepared by drafting services which are sealed by engineers who have not supervised the design or production of those drawings for Part 3 buildings, in direct contravention of the law of The Architects Act. The refusal of this department to recognize The Architects Act and its requirements regarding the involvement of an architect and the sealing of drawings displays a total disregard for the profession of architecture, a disregard for the comprehensive protection of the public and, on a much more serious level, a disregard for the responsibility of their own office.

The current implementation of the RST, retail sales tax, requirements will have a crippling effect on the architectural profession. Without a recognized scope of practice, which is what we are here talking about with Bill 45, as the points above demonstrate, the tax is unfairly applied to architects alone while drafting services, exempt from the RST in its current form, will gain another 7% price advantage. Equal application of taxes to competing services must be maintained. If drafting services are not included then architectural services must be excluded as well.

I feel that the items brought forward above are of great importance to the province of Manitoba. They are evidence of this province's decline to a second-rate stature in the Dominion of Canada, as no other jurisdiction has allowed the interests of one selfish group to impinge on the protection of the public good. Engineers practising architecture is not in the interest of the public. The Office of the Fire Commissioner's lack of recognition of The Architects Act is not in the interests of the public. Enabling the engineering profession to allow drafting services to circumvent this law is not in the interest of the public. An unfairly applied tax promoting further abuse by drafting services is not in the interest of the public.

This province is a wonderful place to live and grow. I said I came here 15 years ago and I have not left, but if these concerns are not addressed properly, as a future member of the profession of architecture concerned with the good and the safety of the public, I cannot in good conscience conduct business here. The government of this province has expressed its desire to retain its young people. This is an issue that concerns an entire generation of young professionals which will have far-reaching consequences for this province.

There are some points that were brought up tonight, and I just want to respond to them very quickly. There was mention of a program called ENGAP and the importance of the funding from the engineering association and that this ENGAP program was in jeopardy.

My question is, if the program is already currently being implemented, how can it possibly be in jeopardy? One point stated tonight that our lawyer states that Bill 45 does not impinge on The Architects Act and that has been presented as evidence in favour of Bill 45.

I submit that our lawyer, the MAA's, and I have seen the draft, has advised the MAA that Bill 45 will enable structural engineers—and I have to stress structural engineers, because you have also heard other engineers come forward saying they have nothing to do with architects. That is very correct. It is the structural engineers that are basically going to benefit from Bill 45 by unilaterally expanding their scope of work.

Somebody has brought up the point they are trying to promote the profession of engineering, that there is going to be a shortage of engineers in the future. I know that there is a shortage of nurses and it is very well documented, but I have never heard anybody complain that there has ever been a shortage of engineers.

Basically, Bill 45 is going to expand the scope of work for engineers. It is as simple as that. It only affects a small number of engineers, but it affects all architects. APEGM is the regulatory body for engineers. They are not allowed to promote their profession by law under the regulatory status. Period. So Bill 45, as it is intended, is fundamentally changing that law and that is where I think there are a lot of people on the architect side that have a problem with it. I guess that I am not registered. I am an intern, and even I can see that that is the case. I can see that is going to be the result of this and that is why I am here to oppose Bill 45.

**Madam Chairperson:** Thank you, Mr. Baumgartner.

**Mr. Schuler:** Thank you very much, Mr. Baumgartner. What is interesting, we have had two professional organizations come forward and, on both sides, they have indicated that, well, on the one side, the bill is good to retain young people, and on the other side, the bill, if it does not go through, is better to retain young people. Clearly, it shows how there is this growing divide between two organizations.

Do you believe that unless this is resolved, including Bill 45, do you think that that continues to harm young professionals on both sides from looking at Manitoba as being a place to settle?

**Mr. Baumgartner:** Definitely on the architecture side. On the architecture side, I would say yes. I have numerous colleagues that I have graduated with, and



they are practising in all the other jurisdictions in Canada, jurisdictions being provinces, and not one of their jurisdictions has the problems that we have been dealing with here in the province of Manitoba.

We talk about the joint board trying to come to an agreement, and it has been 12 years. It took me half that time to get my education, and I will probably be registered before there is a consensus on that from that board. I can see why the existing chairman quit. I just hear that there have been lots of problems in stonewalling and there is no real resolve to come to an agreement.

