Legislative Assembly of Manitoba

STANDING COMMITTEE

ON

LAW AMENDMENTS

Chairman

Mr. J. Wally McKenzie
Constituency of Roblin

Wednesday, July 19, 1978 8:00 p.m.

Printed by P.N. Crosbie — Queen's Printer for the Province of Manitoba

Hearing Of The Standing Committee
On
Law Amendments

Wednesday, July 19, 1978

Time: 8:00 p.m.

CHAIRMAN: Mr. J. Wally McKenzie.

MR. CHAIRMAN: Committee come to order. We have a quorum. I call Mr. Joey Cyr or Linda Gouriluk, University of Manitoba Students' Union. I'm sorry. Mr. Joey Cyr, or Linda Gouriluk of the University of Manitoba Students' Union — they were here this afternoon and were not heard. —(Interjection)— Okay.

Then I call Grant Wichenko.

Bill No. 62, An Act to Amend The Rent Stabilization Act.

Order please. Are you ready to hear Mr. Wichenko? Carry on, sir.

MR. GRANT WICHENKO: Thank you, Mr. Chairman. My name is Grant Wichenko. I am speaking as a private citizen. I am concerned about this bill. Mr. Chairman, I am opposed to the removal of rent controls at this time, and this bill legislates an end to controls, and therefore I am compelled to voice my concerns on this bill.

Contrary to what the Minister said in the Tribune recently, controls are directly related to the supply of housing. If the supply of housing were adequate, there would be no need for controls. Controls simply prevent landlords from rent gouging in the short term. One must rely on other mechanisms to ensure that adequate housing is in place.

Since it is clear that adequate housing supply is a necessary prerequisite for the removal of controls, and since it is also clear that the government wishes to remove controls, I want to spend a few minutes discussing what is being done to augment the supply of moderately priced housing in Manitoba.

First, the City of Winnipeg. Mr. Chairman, the City of Winnipeg has had a standing offer for a million dollars for the non-profit housing corporation for almost a year and no money has been used. I believe your government is still honouring that request. The City has committed $100,000 over five years, or a mere $20,000 a year for housing. They have yet to pass any decent housing conservation legislation, so that good housing continues to be demolished.

The Provincial Government. The province has curtailed its direct construction programs — I refer specifically to Section 43 — and to my knowledge, the government has given no consideration to leasing its inner city land that it does not want to build upon to non-profit or co-op groups.

The Federal Government has decided also to curtail funding of Section 43, and contrary to the advice of the Hellyer Task Force Commission, the Federal Government has embarked on a program of subsidizing interest rates as a mechanism for increasing housing supply.

Mr. Chairman, the ARP program as well, the Assisted Rental Program, has been shown to not be working very effectively to provide moderately priced housing. I refer the members to Pages 210, 211 of the Rent Stabilization Board Study of the government.

My point is, Mr. Chairman, is that no government is responding to the challenge of directly increasing the supply of moderately priced housing, therefore I question the wisdom of removing controls at this time.

I would now like to discuss the Controls Program itself. What are the effects of the program? Well, our first point on the program itself, according to the media reports of the government's own study: "There is no real urgency to remove controls, since the negative effects of rent controls are not evident and will not happen for several years."

Mr. Chairman, the Manitoba Controls Program is based on a cost-pass through system, so that current landlord profits are maintained. There is also a provision within the regulations for hardship cases, whereby landlords in financial difficulty can receive extra increases if they can be justified. No one is asking landlords to absorb costs that are legitimate, the Controls Program simply prevents rent gouging.

The landlords complained that utilities costs have gone up ten percent, therefore rents must go

up ten percent. The cost of utilities may rise ten percent, but utilities may only make up 15 percent of the landlord's costs, therefore, utilities contribute to a 1.5 percent increase in rent.

Mr. Chairman, I assume that the figure of six percent, or five percent, or five and one-half percent is based on a fair estimate of increases of various costs and the relative weights of each. Landlords whose costs vary from that formula can appeal to the Rent Stabilization Board. One index of hardship of controls on landlords is the nuer who have applied to increase the rents above the guidelines. I seem to recall that in Phases I and II about 1,000 landlords representing about 25,000 units applied for increases above the guidelines. That's about 20 to 25 percent of the rental housing stock, therefore, it is probably I think fair to conclude that 75 percent of the landlords accepted the permitted increases that they were given under the Phase I and Phase II periods. There are similar figures in the Rent Stabilization Board's evaluation on Phase III. In the absence of controls, Mr. Chairman, many of these landlords would have increased the rents substantially above the guidelines.

I'd like to offer my comments on the proposed bill. As I said before, there is no need to remove controls. According to media reports of the unofficial government report on rent controls, only by continuing rent control, and by providing more rental units, one can prevent a large and inequitable redistribution of income from taking place. Therefore, controls must stay on until the housing supply is increased.

However, in order to discuss this bill properly, we must have a copy of the revised regulations. When the Minister says he is going to provide relief to landlords, is he going to allow generous but unnecessary refinancing of the buildings as an allowable cost? This action, Mr. Chairman, will penalize smaller landlords. The regulation has determined the allowable increases once a landlord has appealed, and therefore they are necessary and an integral part of the discussion of this bill we have before us.

Nevertheless, I would like to voice my concerns on specific clauses in the bill. First one, 15(1) Removal of Exemption — Tenants must apply to contest an Exemption Order by April 1, 1979. I would like to know what provision is being made to ensure that tenants know of their rights. I would suggest, for example, that a pamphlet advising tenants of their rights be dropped in all rental premises.

Also, there is an interesting section, again the same section, where it says: "If a landlord has failed to comply or if it is satisfied that the landlord has failed to comply, it says that the board may order an exemption to be not granted." That really should say "shall", Mr. Chairman, that is in my opinion.

15.2(4) Subletting: Tenants who are students who sublet their apartments during the summer will return home to find that their apartments have been decontrolled. Mr. Chairman, this is unfair and unnecessary. Again, Mr. Chairman, let the landlords justify the increase.

Section 21.1(1) Payment to Rentalsman: This Section disturbs me. I am no lawyer but the way I read this Section, a landlord can request an increase of 20 percent. The Rent Review officer can order the tenant to pay that 20 percent and in some cases the tenant will not be able to pay and is forced to leave. The suite is then automatically decontrolled.

I am especially concerned with this, with possible abuses, given the fact that Sid Silverman, in an article in the Free Press, June 30th, urged his members to triple rent increases. Tripling a rent increase of 6 percent means roughly close to 20 percent. Mr. Chairman, this Section should be deleted or there should be a maximum on the order, for example, 25 percent of income.

Section 28.1, subsections (1) through (4), these sections, Mr. Chairman, should be changed from "may order," "may request," to "shall." If a landlord is found breaking the law, or if the Rent Stabilization Board has determined that the rent is unfair, it should order that the mediation take place. I fail to see the point of spending taxpayers' money on a hearing if no decision is rendered or if no action is taken.

Finally, — oh, two more — 31.1(1) Board to Monitor Rents: Mr. Chairman, this clause is admirable but it lacks teeth. To fulfill this clause, all the board has to do is to collect two rents from two parts of the province and not publish the results. Mr. Chairman, the only way to monitor the effectiveness of your decontrol program is to collect rents from all suites whose rents exceed the guidelines. The landlord should be required to send in those increases as a matter of course, and the board should be required to file a semi-annual report with the Legislature.

Finally, Section 35.1(1) Information Confidential: This was raised in a previous discussion and Mr. Tallin had ruled that the information could be given, or access to the information could be given to landlords and tenants and their respective agents or counsel, however, I really feel that there should be an extra clause stating something to the effect that this in no way inhibits the right of tenants and landlords and their respective counsel to access to the information of the case in question.

Finally, Mr. Chairman, the government has provided no rationale to decontrol. It has provided no corresponding measures to augment the supply of moderately priced housing. A representative from HUDAM said today that they could not really increase the supply of housing without some

form of government assistance, and given the fact that the existing legislation protects the current profits of landlords, and that it compensates landlords in cases of hardship, I see no justification for removing controls at this time.

Thank you very much.

MR. CHAIRMAN: Thank you, Mr. Wichenko. Are there any questions of the witness? I thank you, Mr. Wichenko.

I call Vic Savino, representing the Law Union.

MR. VIC SAVINO: . . . previous involvements with the Rent Stabilization Board, and the Rent Stabilization Program in this province. I have come to this committee, Mr. Chairman and members of the committee, as an interested member of the community, interested in this particular piece of legislation, because as a Legal Aid lawyer, I had considerable involvement with this legislation, and I had considerable involvement with the low income tenants who this legislation is providing protection for. And the legislation that is now before the House, I submit, is going to remove that protection, and it is these people, the low income people, the weakest people in our society, who are going to suffer by the introduction and the passage of Bill 62 by this House.

Before I get into the main part of my presentation, I want to make it perfectly clear that I am appearing this evening as a private citizen. I am not being paid by the government to represent anybody, and I am not collecting unemployment insurance.

MR. WILSON: Hear, hear. It's about time.

MR. SAVINO: Thank you, Mr. Wilson.

MR. BOYCE: Mr. Chairman, I think that is most uncalled for on the part of the Member for Wolseley.

MR. CHAIRMAN: The Honourable Member for Winnipeg Centre.

MR. BOYCE: Well, Mr. Chairman, I'm not going to make a point of it, because it isn't on the record, and Mr. Wilson isn't speaking into a microphone.

MR. CHAIRMAN: Does the Honourable Member for Winnipeg Centre have a point of order, or a point of privilege? Carry on, Mr. Savino.

MR. SAVINO: Thank you, Mr. Chairman. As I was suggesting, I believe that the passing of this legislation is a sad day for the tenants of Manitoba, particularly the low income tenants of Manitoba. I believe that this legislation is unnecessary, and I believe that it's irresponsible. It's irresponsible because there is a major housing crisis in this province at this time, particularly in the City of Winnipeg. I understand that the Conservative caucus is not convinced that there is a housing crisis in this province, and I understand that the Premier is not convinced that there is a housing crisis in this province.

I would point out to Mr. Lyon, that if he doesn't believe that a housing crisis exists in this province, as he walks out the door, I should point out that I have a client who is a constituent of Mr. Lyon's, who had his mortgage foreclosed on his home, and he has a wife and five children. This man was evicted from his home last month because he couldn't make the payments on his mortgage and he's been unemployed for eight months and he has a wife and five children, a family of seven. He had no place to go; there was no housing for low-income families of seven available. He was told that he would have to wait for three to four months. Now this is one of Mr. Lyon's own constituents and if Mr. Lyon wants to know about the housing crisis, I suggest he speak to constituents such as that.

MR. CHAIRMAN: Mr. Savino, would you confine your remarks as close as you can to the bill that's before us, if possible.

MR. SAVINO: I'm just coming to that, Mr. Chairman. I would like to suggest again that this is no time to remove rent controls in this province and I have pointed out that case as one example of the housing crisis in this province. There is absolutely no rationale for the removal of controls or, as the government prefers to call it, decontrol, at this time. The only rationale I have been able to discern is a political one, the rationale of giving into the landlord, land speculator, and land investor lobby in this province, a lobby which I have reason to believe is rather substantial in the Progressive Conservative Party of Manitoba. For instance, one of the categories of decontrol is those buildings

built after 1973. The old bill exempted buildings after 1976. Now why? Why in the name of everyprogram, knows that the way it operates is that landlords are required to submit expenses for a whole building for a whole year. Income and expenses are reviewed and an order is made to allow the landlord to recover his allowable expenses under the regulations for the entire building. The rent increase is then applied equally to all suites in the building. Now what is the rent review officer going to do with a building that has 80 suites that are controlled and 20 suites that are decontrolled? Do the uncontrolled tenants subsidize the controlled ones or vice-versa? Or is the uncontrolled rent even counted as income for the landlord for that particular building? That is, I believe, gentlemen, a major weakness with this legislation. You're making it impossible for the people that administer it to administer it. At the same time, you are reducing the staff that you make available to administer it.

Now one of the major weaknesses in the legislation and the policy at this time, I was pointing out the regulations and how the program is administered, well, at this point in time, it's the third week in July, we still don't have regulations for the 1979 Phase IV of this Rent Control Program. We don't know what costs can be passed through and how they can be passed through. As I pointed out, we don't know what's going to happen to the building that's partly controlled and partly decontrolled. Now landlords have already had to give under the law their rent increase notices this month. The tenants don't know, the landlords don't know, what the administration of the program is going to be, what the regulations are going to allow. I say that without this legislation, without the regulations, I should say, this legislation, Bill 62, and the 6 percent announcement are a sham. Nothing but a sham, for anyone who knows anything about the administration of the program, knows that the key provisions are not the sections of the Act itself but the regulations. The Act simply states, with respect to getting your rent increases, that you can only get what's allowed by the regulations and we still don't know what those regulations are. You can say 6 percent, Mr. McGill, but 6 percent of what? What are you going to allow to be passed through? Mortgage interest? Are you going to allow repairs to be capitalized over one year instead of ten years? When are we going to find out these things?

If I may turn now to the legislation itself, I would like to pass some comment on some of the particular sections of the Act. I recall there was some discussion back in December about a certain piece of the previous government's legislation that was referred to as a "dog's breakfast." Well, gentlemen, I have studied this legislation and such a dog's breakfast I have never seen.

Section 30.1 states to the effect that notwithstanding the time for an appeal of a determination or order of a rent review officer under Section 26 has expired, the landlord can make an application for review and reassessment of that order. Now, review and reassessment of what? The way that Section reads now you can go all the way back to Phase I. If your property is reassessed, you can go right back to Phase I and have all of those orders reviewed. That is the way the legislation reads, gentlemen, and I would submit that if you are going to put such a clause in that you should put a time limitmm on how far the Rent Review Board can go back to overturn previous decisions on which appeal time has run out.

Section 30.1(2), an application to extend a time for refund can be made by the landlord. This Section, I submit, is a bit sloppy. It appears to mean that there is only an extension of time, but the first part of the section appears to allow a review of the actual determination, not just an extension of time to pay the rebates. I suggest that that section needs a little cleaning up.

Section 31.1 — Collecting information from landlords and monitoring rents. Now, there's some question in my mind on reading that section, whether the rents you are monitoring are all the rents in the province, or just the uncontrolled rents. I'd suggest you take a look at that.

But, all that aside, I would say that this section itself is also a sham, because there is no reporting requirement. There is nowhere in that section that anybody has to report to anybody; there is no requirement to report to the Legislature; there is no requirement to report to the public; there is no requirement to report to anybody. And besides that, there is no staff. Part of the complaint of the previous Vice-Chairman of the program, in terms of monitoring rents in the province, was that they didn't have sufficient staff. Now, this government has reduced the staff of the Rent Review Board by 30 percent, and now extended its mandate very loosely, through this section, without stating that it's required to report to anybody, and the staff continues to be reduced.

Another section, gentlemen, which I find a little difficult, is Section 21.1, sub (1), which allows payment to the Rentalsman before any hearing. Now, if you read that section, it appears that what the Rentalsman is supposed to do, is to order whatever the landlord asks to be paid by the tenant to the Rentalsman. Now, if I were a landlord, I would ask for the moon. And if you're on fixed income, and you get a $30 or $40 increase notice from your landlord, and then you are ordered to pay to the Rentalsman, what if you don't have that income? Is the Welfare Department going to pay that income? Are the unemployment rates going to go up? I suggest to you that this will assist in the so-called voluntary de-control phase of de-control, that landlords can ask for as much as they want, and the order will be made to pay to the Rentalsman, and people will have to move,

because they can't afford it.

There should be, I submit, some amendment to that section, or some regulation putting an allowable limit on what can be ordered by the Rentalsman, what amount of rent can be ordered by the Rentalsman. There should be some unconscionable limit to that, and I would suggest that you might look to the CMHC guidelines for rent to income.

MR. PAWLEY: . . . some members that would like to listen to the submitter can hear?

MR. CHAIRMAN: Order. Would the honourable members please listen to the witness and confine their remarks to questioning him after we have heard his presentation. Carry on, Mr. Savino.

MR. SAVINO: Thank you, Mr. Chairman. Now, another interesting section, one that I find interesting, is Section 28.1, sub (2), sub (d). And I point particularly to (d), because that is a very interesting section, given the previous administration of the program. Section 28, as you are probably aware, deals with requests to mediate fair and equitable rent in suites that have been decontrolled and the tenant complains that the increase is too high. In such a case, the section requires the Rent Review officer to give a full written report to the Board. And Section (d) states, if he is determined that the rent required by the landlord to be paid for the residential premises is not fair and equitable, he must state his reasons for the determination.

Now, I have been asking the administrators of the Rent Review Board — and I think I wrote to the Minister about this on one occasion — why Rent Review officers and the Rent Review Board, when it makes decisions, are not required to give written reasons for their decisions. And this is an argument that's been going on for a long time in administrative law, how accountable are administrators of this kind of legislation for the decisions that they make, and do they have to give the reasons for why they make the decisions that they make.?

And this is very important, because landlords and tenants are depending on the decisions of this body, and if you have a body that's allowed to just make a decision on whatever basis it wants to — and it doesn't have to give reasons for making those decisions — how are tenants going to know, or how are landlords going to know, if they take something to the Rent Review Board, whether they're going to win or lose? And I would suggest that failing to require them to give written reasons is litigious — it will cause much more litigation — many more appeals than may be necessary. Because if people know that a certain point has been decided by the Board, and they decided it this way, they might not appeal, either landlords or tenants. I would suggest if you are going to require a Rent Review officer to give reasons in one of the enquiries, you should require Rent Review officers and the Rent Review Board to give reasons for every major decision which they make.

Now, Section 30.1, sub (2): I mentioned that earlier, but I want to mention another point about it. That's the one that says that the Board can extend the time that landlords have — it's a 30-day requirement and then they can extend it beyond 30 days — for refunds, or rebates to tenants. Unfortunately, there's no power in this section to order interest. Now, there are over $1 million of rebates owing at the present time to tenants in this province, and that's been outstanding for some time. And these tenants are not being paid interest on this money. I would suggest that that section, if you're going to give landlords longer than 30 days to pay, they should have to pay interest, because tenants certainly have to pay interest when they borrow money for periods of longer than 30 days.