**Madam Chairperson:** Mr. Schuler, on a supplementary question.

\* (22:20)

**Mr. Schuler:** Thank you very much, Madam Chair. Mr. Baumgartner, I really do sense your frustration here. Young guy, you just want to get on with it. You want to get on with practising your profession, and the politics is starting to interfere. Help me out. Who should settle this? How do we settle this problem? How do we just move on and let engineers be engineers and architects be architects, and just get on with it? Bill 45 has clearly not helped it. It has brought us down to a lower level. How do we bring it back to where we work and we just build what is in the best interests of the province? Who and what?

**Mr. Baumgartner:** Table Bill 45. Send it back to the joint board where it belongs. It has to be worked out between the two professions. It is not a matter for this kind of committee. It is not a matter for one side trying to change the laws which affect another, and not consulting that group. I found out about this yesterday.

**Mr. Gerrard:** The normal rules provide for a little bit more, like 48 hours' notice, at least, when a committee meeting is being held. Unfortunately, the Tories and the NDP kind of ganged up the other day and put forward a –

**Madam Chairperson:** Excuse me for one moment, Mr. Gerrard. I am sorry. We cannot hear your question. It is hard for Hansard, so if you could just speak a little louder. I apologize.

**Mr. Gerrard:** We had a motion to have an accelerated look at processes for bills, which I think was unfortunate.

But, anyway, the critical point here I think is that there is room for some provincial leadership and there has to be some provincial leadership on an issue which has not been able to be resolved by the two associations. That in particular deals with the enforcement of the existing legislation, which really is the purview of the Province and the municipalities. Clearly, the imposition of this new retail sales tax has compounded the problem, in terms of making it sub-optimum for architects in Manitoba. From what we have heard, the Province should show a leadership role and start enforcing the act as it stands.

**Madam Chairperson:** Doctor Gerrard, sorry to interrupt. I am going to give you a chance to answer. There are 30 seconds remaining.

**Mr. Baumgartner:** I am not even sure there was a question there.

But I have to agree with what he is saying, that the current acts are not being enforced properly and the imposition of a tax that is not equal creates an even greater disparity between the two professions. Bill 45 is going to add that and compound the problem.

**Madam Chairperson:** Thank you very much, Mr. Baumgartner, for coming out to present to the committee.

Richard Prince, a private citizen?

Our practice is to call the presenter. I will call the presenter one more time. If the presenter is not present at the time they are called, their name will be dropped to the bottom of the list. They will be called again. If they are not here at that time, then they will not be able to present.

Richard Prince, private citizen? Richard Prince will be going to the bottom of the list.

Francis Pineda, private citizen?

**Mr. Francis Pineda (Private Citizen):** Good evening.

**Madam Chairperson:** Thank you. Do you have a written presentation to distribute?

**Mr. Pineda:** No. All the information has been presented already and been said.

**Madam Chairperson:** Please proceed with your presentation.

**Mr. Pineda:** I am here as a private citizen. I am just concerned about the passing of Bill 45 because some of the amendments might conflict on The Architects Act, as I see it. I am a civil servant right now and I see every day that engineers stamp some architectural drawings, especially some of the government projects that are multi-million, and I advise the engineer or the contractor to get an architect instead, or else we will not provide the funding for that project.

To make it short, I guess maybe the problem could be solved in a consultation between the two associations before passing on an act or legislation that will affect the other association. I came here in 1976, I was a registered architect in the Philippines, and I came to Canada for a good life. I spent around nine years just to get my registration, and unfortunately, the architectural profession has been eroded by some of the engineers that want to practise architecture for which they are not qualified.

I mean, I spent nine years just to get my licence, and this engineer who is already practising engineering wants to go into the architecture. I mean, it is bread and butter for every architect to get a job. In the design built as we have, like they proposed in the government, the lowest bidder always gets the job, regardless of who qualifies on the project or the designer. I have a concern, because it is our money and it is government money.

If the building is not by code and something happens, and there is a fire and there is no fire exit, then who is liable? The engineer? But by code, he does not have to design that building. It would be designed by an architect. So, when I raised the concern and said, "How come you are stamping a drawing which an architect is supposed to stamp?" he said, "Oh, it is to lessen the price because architects are too expensive."

It is not the point that architects are too expensive, it is the code that you have to implement. If a building has not been properly designed for exiting, and it happens that a person is maybe trapped in there and suffers injuries, then they will not go to the authority having jurisdiction who approved the plan. It is the person who stamped the drawings, and I think the problem lies under the

stamping of the drawings who is not licensed to stamp the drawings.

That is my point tonight. It is just to clarify the professions, the degree of separation between the two. I practise architecture under so many firms in Winnipeg, and I end up working with the government, and right now I am a civil servant, so I look after the province of Manitoba with regard to the code issues and also the safety of the public. I am also a member of the MAA and I have some concern about the passing of the amendments, like the advance of education.

We, as a member of the MAA, have continuing education every weekend. We cannot renew our licence without continuing education. If this bill is only to advance education, I mean, they could have some by-laws maybe to introduce continuing education of themselves by the association, and also to promote the profession of engineering, we have some universities that promote education.

We have schools, at the high school level, they could promote engineering at the high school level, and then maybe you have a career symposium to become an engineer or to become an architect. It is your choice, and then also the student's choice. I think we should introduce it in the high school level, if you want to be an engineer or to become an architect.

I think to promote the education of the profession of engineering in the act, I mean, it is not, I guess, the proper place right now, and, I am not a lawyer right now, but it might impact these clauses if a good lawyer could defend an engineer, maybe in a civil suit, he could circumvent the act on this amendment to advance education. To promote and continue development of engineering, you could go into architecture if you want to.

I think, as a private citizen and also a civil servant, I just want to voice my opinion, because every day I see some of the plans that come into the department that I work with, the architectural drawings are not stamped by an architect. It is stamped by an engineer and then I have to remind the developer or builder that they have to comply with the code. Then, sometimes the builder will circumvent the code and say, "You do not need an architect, an engineer could stamp it."

So I think we should clarify what is in the act and also the engineers should maybe stick on their responsibilities and also their duties as an engineer. Do not go over the other profession because, as an architect, I cannot do any structural drawings. If I could do structural drawings, I could stamp the drawings, but see, The Engineers Act will not let me do that. Way back home, I am also a registered architect. I could stamp a drawing as an architect for a three-storey building structurally, but, here in Canada, I cannot do that because I am not a registered engineer. In the Philippines, you could do both. That is the reason why sometimes engineers go into the profession of architects and then suddenly, catastrophe, the building has been burned, and there is no proper exit. Then the poor occupants cannot go to the exit because it has not been designed by an architect.

\* (22:30)

It is engineers, they all just look at the drawings if they have been stamped by an engineer. The authority having jurisdiction will just say, "Oh, it has been stamped by an engineer. I will just go ahead, he is responsible for it." But the code says if it under part 3 of the building code, you have to comply and hire an architect because the architect has been educated to comply also with the building code and also to protect the public with regards to the building occupancy and also the exiting of the building.

Thank you for your time.

**Madam Chairperson:** Thank you very much, Mr. Pineda.

**Mr. Schuler:** Yes, thank you very much, Mr. Pineda, that you came forward and gave up your evening. We appreciate your comments very much. I will leave it that. I know the committee is very appreciative of your presentation. Thank you.

**Mr. Gerrard:** Your comments would suggest that those who have indicated that there are problems in the enforcement of the current laws are correct that there are sometimes some real problems with people trying to circumvent the laws and to short-circuit the laws in terms of getting things stamped without an architect stamp.

**Mr. Pineda:** I can see it, a problem sometimes, a contractor or a developer basically want a design

built. They try to circumvent the process that they will hire an engineer to stamp the drawings with disregard of the architect's profession. I also remind them that they have to comply with the building code and then they will say, "The reason why they got the job is because of they are the lower bidder and they did not hire an architect because if they hire an architect, they will jack up the price. They can compete with the other architects."

In passing this bill, I guess, without the consultation of our associations, there is a potential problem between the two associations overriding their professions, or our professions.

**Ms. Allan:** Thank you, Mr. Pineda, for your presentation, and I thank you for taking time out of your busy schedule. I need to thank a whole bunch of other people I never got a chance to thank: Steve Cohlmeier, Brian Stimpson, Ray Wan, Kelly Baumgartner. Thank you as well. I just wanted to thank a whole bunch of folks all at the same time.

**Madam Chairperson:** Thank you very much, Mr. Pineda.

Our next presenter is Mike Fritschij, a private citizen.

**Mr. Mike Fritschij (Private Citizen):** Thank you, but I will pass at this time.

**Madam Chairperson:** Thank you very much, Mr. Fritschij. We will take your name off the list.

Judy Pestrak, I apologize if I did not say it correctly, a private citizen. Ms. Pestrak, do you have a written presentation for the committee?