Now, gentlemen, I come to the clause, the section of the bill which I believe makes the entire process futile and useless for tenants, and that is, Section 35.1 sub (1), which is clearly an absolute prohibition on Rent Review officers and members of the Rent Review Board, and employees of the Rent Review Agency, it's a prohibition to communicate information that is obtained through the exercise of their responsibilities. Now, in Phase III of the program, the entire file of the Rent Review officer was made available as a policy decision of the Rent Review Board. It was made available to tenants who were opposing increases. And this was a policy decision which the Board made on the basis of making it fair for both landlords and tenants. Now, we have a piece of legislation which says the Rent Review Board, the Rent Review officer, an employee of the Board — nobody can communicate any information that's in that file, except to people who are responsible for the administration of legislation. Exception No. (a): Communication of information with consent. Release of information with consent, and release of statistical information not identifying names and places.

Now, I understand that this point was raised earlier today, and that the Honourable Attorney-General suggested that Section 35.1 (2)(a), Legislative Counsel, suggested that 1(2)(a) might give the tenant some access, but I would like to read the section closely. e "The communication of information by the Board or official of the Board to persons charged with the administration of any act of the Legislature or any statute of Canada that relates to the leasing of the residential premises." Now, tenants are not persons charged with the administration of legislation. I suggest

to you gentlemen, the effect of this section is to make hearings and appeals a totally futile exercise for tenants. They are not entitled to the information.

It is a fruitless appeal, or a fruitless hearing; if you don't have the information, how are you going to make any arguments? And I would suggest first of all, that there is absolutely no need for this section, that the Rent Review Board has been operating under a policy of parties to the proceedings having access to all the information in order that parties to the proceedings on both sides get a fair hearing. And I suggest that the effect of this section is to make sure that tenants never receive a fair hearing, that landlords do not have to communicate anything, and if I were advising a landlord who was making applications to the Rent Review Board for increases, I would tell him, make sure when you send in your application, you send a letter stating, "pursuant to Section 35.1 of The Rent Stabilization Act, none of this information is to be communicated to anybody except members of the Board." And I don't care what Legislative Counsel said; I just read the section to you. That section, as it now stands, means that tenants have no access to information.

Now, I suggest that this may not be intentional on the part of the government or the caucus, in passing this section, but the effect will be to cover up a lot of the abuses that occur at the Rent Review Board. And I've had some experience with the Rent Review Board, and I want to relate to you now some of the abuses that I have experienced. And I want to do this because this legislation does not cover any of these abuses, nor do the regulations cover any of these abuses. And they are abuses which I think have to be covered if this program is going to give the appearance of any justice to tenants in the Province of Manitoba.

MR. CHAIAN: Mr. Savino, you have five minutes left.

MR. SAVINO: Thank you, Mr. Chairman. Now, in the present administration of the program, I want to draw you a quick picture of a major Winnipeg landlord with considerable influence in the community, considerable investments in the real estate market, who sets himself up in a vertically integrated corporate structure. And by vertically integrated corporate structure, what I mean is a landlord who — or at least a group of people who establish a land ownership corporation, or several land ownership corporations, together with a management and rental corporation, together with a repair-maintenance kind of corporation. Now, you've got three separate corporations, but look behind the corporate veil, go down to the Consumer and Corporate Branch, and you see that the directors are all the same, all the same people. Now, this particular landlord owns at least 19 very large apartment buildings in this city that are fairly modern buildings. Now, in all of these buildings, in the administration of the program in the last six months or so, there were a number of curious decisions made by a Rent Review officer. And it was the same Rent Review officer who made all the decisions, and this gentleman occupied a primarily administrative and supervisory position, and normally didn't sit on cases himself. However, he heard every case involving this landlord that I described to you, and in every case that he heard he allowed what is called equalization of rents.

Now, let me just briefly explain what I mean by that. Under the administration of the program for the last three years, rent increases have been allowed to pass through the tenants as a percentage of the rent that they were paying at the time the program started. Now, in some buildings that meant that people in one bedroom, some of them would be paying m, 150 at the beginning of the progra some would be paying 175. The 150 person, that was his base rent; it was 10 percent on top of that, 8 percent and 7 percent on top of his 150. The 175 person, it was 10, 8, and 7 on top of that. Now, what this Rent Review officer did in these several cases was to allow equalization. In other words, for all one bedrooms, the rent was allowed to raise to such-and-such a figure — a dollar figure, not a percentage figure — which resulted in many tenants in these buildings getting increases as large as 50 and 60 percent. Now, these decisions were made by only one Rent Review officer; they were made with respect to only one landlord, and the effect was to go contrary to a policy that had been established by the Rent Review Board for the last three years. Every landlord in the province had been asking for this kind of treatment, and this was the only one who received it.

Now, I don't know why this landlord received the treatment that he did. Equalization had never been allowed before. It had always been refused because among other things, it resulted in unequal treatment of tenants in the same building.

Now, as a result of these decisions, several appeals were launched from the Rent Review officer to the Rent Review Board, and when those appeals were launched, some of them were dropped. Not all of them went finally to Appeal, and in my consultations with people who were representing people on these appeals, I learned that the particular landlord in question had bought off the appellants. He bought off the appellants. And what I mean by that is that he would say, "Listen, we'll keep you at last year's rent if you drop your appeal." Now, everybody else in the building had been equalized, right? But if somebody appealed, buy him off — there's no appeal, the order

stands for the whole building. Now, I can tell you from personal experience that this happened, because it's happened to a client of mine, in an appeal before the Rent Review Board. And I pointed it out to the Rent Review Board at that time, that this kind of practice reminds me a lot of the sweetheart deals that are famous in some union negotiating, and defeats the whole purpose of the program. And I think that something has to be done about that kind of an abuse; that kind of conduct should not be allowed, that conduct should be prohibited in this legislation.

MR. CHAIRMAN: Mr. Savino, I'll have to call you to order. There's a motion of 30 minutes, unless I have leave from the Committee for you to continue with your deliberations. —(Interjection)—

Then, Mr. Savino, before we get to the questioning, I think that — in the memo that I have before me, that you are representing the Law Union. Did I hear you correctly when you made your presentation, did you say you were speaking for yourself and not the Law Union, for the record?

MR. SAVINO: Well, I am speaking also on behalf of the Law Union, but I am speaking as a private citizen, not as an employee of anybody.

MR. CHAIRMAN: Just for the record. I thank you, sir. Thank you for your presentation, and questions. Mr. Wilson.

MR. ROBERT G. WILSON: Yes, I first wanted an explanation of what the Law Union was. I agree with several points, or at least commend Mr. Savino for drawing them to my attention in that the paying of interest might be an interesting amendment or possible examination in the future for this thing. But I kind of felt that Mr. Savino, in his very excellent manner — and he may want to comment on this — was exaggerating. I wanted to deal with him in no specific order, but he talked about the 30 percent reduction in staff, which may or may not be true, and then he said, "We are actively or continuing to reduce the staff," and I wanted to know if Mr. Savino, who certainly should know, is aware of the fact that we are actually just doing conversely the opposite and that we are increasing the staff; we are actually actively hiring people. ould Mr. Savino consider this new information positive information, or would he dispute my fact?

MR. SAVINO: I would certainly consider it to be positive, Mr. Wilson. I must admit I have been out of this town for the last couple of days and I haven't heard the news about any increase in staff, but if that is happening I commend the government for that move. I think there is going to have to be a large increase in staff if you are going to monitor rents and administer this incredibly complex program that you are introducing.

MR. CHAIRMAN: Mr. Axworthy, on a point of privilege.

MR. LLOYD AXWORTHY: Mr. Chairman, I want to raise a matter of privilege in the House. The point of privilege is this, that on several occasions members of the House have asked the Minister of Consumer Affairs on the staffing question, complaining or raising their concerns about the low level of staffing. We now have an announcement from the Member for Wolseley, who, as far as I know, is not directly associated with the Department of Consumer Affairs, that this staff has now been increased some 30 percent. Mr. Chairman, it strikes me that that is an abuse of the privilege of the House, when that information has been sought and the information has not been forthcoming from the Minister, that any change that has taken place we now receive from an entirely different source. That strikes me as a serious matter of privilege in that we should not be having information passed on this way by indirect means.

MR. CHAIRMAN: Mr. Wilson on the same point of privilege.

MR. WILSON: Yes, Mr. Chairman, I simply am responding to Mr. Savino's comment and, again, I give him credit for the fact that he is presenting his, in my opinion, exaggerated statements, based on his information, that we are continuing to reduce the staff, that we have reduced the staff by 30 percent. My information that I have from prowling around the halls of this particular building and other buildings is that we are actually intending to hire . . .

A MEMBER: Intending.

MR. WILSON: Intending or possibly have hired additional people. So the fact that I am saying to Mr. Savino that his information is out of whack is my challenge to him, and he has welcomed the information that I have told him. If my information is incorrect, then I will stand by it.