**Ms. Judy Pestrak (Private Citizen):** No, I am sorry, I do not.

**Madam Chairperson:** Please proceed.

**Ms. Pestrak:** Actually, I come here as a private citizen, as an employee of a non-profit organization. I have been quite surprised and concerned that the proposed amendments to The Engineering and Geoscientific Professions Act were currently before the House without consultation with the organization that I work for, which happens to be the Manitoba Association of Architects. I was prepared to make quite a passionate presentation to you this evening as

a lay representative and a member of neither profession, having worked for an advocacy body for about 10 years and for a licensing and regulatory body for the last 18 years.

I am very pleased to report that I am going to save you the benefit of having to go through that presentation. I have been very privileged to be part of a consultation process during the last hour that I presume was at the minister's request, where representatives of both the Manitoba Association of Architects and the Association of Professional Engineers and Geoscientists have met with the deputy minister and Legislative Counsel to look at the amendments to the legislation. I am very pleased to say that after a very brief discussion, it appears that both organizations have been able to come to agreement on some further amendments to the changes that have been put forward that would be acceptable to both associations.

I believe that the changes that we have discussed and have in fact worked out within the past hour with the assistance of the Department of Labour have removed many of the concerns that our membership previously had and the implication with respect to the Association of Professional Engineers wandering into the area of an advocacy organization. So I would very much like to thank the Minister of Labour (Ms. Allan) for in fact hearing the concerns of our membership tonight and facilitating this process that has allowed a consultation to happen, albeit at the last minute, but we do appreciate that, as well as appreciating the co-operation of the Deputy Minister and representatives from the Association of Professional Engineers and Geoscientists.

We think it came very late in the process, but once again we are pleased that government has listened. In the interest of the public, I think you have served them tonight through this process. Thank you.

**Madam Chairperson:** If you could just still stay there at the mike, there may be questions for you, Ms. Pestrak.

**Mr. Schuler:** Yes, thank you very much, Ms. Pestrak. On behalf of the committee, I certainly appreciate your involvement right from the start. It is news to the committee that something seems to have now been in the offing. I think it attests to two very professional organizations. We, as a committee, look

with bated breath to see how the government will dig itself out of this one. We, in the end, want to see that there is harmony in the province. That should be the primary concern of this committee, and it is. Thanks again for all your efforts over the last week and a half.

**Ms. Pestrak:** Mr. Schuler, I would like to thank you for your efforts in ensuring that our concerns were heard tonight.

**Mr. Faurschou:** I really appreciate the hard work that has obviously gone on behind the scenes here this evening to hear the commentary that you have just presented. I have asked the question on a previous occasion this evening that concerns have been raised that this is precedent-setting legislation that could have farther reaching effects on other governing bodies, regulatory bodies for other professions here in the province of Manitoba. In your discussions has this consideration been entered into?

**Ms. Pestrak:** In all fairness, certainly, we did not specifically bring the concerns of any other professions to the table during our consultation in the last hour.

I would expect, in response to the concerns that were raised by our association, the clarification that the Association of Professional Engineers and Geoscientists has provided with respect to the purposes of the amendments, that what they were looking for in the legislation, I think having narrowed those purposes to more accurately reflect, and removing the implication of the association, in fact, serving a dual purpose as an advocacy body have likely addressed any concerns that other professions may have also had with the legislation.

I certainly cannot speak on behalf of other professions, but I would expect that those concerns, that might otherwise be there, have hopefully been addressed within the changes that we have discussed in the last hour.

\* (22:40)

**Mr. Gerrard:** I am just wondering whether, in the discussions that you had with the deputy minister, you have a formal commitment that the Province will start enforcing The Architects Act properly.

**Ms. Pestrak:** Certainly, we did not get that commitment out of the deputy minister. I am not

certain that it is the responsibility of the deputy minister. I am not certain how to respond to the question.

I would have had a bigger smile on my face had that happened, but I think we also recognize that this has been a very difficult process and that this has been dealt with at the very last minute. I think there were some misunderstandings about what happened. We certainly would look forward, and certainly the deputy minister, in fact, did commit to trying to deal with that issue and concerns between the two professions.

So while he did not specifically commit to enforcement of one piece of legislation versus another, I hope that the Department of Labour has heard the concerns of our membership and I think they certainly have an appreciation. So I hope through this process there has been a greater understanding, and I feel comfortable that there has been a greater understanding and that the commitment that the deputy minister made, in fact, is sincere to work with both professions. I hope.

**Ms. Allan:** Well, I would like to thank you very much for your presentation. Obviously, it is a great way to end an evening that was quite difficult in regard to some of the conversations and the dialogue in the room. I look forward to meeting with both of the organizations as soon as possible together in regard to some of the issues that were raised tonight in regard to scope of practice, and to discuss process around how some of those issues can be resolved.

**Madam Chairperson:** Thank you very much, Ms. Pestrak. I am sorry we are out of time.

I would like to call Richard Prince one more time. He is the private citizen. Is Richard Prince here? No. Are there any other presenters who have not presented tonight? No. Seeing no other presenters, we will proceed.

**Mr. Schuler:** Madam Chair, perhaps you could canvass the House to see if the committee would give leave for about two minutes, so the committee could have a break to, just have a break?

**Madam Chairperson:** I will put the question. Just, I will put the—

**An Honourable Member:** That is what we are going to do.

**Madam Chairperson:** Excuse me for a moment. I will put the question to the committee. Is there leave from the committee to have a short break?

**Some Honourable Members:** No.

**Madam Chairperson:** I am sorry. I have heard that there is not leave. What we will do now is we will proceed with the debate on the bills.

I would like the attention of the committee please. What we will now do is I am asking the committee how they would like to move forward with hearing the bills. Currently, we have the bills listed as Bill 39, The Residential Tenancies Amendment Act; Bill 43, The Personal Health Information Amendment Act (Spiritual Health); Bill 45, The Engineering and Geoscientific Professions Amendment Act; and Bill 48, The Human Tissue Amendment Act.

**Hon. Dave Chomiak (Minister of Health):** I am just suggesting for the committee, perhaps we do it numerically with the exception of putting The Engineering and Geoscientific Professions Amendment Act at the end. That is, move The Human Tissue Amendment Act ahead of that.

**Madam Chairperson:** Is that agreed by the committee? *[Agreed]* Thank you very much.

#### **Bill 39—The Residential Tenancies Amendment Act**

**Madam Chairperson:** Does the minister responsible for Bill 39 have an opening statement?

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

**Madam Chairperson:** No. Thank you very much, Mr. Minister.

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

**Mr. David Faurchou (Portage la Prairie):** I just want to ask the minister, in light of the absence of presenters from either the landlords' association or other interested tenants' organizations, whether the

government publicized to these respective organizations the existence of Bill 39.

As we have seen here tonight, there have been organizations of related interest that were not contacted and I am just wondering what procedure was followed in regard to amendments to The Residential Tenancies Act as to make certain that the respective interested parties had opportunity to learn of the bills' existence and the opportunity thereby to comment and participate in committee.

**Mr. Selinger:** Short answer, the bill was released and circulated to all the relevant stakeholders. They advertised it in all their newsletters and we got feedback and dealt with it in a way that gave everybody a chance to have comment before we brought it forward.

**Madam Chairperson:** Thank you.

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 and 2—pass; clauses 3 through 5—pass; clauses 6 through 8—pass; clauses 9 through 12—pass; clauses 13 through 16—pass; clause 17—pass; clauses 18 through 20—pass; clauses 21 through 25—pass. Shall clauses 26 through 30 pass?

**Mr. Selinger:** I have an amendment for clause 26, which will be circulated now. It is basically a technical amendment.

**Madam Chairperson:** Please move your motion.

**Mr. Selinger:** I would like to move

THAT clause 26 of the Bill be amended by striking out "Subsection 161(2) is" and substituting "Subsections 161(2) and (2.1) are".

Now, what does that mean?

\* (22:50)

**Madam Chairperson:** Please hold your comments for a moment so that I can read the motion back.

It has been moved by Honourable Minister Selinger that—

**Some Honourable Members:** Dispense.

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

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 which reads as follows—

**Some Honourable Members:** Dispense.

**Madam Chairperson:** Amendment—pass; clause 26 as amended—pass; clauses 27 through 30—pass; clause 31—pass; enacting clause—pass; title—pass. Bill as amended be reported to the House.

#### **Bill 43—The Personal Health Information Amendment Act (Spiritual Health)**

**Madam Chairperson:** We are now moving on to Bill 43. Does the minister responsible for Bill 43 have an opening statement?

**Hon. Dave Chomiak (Minister of Health):** No, Madam Chair.

**Madam Chairperson:** Thank you, Mister Minister. Does the critic from the official opposition have an opening statement?