MR. CHAIRMAN: Just before we proceed further in a political wrangle around this table, let me assure the Committee that the statements that have been made here have not been by the Minister tonight. The Member for Wolseley has made a statement; it's not a government policy. He is speaking as a Member for Wolseley but he is not espousing policy. The Minister of Consumer and Corporate Affairs, on the same point of privilege. On the same point of privilege, the Honourable Minister. Order please, order. I've got your name; I've got it. Just give me a moment gentlemen. The Honourable Minister.

MR. EDWARD McGILL: Mr. Chairman, I would like to respond to the point of privilege Mr. Axworthy raises. There have been frequent questions in the House about the staffing in the Rent Review Agency.

Now, it has been my response that the staffing is based upon the workload and the caseload, and that when and if needs for increases were indicated by an increase in workload that those would be affected. And that is our position and the anticipation is that there will be an increase of workload and it is anticipated that there will be increases in the staff, and that will take place as soon as the workloads indicate that that is required.

MR. CHAIRMAN: Mr. Axworthy, on the same point of privilege.

MR. AXWORTHY: Well, Mr. Chairman, yes, it is on the point of privilege. I am told now that the Member for Wolseley gets his information from prowling the corridors. —(Interjection)— Well, I knew that.$ Mr. Chairman, I just want to be sure who is hunting whom now, when he is doing the prowling. But in terms of the Minister, the point of privilege I was raising is that considering it was a matter of serious concern on the part of members of the House about the staffing of the Rent Review Agency, I find it an abuse of the privilege that we receive the information in an offhand comment in a Committee Meeting by the Member for Wolseley, who is not the Minister responsible, and that we now find a somewhat vaguer response from the Minister. I think that we should ask for a very clear indication if the government intends to add to the staff, and at what point the staff complement will be, and whether we will be having supplementary Estimates to pay for that program.

MR. CHAIRMAN: I would rule real quick that that's not a point of privilege. The Honourable Member for St. Boniface, on the same point of privilege.

MR. LAURENT L. DESJARDINS: Yes, I have a point of privilege, Mr. Chairman. The questioning in Committees have always been just questions to clarify any of the statements of the people that make representation. Mr. Wilson himself said in response to the gentlemen, and he has agreed with certain things and disagreed in starting a debate. I say to you, Mr. Chairman, that maybe you should nip that in the bud. If not, we might be here another couple of weeks. I think that we have people who are here in this heat to address the Committee and the questions should be limited to clarification issues and then, if there is a debate, it should be the members of this House.

MR. CHAIRMAN: Thank you, Sir. I rule there was no point of privilege at all, ever, at this particular time and if there are any questions of this nature that are to be raised, they can be baited and questioned in the Legislature at another date. We are here tonight to hear members of the Committee.

MR. DESJARDINS: Mr. Chairman, are you saying that my point of order was . . . ?

MR. CHAIRMAN: I said you didn't have a point of privilege, sir.

MR. DESJARDINS: No, I said a point of order.

MR. CHAIRMAN: Oh, I'm sorry, I apologize, on a point of order, yes.

MR. DESJARDINS: Well, are you going to rule on my point of order?

MR. CHAIRMAN: No, I say that on a point of privilege I was speaking of, sir. I apologize on a point of order, yes, you had a point of order. I apologize to the honourable member, because I thought we were dealing with a point of privilege, which was the point up to that time. Proceed, Mr. Wilson.

MR. WILSON: Yes, Mr. Chairman, thank you. I hope that some of my observations in seeking

from Mr. Savino are those of my own personal observations and, again, my methods of investigation, of course, are my own.

I would like to say that Mr. Savino said landlords can ask for what they want. They can ask for the moon. And I would like Mr. Savino possibly to compare that to an auction sale, where the auctioneer asks for the moon and ends up with a lesser particular . . . —(Interjection)— But what I am trying to say, Mr. Chairman, is I am asking Mr. Savino if he would not concede . . .

MR. CHAIRMAN: I draw to the honourable members' attention, please, no prefacing; let's just have straight questions on Bill 62, please. And I want to be very stern to all members of the Committee, because it has been going on all day — prefacing questions. I just ask you would you be kind enough, Mr. Wilson, to ask the witness subsequent questions related to Bill 62, please. So you can proceed.

MR. WILSON: Mr. Savino alluded to the fact that he had a case of a wife and five children, and a gentleman who had missed a mortgage payment and was forced out of their particular home. As a particular member of a Law Union — and I would like him still to explain what that is — would it not be fair to say, Mr. Savino, that many members of the legal profession, including Legal Aid, could possibly, through legal maneuvers, allow that man, wife and five children to stay in that premises for no less than five to eight months without paying any rent, and was your statement not possibly exaggerated?

MR. SAVINO: In answer to your first question, Mr. Wilson, I apologize for not pointing out at the beginning the Law Union and what it stands for. The Law Union is an organization of fairly young lawyers in the Manitoba Bar, some of whom work in government service, some of whom work for Legal Aid, some of whom are in private practice, as I am, who are concerned about our responsibility as lawyers to the public in the areas such as this, in areas that are of great public importance. We don't see the Law Society of Manitoba doing a lot in these areas and we, as younger members of the Bar, feel that lawyers should be contributing more to the process of the bettering of the laws in this province and to assisting those who are less fortunate in problems that they do have in the law. That is basically the reason for the existence of the Law Union.

In response to your second question, I can assure you that the case that I alluded to is based on facts which were brought to my attention after the gentleman in question had been totally foreclosed. The complete foreclosure had taken place before this gentleman got to me and that, I would submit, is one of the problems, that many people end up without legal advice during a foreclosure proceeding and end up out on the street. The point that I was making though was that this gentleman had a housing problem and he's not atypical.

MR. WILSON: Mr. Chairman, Mr. Savino made some very serious charges pertaining to this bill regarding the sham and the dog's breakfast and the scandal, whatever he referred to, and I'd like to talk about — from my point of view it says that a person is entitle to 5.5 percent, 5 percent and 6 percent. In other words, if a person pays for their heat and power, the landlord can only get 5 percent; or 6 percent or 5.5 percent depending . . .

A MEMBER: Question.

MR. WILSON: Well, my question is this, that as a member of this committee, I'm told that these are the percentages that the landlord can exercise and would you suggest, Mr. Savino, that there are so many loopholes in this bill that it's going to be fee-generating for the legal profession and it's possibly going to be a boom for litigation?

MR. SAVINO: I wouldn't suggest that it's going to be fee-generating for the legal profession, Mr. Wilson. I don't see very many members of the legal profession representing low-income tenants at the Rent Review Board and now I'm told that Legal Aid lawyers may not be representing such people.

However, with respect to your question about the 6 percent, the 5 percent and so on, you must remember that this is the minimum allowable amount. Now the statistics show that in Phase I of the original program, thousands of landlords applied for increases above the minimum allowable amount and that's what I mean, those are the significant cases. The only cases that go to rent review officers are those where the landlord asks for more than the minimum allowable amount and I would suggest that there are going to be a heck of a lot of landlords asking for more than the minimum amount as Mr. Silverman probably suggested to you earlier today.

MR. WILSON: Then to close up, are you suggesting then the landlords appear before us and suggest

that they are being treated unfairly by the Rent Review Board, and you are suggesting, together with Mr. Burgess, that the tenants are being treated unfairly by the Rent Review Board. Could I have your comments as to your experience, as to your feeling toward the . . . Is the Rent Review Board, in your opinion, being administered and run properly?

MR. SAVINO: I would say, Mr. Wilson, and I have said to Mrs. Rosenberg and I have said to Mr. McGill, that there are a number of difficulties with the administration of the program, but I would not condemn the Rent Review Board as being incompetent or anything like that. The real problem is that landlords are very clever about finding their way around these regulations and you've got to make the program pretty iron-clad. I was trying to point out that this program is not very iron-clad.

MR. WILSON: Well to close, the horror story that you've mentioned about the corporate jungle and the foreign intrigue pertaining to a case that you had where the landlord had an arm's length corporation that did the repairs to his apartment, would you suggest that these are cases that could not be best given to the local MLA or the local politician, if they do exist, rather than alluding that this is a general practice amongst landlords?

MR. SAVINO: Mr. Wilson, I was not suggesting that it's a general practice among landlords, but I was trying to point out to the committee that this is happening and it affects an awful lot of rental units in this city. What is happening is that the regulations are being obviated quite obviously by the corporate structure that these people use and by the methods that they use and I, unfortunately, was cut off for time because I have several other instances of abuses if committee members would like to hear them.

MR. WILSON: Yes, Mr. Savino, then would you, in a request from myself, document with the Minister the intrigue of the person that owned the 19 blocks and used his influence to . . . It seems to me a very serious charge when you say the same rent review officer dealt with —(Interjection)— It is a question. And I wonder if Mr. Savino could undertake to file with the Minister his suspicions or his concerns pertaining to the general practice of a ruling by this one particular person in favour of an individual.

MR. CHAIRMAN: Order. Mr. Wilson, I can't see that these questions are . . .

MR. SAVINO: Mr. Chairman, I do take that as a question and . . .