**Mrs. Myrna Driedger (Charleswood):** No, Madam Chairperson.

**Madam Chairperson:** Thank you, Mrs. Driedger. 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; clause 5—pass; enacting clause—pass; title—pass. Bill be reported.

#### **Bill 48—The Human Tissue Amendment Act**

**Madam Chairperson:** Does the minister responsible for Bill 48 have an opening statement?

**Hon. Dave Chomiak (Minister of Health):** No, Madam Chair.

**Madam Chairperson:** We thank the minister. Does the critic from the official opposition have an opening statement?

\* (23:00)

**Mrs. Myrna Driedger (Charleswood):** No, Madam Chair, I have made all my comments in the House already.

**Madam Chairperson:** Thank you, Mrs. Driedger. 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 to 3—pass; clauses 4 and 5—pass; clauses 6 to 8—pass; clauses 9 and 10—pass; clause 11—pass; enacting clause—pass; title—pass. Bill be reported.

**Mr. Chomiak:** Madam Chairperson, just briefly I want to thank the colleagues and all the presenters and members of the official opposition for their assistance and advice on these two bills that are very significant. It does reflect the fact that the majority of work that we do in the Chamber is actually done on a non-partisan, consensus-like basis. So I want to thank everyone.

**Madam Chairperson:** Thank you very much, Mr. Minister.

#### **Bill 45—The Engineering and Geoscientific Professions Amendment Act**

**Madam Chairperson:** The last bill to be called tonight is Bill 45. Does the minister responsible for Bill 45 have an opening statement?

**Hon. Nancy Allan (Minister of Labour and Immigration):** Yes, if we could just take a couple of minutes. We are just getting copies of the amendment made so that they can be distributed.

**Madam Chairperson:** You know what we will do? We will all just sit here. If anybody would like tea or

coffee, that can be arranged for you. A glass of water?

**Ms. Allan:** No, thank you.

**Madam Chairperson:** I thank the minister. Does the critic from the official opposition have an opening statement?

**Mr. Ron Schuler (Springfield):** Madam Chair, thank you very much, and with the indulgence of the committee, yes, I do have an opening statement. Tonight has been distressing, at best, upsetting, it would be more to the point. I think it is important for this committee to understand what is actually taking place. I will take a few moments to go there.

\* (23:10)

On May 10, I did what I normally do with all legislation that comes under my critic responsibilities and had actually flirted with the idea of not sending it out, because I was under the impression it was a fairly innocuous bill and I was under the assumption, of course, that everybody would have been contacted. Why would not everybody have been contacted, I guess would have been more to the point. But we ended up sending out three letters, one to the Association of Architects, one to the Association of Professional Engineers and Geoscientists, and one to the Association of Manitoba Land Surveyors.

I received two responses back. The first one was, of course, from David Ennis, indicating to myself that he wanted to meet, as he has on other occasions. It is always a great pleasure meeting with him. That was on May 27. On May 18, I received a letter from the architects' association and, at first blush, I was not clear quite what the difficulties were, so I decided I would give a phone call because there was an invitation for them to come and meet with myself, which they then did on June 1.

To my horror, I understood that they had not seen the legislation, had not been informed on the legislation, nor been consulted. I promptly went to my caucus and spoke to my leader. I said to the caucus members I think we have a problem with Bill 45. Proper consultation was not given, and there seems to be a problem with one group or the other.

I was always very clear, it was not that we had a problem with Bill 45. However, if there are groups

out there that should have been consulted by the government, not by other groups, by the government, by the minister, that clearly we should look at this a little bit more. We did more investigating and found out that there were in fact real problems from stakeholders in regard to Bill 45.

We understand that September 2003 this process started. I find it incredible that in 10 months not once would a minister have thought to have contacted one of the stakeholders. That is just amazing to this committee. It is just preposterous that somehow that would have escaped the minister's attention.

We sat at committee tonight and lived through something that I am still very, very uncomfortable with. It is unfortunate what took place happened. We extended to the minister the opportunity that the committee would recess for 15 minutes to allow perhaps the minister to meet her staff.

I know the Minister of Energy, Science and Technology (Mr. Sale) finds all of this laughable, as does the Minister of Health (Mr. Chomiak). This is all witty and funny to them. It is not witty and funny to the committee, not at all. This is just unbelievable that ministers of the Crown sit here and find all of this to be a big joke. That is really unfortunate. I would ask the Chair to please get her members in order.