MR. CHAIRMAN: . . . that technical. Before you proceed, Mr. Savino may not have to answer the question. We're relating to Bill 62 in trying to help find amendments or suggestions regarding the bill and I had grave doubts about the last question but if you wish to answer it, Mr. Savino, you're at liberty to do so.

MR. SAVINO: Thank you, Mr. Chairman. Mr. Chairman, I do believe it is relevant. What I was trying to point out, and I didn't get through all of the instances of abuses, is that Section 35 will make sure that nobody finds out about these things. Those things will remain dormant in the Rent Review files and the only reason I know about it is because I appealed the case and I acted with other people who appealed other cases. What I'm saying is that this secrecy section is going to cover that all up and we're never going to see it and tenants are never going to know whether the program is being administered fairly or not. the Minister has access to the files of the Rent Review Board and I would indicate that all of what I'm talking about is a matter of public record and it's all in the files of the Rent Review Board, and knowing what I do know — and I didn't get through it all — I would call upon the Minister to conduct an investigation of these abuses and to investigate what is happening and assure tenants in this province that the program is being administered fairly and that these kinds of corporate go-arounds are not making the regulations meaningless for some people. Further, that there is some regulation or legislation passed to cover these abuses. I think that's what is important: the law has to cover these abuses or else they are going to take place.

MR. CHAIRMAN: Mr. Orchard.

MR. ORCHARD: Thank you, Mr. Chairman. Mr. Savino, you mentioned in the latter part of your remarks, an instance where there was rents varying from $150 to $175 per month.

MR. SAVINO: I was just using that as an example.

MR. ORCHARD: Okay. And you mentioned in the case of that example that that particular landlord had got what you called "equalization" on those rents. Now what did you mean by equalization of those rents?

MR. SAVINO: Yes, if I can explain it with an example, Mr. Chairman. You have a building of say some 360 suites and in the building there are 200 one-bedrooms, 100 two-bedrooms and 60 three-bedroom suites. This is not an uncommon configuration for a large apartment building. When the program started in 1976, some occupants of those one-bedrooms might have been paying say $150.00; some occupants of one-bedrooms might have been paying $175.00. The same with two-bedrooms; there might be some variation in rents. There might be a senior citizen in one of those suites who can't afford as much and the landlord might be, you know, charging a little less. Under the administration of the program, the base rent of $150.00 could be increased by the allowable amount or whatever the rent review officer allowed, and let's say he allowed 12 percent in Phase I. Then the $150 would go up 12 percent; the $175 man would also go up 12 percent. The rents were still different. Now what equalization means is bringing all one-bedrooms up to the $175 base and bringing all two-bedrooms up to a common base so that everybody is paying in the same building the same amount for the same suite. That was not allowed under the Rent Review Program for obvious reasons, because you impose controls at a particular point in time and you take people where you find them at that point in time and it would be really unjust — and it was in the cases of these buildings where it was allowed — for somebody who is a senior citizen — and this is a case in one of the buildings — receiving a total income of $600 per month, to see her rent go up from $220 a month to nearly $300 a month, under controls. She was paying 50 percent of her income as a result of that decision for rent.

MR. CHAIRMAN: Mr. Orchard, are you finished?

MR. ORCHARD: Well then there has been a confusion of figures laid out tonight. Now when you mentioned $150 to $175 per month, I thought you had mentioned a one-bedroom apartment which apparently you had, and under your qualification of equalization, you indicated that all the rents went up to the $175 per month figure. Now you also mentioned a 10 percent, 8 percent, 7 percent rent increase.

MR. SAVINO: Well, that was the allowable amount in Phases I, II, and III of the program.

MR. ORCHARD: Right, okay. So now assuming that the rents were all equalized to $175, under equalization, and a 10 percent rent increase was applied, I somehow fail to see where we have got to the figure of 50 to 60 percent that you mentioned. Would you mind clarifying that?

MR. SAVINO: Maybe I should use numbers. Let's say that a tenant is paying $150 for rent in October, 1976, to October, 1977. He's living in a one-bedroom apartment. Now the rent review officer decides that the rent for that apartment is going to be $224 — okay? Because other people that are occupying that kind of an apartment in that building were paying, let's say $195 by the time it's Phase III, October, 1976, to October, 1977, let's say they were paying $195 and , the rent review officer says, "Well, we're going to equalize the rents for all one-bedrooms in the building." Okay? Now, the 150-dollar person at the beginning of rent controls — it was probably somewhere back around $135 — but with equalization he goes from $150 to $224, that's an increase of some $74 which, by my figuring, works out to be pretty close to 50 percent increase.

MR. ORCHARD: Well, Mr. Chairman, all of a sudden we've got a little bit of confusion in the figures offered by Mr. Savino in that we've gone from a rent range of $150 to $175, to $150 to $195, and based at $195 and a rent increase, I assume, of 10 percent, to somewhere around $224, which taking the $150 rent up to $224, gives us a 50 percent increase, but I submit, Mr. Chairman, that in his admission at the start of the brief he dealt only with rents f of $150 to $175 per month, and I couldn't see where he got a 50 percent rent increase. Were you giving us the wrong figures to start with?

MR. SAVINO: No, I'm sorry, I was giving examples of say, where people started in the program. Person A started at $150, person B started at $175. And all I'm suggesting is that by equalization, person A is kicked upstairs to pay the same amount as person B.

MR. ORCHARD: Of $175.00?

MR. SAVINO: Right. In a period in the rent control legislation when it's suppose to be seven percent increase, that person could get a 50 percent increase.

MR. CHAIRMAN: Mr. Parasiuk.

MR. PARASIUK: Mr. Savino, in your comments on Section 21. 1(1) — Order for payment of rent to rentalsmen, you indicated that high rent requests could force tenants on fixed income out of the apartment block and out of controlled apartments. What is the situation at present under the legislation, under the present legislation, how is a rent increase dealt with?

MR. SAVINO: How it's dealt with is this. A landlord is required, under The Landlord and Tenant Act to give three months' notice of an increase. Under the Rent Stablilization Regulations, which we don't know what's going to happen to yet, the landlord is required to give three month's notice to the tenant of any increase that is above the allowable amount in order that the tenant may intervene if he wishes to, to give reasonable notice to the tenant that there is going to be a request made of the Rent Review Board for an increase above the allowable amount. Now the situation now is that the tenant has the option of paying the allowable increase of six percent, on top of what rent he's paying now, and saying, "I'll wait for the decision of the Rent Review officer for the rest."

Under this legislation the tenant does not have that option. The rentalsman orders him to pay what the landlord asks.

MR. PARASIUK: So then what you are implying is that the higher the rent you ask, the more leverage you have in voluntarily vacating apartments in your apartment block.

MR. SAVINO: Absolutely.

MR. PARASIUK: Thank you, Mr. Savino. That was for that point.

When you talked about 30.1(2) — Application to extend time for refund, you indicated that right now there is no interest being paid on rent rebates outstanding.

MR. SAVINO: Not unless the court has ordered it.

MR. PARASIUK: But you also indicate that there is a large amount of money owing on outstanding rebates where people have not gone to court. They just haven't paid yet. Is that correct?

MR. SAVINO: Yes, in fact some of the cases that I was referring you to about equalization, at least three of those went to appeal, and were successfully appealed, and sizeable amounts in rebates was ordered, and to my knowledge has not yet been paid. And there are a number of appeals that have taken place in recent months, and rebates have not been paid — and when I say "appeals", I should make it clear, it's appeals from the rent review officer to the Rent Review Board, a determination of a rent review officer. And there have been several successful appeals, and rebates have not yet been paid.

MR. PARASIUK: Does the Rent Review Board, in those instances of successful appeal, put a time limit on when those rent rebates should be paid?

MR. SAVINO: This has been one of the major problems with the Rent Review Board. They have not been enforcing the rebates. It is very difficult for a tenant to get his rebate. My advice to tenants is to take it off their rent because the Rent Review Board has not been pursuing and enforcing these orders, and that's again where I feel the staff is going to have to be beefed up to enforce orders that are made by the Rent Review Board.

MR. PARASIUK: So what you are indicating to us is that, with respect to rebates, there is insufficient staff to enforce the orders, this is running somewhat contrary to the Minister's statement that there isn't sufficient work, or there isn't sufficient work right now to warrant a staff increase. But from your experience in this area, you find that the staff are not insuring that rebates are paid quickly when ordered?

MR. SAVINO: Yes, that has been my experience, and it's also true though, Mr. Parasiuk, that not that many tenants are complaining to the Rent Review Board, and I suggest that the reason for that is that most of them don't know how it works, and they don't know who they are supposed to call, and there's no education program of the Rent Review Board informing people of what their

rights are. People will get a notice that an order has been made, but that's all they will see.

Now I'm not suggesting that all landlords are not paying their rebates. Most of them, in fact, abide by the orders, but it's taking them some time, and in some cases it's taken several months. In other cases, it has required enforcement.

But, Mr. McGill was probably right about one period of time when there was not enough work for the Rent Review Board, and I feel that that period of time was the period of time during which there was so much doubt and confusion as to what was going on at the Rent Review Board that not many people were going there, and as this new program comes in, I would suggest that by this October, that place is going to be hopping.