**Madam Chairperson:** Mr. Schuler, please continue.

**Mr. Schuler:** I know this is a big joke for members on the opposite side. I take my role very seriously. I will admit, I am passionate about it, but you know what, that is my job. Maybe the ministers do not like the fact that I was doing my job. That might be laughable to you, Minister. I do not take my role as a joke ever. I take it very seriously.

I would appreciate it if you would at least have a little bit of class. If you cannot handle what is being said, I mean, go to another committee, but I want it very clear for the record that this was unnecessary, what happened here today. It took 10 months to get this government to a point where something was settled in what seems to be 15 or 20 minutes out in a hallway.

You are kidding. That is an absolute disgrace that we had to sit through a committee and see two professional organizations of high standing in this

province carve each other up in front of a committee, when it took 20 minutes to solve the issue out in the hallway.

That is just appalling that a minister fell down so flat in her duties, a government fell flat, and this government should apologize to both of these professional organizations—

**Madam Chairperson:** Okay. Whoa. You know what? I am going to ask a question. I am going to ask a question that the committee please send their remarks through the Chair. That is going to be my request here. I am going to handle this committee with dignity and with respect. I would ask that all comments go through the Chair. Thank you. Please proceed, Mr. Schuler.

**Mr. Schuler:** Certainly, Madam Chair. I will put all my comments through the Chair. Maybe you should also point out that the only one who should be making comments right now is the person who has the floor, and that is the official Labour critic. The other members of the committee should be listening with better respect.

**Madam Chairperson:** Mr. Schuler, the comments were meant for everyone, not just for you. So, please proceed.

**Mr. Schuler:** Do not play partisanship with the Chair, Madam Chair.

**An Honourable Member:** I do not think he has anything else to say, Madam Chair.

**Mr. Schuler:** I am—

**Madam Chairperson:** You know what? Please, I am going to ask that I recognize the person who is speaking. At this point, it is the critic who is speaking, so please proceed, Mr. Schuler.

**Mr. Schuler:** I think it is appalling that it took 10 months to get to a point where 20 minutes would have solved it if the minister would have been doing her job.

We will now let this proceed to go to amendments and I, of course, would like to see it as the official critic under the assumption that there will be agreement and then we will go from there. But what we have lived through here tonight is



absolutely disgraceful and it is a blemish on the Doer government. It is a shame that we had to see two professional organizations go at it like this before a government would actually stand up and involve itself and deal with the issue. It is very, very unfortunate. The only heroes here tonight are the individuals who actually had the grace and the dignity to compromise and come up with some kind of agreement so we could stop all this embarrassment here at this committee.

I look forward to seeing the amendment and I compliment both organizations for having the wherewithal to put aside the things that were said, for the hurts and all the rest of it. I congratulate them for actually having agreed so that this could go on and the bloodletting could stop. With that I look forward to seeing the amendment that was agreed to.

**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.

Clause 1—pass. Shall clause 2 pass?

**Ms. Allan:** I have an amendment. I move—

**Madam Chairperson:** Please proceed.

**Ms. Allan:** Thank you. I move

*THAT the proposed section 3, as set out in Clause 2 of the Bill, be amended by replacing everything after clause (a) with the following:*

(b) promote and increase, by all lawful means and in the public interest, the knowledge, skill and competency of its members and students in all things relating to the professions of engineering and geoscience; and

(c) advocate where the public interest is at risk.

\* (23:20)

**Madam Chairperson:** I just have to move this into the record first, Mr. Schuler.

It has been moved by Honourable Minister Allan that Bill 45 be amended as follows:

*THAT the proposed section 3, as set out in Clause 2 of the Bill, be amended by replacing everything after clause (a) with the following—*

**An Honourable Member:** Dispense.

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

**Mr. Schuler:** First, I would like to ask the minister if she could explain the rationale for the amendment.

**Ms. Allan:** The amendment was an agreement between the two organizations around the discrepancy around the word "promotion." So this amendment has been agreed to by both parties in regard to the word "promotion."

**Mr. Schuler:** I take it by that she means that both the architects and the engineers and the geoscientific associations have seen this particular text and that they agree to it. Would that be correct?

**Ms. Allan:** That is correct.

**Mr. David Faurshou (Portage la Prairie):** In regard to the proposed amendment, are we looking at clause 2 or clause 3 being amended? I believe we are discussing the amendments to clause 2, and I think we should be discussing section 2—

**An Honourable Member:** Section 3.

**Madam Chairperson:** Just a moment. For clarification it is clause 2, section 3 that we are discussing. We have not moved clause 3. It is late at night, and we are all doing great. Are there any other members wishing to speak to the amendment?