MR. PARASIUK: Still on this point, you indicated something in the order of $1 million was outstanding in unpaid rebates. I just want clarification you indicated that in making your statement?

MR. SAVINO: Yes.

MR. PARASIUK: Fine. I will deal with that later with the Minister, because I think he's undertaking to find information. He had previously indicated that $318,000 was outstanding, and I guess that will be up to him to look after.

Mr. Chairman, just on a point of order, this afternoon you were saying that I was speaking too quickly, and now I've tried to slow down so that you could recognize me for the microphone, and now you are trying to . . .

MR. CHAIRMAN: Mr. Parasiuk, I'm watching for your finger to come up.

MR. PARASIUK: Thank you. I think you pointed out a very serious abuse right at the end. I think that is something that to me is scandalous. I'm sorry that the committee did not see fit, in the light of this one very significant abuse that you mention, I'm very sorry that the committee did not see fit, and we require consent, to allow you to indicate what the other abuses are, because if those abuses exist, and you were starting to present evidence to that effect, then what you say about this Act, in terms of it being a sham, what you say about the administration of this Act and the present legislation, is true. And I'm wondering if the committee might not reconsider and allow Mr. Savino the opportunity to take, say ten minutes more, and continue with his presentation of abuses that he has picked up from very direct experience in this area.

MR. CHAIRMAN: Mr. Parasiuk, that matter has already been dealt with by the committee. If you want to raise it you are at liberty to do so, but it has all been raised and settled.

Mr. Axworthy.

MR. PARASIUK: Mr. Chairman, I still have the floor, I believe.

MR. JORGENSON: You'll get all the information you want by simply asking questions, and you know it. It's a phoney point of order.

MR. PARASIUK: To that point of order, Mr. Chairman. I did not raise that as a point of order, I was saying it in passing. I find that the House Leader has said that that is a phoney point of order, I said it in passing. I still have the floor, when I finish this point of order, I believe I still have the floor, I would like to make a formal motion to that effect, because you do not allow an extended presentation through questions and answers.

MR. CHAIRMAN: Well, Mr. Parasiuk, I fail to see you have a point of order, because the committee has already made a ruling.

MR. PARASIUK: I was speaking to his particular point of order, Mr. Chairman. I would like the same ruling for me that you are giving to the House Leader.

MR. CHAIRMAN: Well, I'd like to hear the House Leader's point of order.

MR. JORGENSON: Well, Mr. Chairman, if Mr. Parasiuk is desirous of seeking further information from the witness all he has to do is to ask the questions. He does not have to raise a motion to ask the committee to allow him extended time. He has the extended time simply by responding to questions, why doesn't he ask the questions and get the information he wants. If he has any ingenuity at all he will know how to ask the questions and get the information he wants.

MR. CHAIRMAN: The Honourable Member for St. Boniface.

MR. DESJARDINS: Mr. Chairman, on the point of order. I am rather surprised that the House Leader would invite us to certainly break the intent of the rules. If that was the case, all Mr. Parasiuk has to ask is that, "Would you give me some more examples of abuse," and we'll be here all bloody night. At least Mr. Parasiuk is is putting his cards on the table and saying, well, you know, could we have another ten minutes, but now you are inviting him — the House Leader of all people — is inviting him to break the rules, as far as I'm concerned.

MR. JORGENSON: No, I'm asking you to stay by the rules.

MR. WILSON: On the same point of order, I think it's a very simple case of clusing the questioning by having the member file these examples with members of this committee and/or myself, and/or the member for Transcona, and we'll look into them.

MR. JORGENSON: Just ask the witness the questions that you want to ask him.

MR. CHAIRMAN: Mr. Parasiuk, on the same point of order.
Are you finished with the point of order?

MR. PARASIUK: Yes I am.

MR. CHAIRMAN: I rule again that there was no point of order. Proceed to question the witness.

MR. PARASIUK: Thank you. Mr. Savino, could you please give us the other examples that you were in the process of providing us?

MR. SAVINO: I would be glad to, Mr. Parasiuk. I will be brief, but I want to point out that the examples that I'm giving are with respect to the same vertically integrated landholding corporation that I was discussing earlier, in their dealings with the Rent Review Board, and if it's happening there, I don't know what else is happening beyond those cases. I'm only talking about cases with which I have personal experience.

I would like to point out, for example, larger than necessary projections in cost increases that are submitted by landlords. Now, I have here a worksheet that the Rent Review Board uses, and it sends it out to landlords, it's instructions to landlords on how to make applications to the Rent Review Board, and on it they have Expense Increase Estimates which are based on economic data that the Rent Review Board gets on increases in costs during the year, and it's a little guide to landlords on, you know, roughly how much to project your increases for the next year, given the circumstances that are happening in these certain areas. For example, gas 22 percent, water 21 percent, Hydro 17 percent — which should have been 14.9 — repairs 8 percent. Now the cases that I was involved with with this particular landowner the projections were 100 percent over last year; 100 percent, and that was allowed by the rent review officer.

A larger than necessary projections is one thing, but sort of twisting it a little bit is another.

There were several cases, involving the same landowner, well, I should say only one, because I only have firsthand information on one, and I'm a lawyer and I don't want to talk about hearsay.

In this particular case — and I have no reason to believe that it didn't happen in other cases — but in this particular case, in filing his expense sheet with the Rent Review Board, the landlord claimed a very large amount for taxes, for city taxes, for municipal taxes; and when it went to appeal, and this wasn't picked up at the hearing of the rent review officer, it was only on the appeal to the Rent Review Board, I inquired why this figure was so large, and we discovered that what had happened was that in Phase I the landlord had been given, for example, $100,000 for his taxes for that building. Except, in 1976 he didn't pay his taxes, because it made good business sense to pay the interest on taxes owing, which was only about 6 percent rather than get a mortgage for further investment, so he didn't pay his taxes. 1977 comes around, he submits a tax bill that's double what it was last year, and that's because he didn't pay last year's taxes. Then on top of that he claims a penalty of $50,000 assessed by the municipality against him. These expenses were allowed by the rent review officer in the initial hearing of this particular case.

MR. CHAIRMAN: Mr. Wilson.

MR. WILSON: Mr. Chairman, would the member permit a point of clarification.

MR. CHAIRMAN: Mr. Wilson, I have several other members before you.

MR. WILSON: Well, Mr. Chairman, the man is suggesting 6 percent and I believe the interest is over 9 percent.

MR. CHAIRMAN: Mr. Wilson, you are at liberty to question the witness later on. Mr. Parasiuk and Mr. Savino, continue, please.

MR. SAVINO: Thank you, Mr. Chairman. Yes, Mr. Parasiuk, that is one example of abuse, projecting expenses much more than you actually have and actually fudging a little bit by putting in large tax bills that weren't paid with the money that was allowed in the previcus phase to pay those tax bills. —(Interjection)—

MR. CHAIRMAN: Mr. Pawley, on a point order. Would you raise your point of order, Mr. Pawley.

MR. PAWLEY: On a point of order, did you hear the interjection by the Member for Wolseley.

MR. CHAIRMAN: No, I'm sorry, I did not.

MR. PAWLEY: Well, I would hope, Mr. Chairman, that you would prevent members of the committee from abusing those who are coming here from the public and presenting their briefs. I think we deserve a courtesy.

MR. CHAIRMAN: Mr. Pawley, there are times that I have a difficult time to hear the witness, let alone listen to what all the members are saying.. Now, if there is some point you want to raise, you are at liberty to raise it. Otherwise, continue, Mr. Savino.

MR. PAWLEY: I have raised it, Mr. Chairman, and I raised the point that the Member for Wolseley is continuing to hurl insults at the witness and you appear to be unable to hear, although it is very very audible from where I am sitting, Mr. Chairman.

MR. CHAIRMAN: Well, I'm sorry, Mr. Pawley. If you heard some allegation, I'm sure that we can deal with it in the committee. The committee is here. I'm sorry, I didn't hear it.

Proceed, Mr. Savino.

MR. SAVINO: Yes, Mr. Chairman. I thank Mr. Pawley for his defence, but I have learned to have a thick skin at these particular meetings; I have heard from Mr. Wilson before.

If I may continue with Mr. Parasiuk's question, I think the answer to the problem of the taxes is to make it very clear that these are not allowable expenses, to make it clear in the legislation or in the regulations, and right now that is not overly clear.

Another example of abuse, and this one comes pretty close to the line of being a little dishonest. In one particular set of buildings owned by this particular set of corporations, $140,000, approximately, was claimed in expenses for repairs to the riverbank where these buildings were situated. They were spread over two buildings. These were two of the buildings which were equalized. The Rent Review officer's determination was appealed to the Rent Review Board and when they investigated that $140,000 figure a little further, the investigation revealed that the records of the City of Winnipeg showed that the construction, the $140,000 that was expended, was indeed expended on construction. It was expended on construction of some pilings. The pilings were put into place to build a new apartment building. The City of Winnipeg did not give the landlord permission to build the building, so instead of taking it ''in chin,'' so to speak, or appealing the city's order, expenses of $140,000 were claimed against these two buildings as allowable costs to pass through to the tenants. Now, I suggest to you gentlemen that that is more than just fudging around a little bit. It amounts to a very flagrant abuse, I would say, of the tenants in that particular block and of the Rent Review Program. Again, I would call upon the Minister, and this is a matter of public record and I will discuss it with him personally if he wishes me to, to conduct an investigation of these cases and to assure the public and the House that nothing is amiss, or if something is amiss, that what is amiss will be corrected by legislation or regulations.