Is the committee ready for the question?

**An Honourable Member:** Question.

**Mr. Schuler:** Thank you very much, Madam Chair, and, again, I would like to say to the two organizations that this committee certainly appreciates the fact that they were willing to compromise

and come to this point and agree on an amendment. I am sure it probably does not make either of them ecstatic, but at least it allows this bill to proceed forward and move on and perhaps put some of the bitterness of this evening's event behind us. I thank both of the organizations.

**Madam Chairperson:** Seeing no other comments, is it agreed to put the question before the committee?  
[Agreed]

The question before the committee is the amendment moved by Honourable Minister Allan which reads as follows—

**An Honourable Member:** Dispense.

**Madam Chairperson:** Dispense.

Amendment—pass; clause 2 as amended—pass; clause 3—pass. Shall clause 4 pass?

**An Honourable Member:** No.

Is there amendment to clause 4?

**Ms. Allan:** *THAT the proposed Clause 4 of the Bill, be amended:*

*(a) by replacing Clause 4(1) with the following:*

*4(1) The following is added after clause 12(1)(z):*

(z.1) establishing and governing bursaries, loans, awards and other educational incentives or programs related to engineering and geoscience;

(z.2) respecting providing financial or other assistance to persons for the purpose of furthering the public interest;

(z.3) respecting public risk advocacy by the association;

(z.4) regulating the association's partners having purposes consistent with those of the association;

*(b) in Clause 4(2), by striking out " operation and well-being" and substituting "and operation".*

**Madam Chairperson:** It has been moved by Honourable Minister Allan

THAT Bill 45 be amended as follows—

**Some Honourable Members:** Dispense.

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

**Mr. Schuler:** Again, I take it that both the Association of Professional Engineers and Geoscientists and the Manitoba Association of Architects have both agreed to this amendment?

**Ms. Allan:** That is correct.

**Mr. Schuler:** Again, I would like to commend both organizations for agreeing to this amendment.

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

Seeing none, 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 Allan, which reads as follows:

**Some Honourable Members:** Dispense.

**Madam Chairperson:** Dispense. Amendment—pass; clause 4, as amended—pass; clause 5—pass;

**Mr. Faurshou:** I would like to ask the minister, in light of the passage of the amended clauses of this bill, has the litmus test been given to other professional legislation that gives the powers of regulation to whatever profession in the province, whether it be an accountant, or whether it be a physiotherapist? Does the language of this bill draw into question other professions? Will all other professions now be using the text of this bill to come forward for amendments to their professional acts? Have these questions been thoroughly vetted before we pass this legislation, whether or not the broader nature of the precedent which we set tonight, has it been discussed adequately?

**Ms. Allan:** Well, we drafted this legislation with the advice of Legislative Counsel in regard to that particular regulating body. We do not believe that this particular piece of legislation will have any impact on any other regulating bodies.

**Mr. Faurschou:** I guess the test of time will effectively prove one out, but I do have concerns that at 11:30 p.m., with less than 24 hours before the agreed adjournment of this session, that we are bringing in legislation that it has been implied by legal counsel here this evening that indeed text of this nature will have impact on other professional bodies and how their governance acts have potential for amendment. I believe that there should be further study into this prior to the passage of this bill. So, I leave those concerns at this point for consideration.

**Madam Chairperson:** Seeing no other questions, Clause 5—pass; enacting clause—

**Mr. Schuler:** I would like to ask the minister. She made some commitments here tonight that she would meet with the architects' association, and there were a lot of issues and concerns that were raised here. Can we see some kind of commitment from the

minister that not just will the issues and concerns be raised, but also that you will live up to her agreement to meet with the architects and, for that matter, with the engineers and professional geoscientists association?

**Ms. Allan:** Well, I have an open-door policy and meet with all organizations that want to meet with me.

**Madam Chairperson:** Seeing no other questions, enacting clause—pass; title—pass. Bill as amended be reported.

The hour being 11:30, what is the will of the committee?

**An Honourable Member:** Stay.

**Madam Chairperson:** Mrs. Driedger would like to stay.

Committee rise. Thank you very much for your hard work.

**COMMITTEE ROSE AT:** 11:33 p.m.