MR. PARASIUK: Thank you, Mr. Savino.

MR. CHAIRMAN: Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman, to Mr. Savino, you have raised some very flagrant cases of abuse of the rent legislation. Have these happened within the last three or four months, or five or six months?

MR. SAVINO: That is correct. The decisions that I am referring to all occurred since November of 1977.

MR. AXWORTHY: Mr. Savino, have you brought these to the attention of any official of the Rent Review Board or the Minister or any member of the Legislature so that these matters could be looked into before this time? Or is this the first declaration of these abuses?

MR. SAVINO: Well, I only came across them in detail — I had heard that they were going on, you know, you hear street talk about them going on — but I only came across the hard information in May myself when I was involved in an appeal, and the decision on this appeal only came out a few weeks ago. So I couldn't discuss this information until after that appeal had been completed.

MR. AXWORTHY: Mr. Chairman, to Mr. Savino, this is then the first opportunity you have had to present this kind of evidence of abuse to any public official so that the matter can be looked into.

MR. SAVINO: That is correct, Mr. Axworthy.

MR. AXWORTHY: In this respect, is the flaw in the mechanism of the present Rent Review Agency, that needs to be improved?

MR. SAVINO: I would say that there are several flaws, one of which is not recognizing how such a corporate structure can get around the rent review legislation. Now, I cannot explain, on these particular cases, this particular landloard, and the equalization decisions that were made and the amounts that were allowed to be passed through, I cannot explain how that happened. It was caught on appeal, but there were several of those buildings that the appeals were bought off, you will recall. There may be any other number of abuses that we don't know about that aren't appealed and, you know, the point that I was making initially when I introduced this evidence, or these points, was that if this legislation goes through as it is, they will never be revealed, because those files will be sealed. I would call upon the Minister, before he seals the files, to make sure the house is in order.

MR. AXWORTHY: Mr. Chairman, before we get to the issue of 35.1 which I want to come to because it was up for discussion this afternoon, I do want to clarify in my own mind as to whether you are suggesting that the abuses took place because of the culpability of an official of the Rent Review Agency acting, as you suggest, perhaps in some "sweetheart" arrangement with a particular owner, or is the fault also because of the structure, arrangement, and operating procedures of the Rent Review Agency so that other abuses not necessarily involving individual culpability, but simply there are too many loopholes or too many gaps in the regulations or law, that we could be strengthening by the Legislature or by the Minister to tighten it up? I think you understand that there are two very implications. If it is simply a matter of an individual sort of beginning to shade the law, then that is a matter for the Attorney-General and others to deal with. If it is simply a matter, though, of the weakness of the law itself, then that's our matter to deal with. Which is it that really is at the fault of the kind of abuses that you enunciate?

MR. SAVINO: First of all, Mr. Axworthy, a point of clarification. When I was talking about "sweetheart" arrangements, that was where the landlord bought off a tenant who had appealed. I wasn't suggesting that there was a "sweetheart" arrangement between the landlord and the Rent Review Board.

However, as I said, I cannot explain why those decisions were made the way that they were made. I am not going to be, at this body, making any accusations about individuals who might or might not be allowing things that they shouldn't allow. I think that the Minister should investigate that and find out what is happening. I am not going to name any names of staff members or anything. All I know is that there is a lot of evidence that there has been a lot going through in the last

few months that shouldn't be going through. But it's not just the administration of the program, though, as you were suggesting. There are too many loopholes. Some of the things that are getting through are legal, but when you look at them, they don't make sense.

For example, Regulation 18.1(l) of the present regulations allows a landiord to claim a management fee. Now, he may claim either his actual expenses involved in management of his property, or he may claim a straight 5 percent of the gross rents paid for that building. Now, for the small landlord who owns his own building and does his own maintenance and does his own management, the 5 percent is a good thing because, you know, he can't show salaries to himself always, unless he is a corporation, so the 5 percent gives him a little something for his management of the building. Or, for larger landlords who are actually paying a management agency to manage the building, the 5 percent, which was increased from 3 percent the year previous, probably reflects the average cost of management. But when you have a vertically integrated corporation where the directors are the same and the same people are managing 19 or 20 buildings, they are claiming 5 percent for each building, and they are paying themselves; they are not paying another management company, they are paying another management company that they created. I think that the legislation has to take account of these ways of getting around those regulations. The 5 percent, in that case, is pure gravy for the people involved with those corporations.

MR. AXWORTHY: Mr. Chairman, I would like then to pinpoint some of the other weaknesses that Mr. Savino mentioned, to see how there might be improvements made in the legislation. You suggested that under the decontrol there will be an uneven application of the law so that 20 percent of the units will be under decontrol, 80 percent will not be, it will therefore create a differential in the rent. Now, under Section 17(3) of the original Act, it gives the power of the agency the right to review increases for the whole building. Is that not a sufficient protection against that taking place, or do you have any specific application or amendment that you would like to see to reinforce that?

MR. SAVINO: The point that I was trying to make there, Mr. Axworthy, was that as it now is, that's what happens. You review the whole building and you review the expenses and the income for that building. But, what I am wondering, is on the income side of things, what are they going to do with these uncontrolled units in a building that is partly controlled? I mean, how are you going to administer that? What expenses is a landlord going to put before the Rent Review Board for those controlled suites. Is he going to divide his building into pieces? Are the 20 tenants who are not on controls going to be asked or required by the decision of the Rent Review officer to subsidize the other 80 tenants in the building who are still under controls?

We have no indication how this program is going to be administered, and I am saying that there are some incredible difficulties with just putting the numbers together in that kind of situation. You know, that is why I would urge that the whole business of voluntary decontrol, for a number of other reasons, but that is another reason why I would urge that the whole business of voluntary decontrol by vacancy be removed, because not only is it unfair, particularly to low-income tenants in the inner city which, Mr. Axworthy, I know you are very familiar with, who are more transient than a lot of people, their suites are going to be decontrolled pretty quickly. They are the ones that are going to suffer the most. I have pointed out other ways that landlords can get people out more quickly.

Quite apart from all of that, we are going to have this problem of people in the same building, some of them being controlled and some of them not being controlled, and what the heck does the Rent Review Officer do with that?

MR. AXWORTHY: Yes, Mr. Chairman, I have a couple of other questions on this same line. We heard this afternoon of a suggestion of a case where there was inclination on the part of at least one landlord, and perhaps others, to use the provision under The Landlord and Tenant Act to ask for vacancies or evictions, based upon rights of renovation asloyment''.

It is only on extremely rare occasions that any position a suggested way of getting around the act of creating a decontrolled unit. Now, have you developed any experience or cases of a similiar kind, and would you see any way this Act can be strengthened to protect that particular action from taking place?

MR. SAVINO: Well, I would urge again, Mr. Axworthy, that the section allowing decontrol by voluntary vacancy be removed, because you just pointed out another difficulty with it. I know that this is going on. In fact, I spoke with a landlord a few weeks ago who was saying that that's the kind of thing that landlords are discussing as they are figuring out how to get out of controls. Give a tenant notice that you need it for renovations or that you need it for a member of your family, or something like that, and then never do the renovations or never more in your family, and who

is going to catch you? The tenant who has gone isn't going to know, and there is certainly nobody going around enforcing the legislation. I don't see the Rentalsman's Office handling a large number of those cases.

MR. AXWORTHY: Mr. Chairman, one final question. Going back to your original point about the abuses, you suggest that one of the major crrrections would be to ensure for full disclosuee and availability of the information on the applications. Now, in osr discussion this afternoon on the same topic, it was suggested that the meaning of enforcement in the administration of the Act was broad enough to ensure that that information was being given. Would you feel it would be a further strengthening if that part of the Act was amended to include something also including the administration of subsection 22.5, in other words, to reinforce that particular part of the Act.

MR. SAVINO: Yes, my position would be that there is no reason for that section in that that section should be removed in its entirety. As I was stating before, Phase III of the program was operated with open disclosure. The only landlord I know about who is complaining about that is the same one that I was referring to in the abuses. There is no reason for this section — none whatsoever. There is no reason why the parties to a proceeding or anybody who is involved in the proceeding should have the information relevant to that proceeding excluded from them. But if the government will not be moved on this, I would suggest that they make it very clear that Section 22(5) overrides Section 35.1. And I want to stress again that my opinion is that the Legislative Counsel is wrong. The exception in 35(2)(a) clearly reads, "communication of information to persons charged with the administration of any Act of the Legislature or any Statute of Canada that relates to the leasing of residential premises." Tenants are not persons charged with the administration of this Act.

MR. AXWORTHY: Thank you, Mr. Chairman.

MR. CHAIRMAN: Mr. Wilson.

MR. WILSON: Yes, I listened to Mr. Savino's comments and I would like to move on to the next delegation, but I wondered if he would clarify, did I hear him right when he suggested that many landlords, while claiming for their property assessment and taxes to the City of Winnipeg, were not paying these because the interest was only 6 percent? Because one of the things that I did accomplish, together with others on City Council, was to raise that to 9 percent and I believe — I stand to be corrected — but on the tax bills we all receive on our residential properties I believe that there is a deterrent, not an encouragement, to pay taxes on time and to pay them in the current year, by having as high as 15 percent interest. I wonder if Mr. Savino, who is a lawyer, who probably obtained many of these files from Legal Aid o whatever, has this information and is very knowledgeable, I wonder if he knows that that 6 percent figure he bandied around tonight is incorrect.

MR. SAVINO: Mr. Wilson, I will accept your 9 percent figure and make the same point. The point is that the landlord was allowed X number of dollars in Phase I to pay his taxes. That money was to be paid by the rents of the tenants. In Phase II he came back and he said, "I have this year's taxes to pay and I have last year's taxes to pay." In other words, "I want that money that I got last year for taxes over again this year." And in Phase III hase he comes back and he wants, in addition to that, a penalty. Now, I don't care what the percentage is, Mr. Wilson, that, to me, is an abuse.

MR. WILSON: In closing, it would be very welcome if Mr. Savino would consider filing these abuses with other members other than those of the party to which he belongs.

MR. CHAIRMAN: Well, Mr. Wilson, that question is out of order. You don't have to answer it, Mr. Savino. Are there any more questions for the witness? If not, I thank you, Mr. Savino.

MR. SAVINO: Thank you, Mr. Chairman.

MR. CHAIRMAN: I call Mr. Joey Cyr or Linda Gouriluk. If not, that is all I have on Bill 62, An Act to amend The Rent Stabilization Act.

I now call the Independent School Trustees, Mr. Allan Judd, An Act to amend The Public Schools Act, No. 57. Mr. Judd.

MR. STANGL: I am Mr. Stangl, the President. Mr. Judd is our Executive Director.

MR. CHAIRMAN: Very good.

MR. STANGL: I understand there are no other presentations, so we will not make a presentation either.

MR. CHAIRMAN: Thank you, Mr. Stangl. Any questions of Mr. Stangl?

BILL NO. 65 — AN ACT TO AMEND THE HUMAN RIGHTS ACT (2).

MR. CHAIRMAN: Bill No. 65, An Act to amend The Human Rights Act(2). I call Mr. Abraham Arnold of the Manitoba Association for Rights and Liberties. Proceed, Mr. Arnold. Do you have a brief that . . . ?

MR. ABRAHAM ARNOLD: Yes, I submitted copies this afternoon, Mr. Chairman. Have they not been circulated? They were submitted to the gentleman sitting at the back table there.

Mr. Chairman, honourable members, I am pleased to be able to speak to you on behalf of the Manitoba Association for Rights and Liberties. This is a new organization which has just taken steps to become incorporated under the laws of this province. The organization was started last February as the ad hoc committee for Human Rights and Civil Liberties in Manitoba.

The initiators were a group of people who came to the conciusion that in spite of the progress made in the protection of citizen's rights in the past number of years since the establishment of the Manitoba Human Rights Commission, the Ombudsman, the Office of the Rentalsman, etc., there is still a need for a voluntary human rights organization working in the community.

The objects of the Association have been set forth as follows: To promote respect for and observance of fundamental human rights and civil liberties and to defend, extend and foster the recognition of these rights and liberties on a non-profit basis in the Province of Manitoba.

Our organization has been studying the results of the work of the Manitoba Human Rights Commission and has been gathering information in a number of special areas of concern, including discrimination in employment and housing, in relation to the working of The Human Rights Act.

We have also been making a comparison study of federal and provincial human rights legislation. In addition, we have undertaken to examine the special concerns of people on welfare, the handicapped, native people, and other minority groups, among others, and we are co-operating with a number of organizations who are also concerned in these areas such as the Indian and Metis Friendship Centre, at whose location we are pleased to maintain our own headquarters, the Manitoba League for the Physically Handicapped, and the United Nations Association, to name just three.

Since we began meeting last February, about 100 people have become involved in one aspect or another of the work of our organization. Each of them have become associated with us in their individual capacity, but all are representative of sections of the community which have special concerns for one or more aspects of human rights and civil liberties.

We meet today, when there is worldwide concern being expressed for human rights and there is much criticism of infringements of rights in certain other countries. In comparison with some of these countries, we, in Canada and in Manitoba, may reasonably claim to be much better off, but the ultimate judgment of the state of human rights in our country and in our province cannot be made through comparisons with far off countries living under different systems of government. We can only judge our own situation by answering the question: How does the protection of rights in Manitoba measure up in the light of our own system of democracy and on the basis of the stadards of democratic conduct which we uphold. And of course Canada considers itself to be a much more faithful adherent of the Universal Declaration of Human Rights and other international documents on human rights than the countries which are currently coming in for so much criticism.

We recognize, too, that our appearance before this legislative body is a particular example of the democratic tradition which prevails in our province. On this basis, we trust that the representations which we now make in regard to Bill 65, An Act to amend The Human Rights Act, will be given very careful attention and consideration.

I must say that we really didn't expect to be making our first public submission to government or any other body at this time, because we were hoping that we could make a much more considered presentation some time in the fall, but we suddenly became aware of these amendments to the Human Rights Act and this did give us some cause for concern. It was only less than two weeks ago that we first heard about it, and so we were able to bring some of our people together and a committee of at least ten people were involved in preparing this brief.

We find that we must express grave concern and take particular exception to three of the proposed amendments to The Human Rights Act, which have been introduced in Bill 65.

Now, the first one is clause 2 amending Section 6(4), I believe, which relates to the question

of allowing an exception on grounds of physical handicap to the section on pre-employment inquiries.

Now, it is my understanding that the Attorney-General has just very recently agreed not to proceed with this section. So, therefore, I don't have to go into all the detail as to why we took exception to this section but I am pleased to note that this has happened and I hope that he may give the same consideration to one or two of the other amendments which we want to discuss.

Going on to clause 3, subsection 6, paragraph (6) of the Human Rights Act, we take the strongest exception to the amendment to this section under the heading "Exceptions for Certain Employment", which would add "race, religion and color" to the special categories, each of which may be considered as "a reasonable occupational qualification or requirement for the position or employment".

It is only on extremely rare occasions that any position might be legitimately restricted as to race, religion or color, and we believe that such rare exceptions are already protected in the Act as it now stands, under Section 6, subsection (7). This clause exempts religious, philanthropic, educational, fraternal or social organizations operated on a non-profit basis for the welfare of a particular group or class of persons belonging to the same race, nationality, religion, color, etc., from those provisions which bar discrimination on these particular grounds. It is, therefore, very difficult to understand why the exceptions on grounds of race, religion, or color should be added to Section 6, Subsection 6.

I only just became aware, after preparing this brief, of the examples given, I believe, by the Attorney-General of cases where discrimination might be necessary as part of a job requirement. He cited the case of a black actor required for a specific role. I would like to suggest that I don't know of any theatre group in this province that operates on anything but a non-profit basis, so I think perhaps we could cover that one under the other clause.

Then he also cited a native counsellor needed for specific programs. Again, I would say that in most cases whether it be for an educational program or a social service program, these are all non-profit programs and you could make arrangements to cover them under the other clause.

Finally, on the question of allowing a company to advertise for a Moslem to work in Medina in Saudi Arabia, well this is another kettle of fish entirely and has to do with the whole question of the attitude of Saudi Arabia and the other Arab countries wiich has been an issue in Canada and which I'm going to make reference to a little later, if I may, in relation to an amendment to The Human Rights Act which Mr. Axworthy tried to bring in. I don't think that we should have to allow people from Saudi Arabia to advertise on a discriminatory basis in our province.

The addition of these categories and the additional change in the wording of the last part of this clause from "a reasonable occupational qualification and requirement for the position or employment," to "a reasonable occupational qualification or requirement", will make it much easier for an employer to practice discrimination on grounds which are entirely contrary to the spirit of The Human Rights Act. All an employer will have to do now is to declare that race, religion or color, etc., is a requirement for the position and he will thereby be able to eliminate from consideration applicants of some other race or color, etc. This change virtually gives the employer*carte blanche* to practice discrimination and makes it much more difficult for a job applicant to file a complaint in case of suspected discrimination.

In our investigations to date, we have found that many members of the public don't like the idea of having to file a complaint, or as it appears to them . . .

MR. CHAIRMAN: Order, order please. I wonder would the members of the committee give their attention to the honourable witness. It's not a few moments ago the Honourable Member for Selkirk was complaining about the confusion. I tell you, it's very difficult for me to keep my ear to your words, Mr. Arnold, so I wish the members would . . . If they want to speak, there's lots of room out in the halls, but let's listen to the witness, please. Thank you. Proceed, Mr. Arnold.

MR. RRNOLD: Thank you. It appears to them that they would be getting involving in a situation which can be highly disagreeable and emotionally upsetting. If the amendment to this Section is allowed to stand as it is, it would make it more difficult, if not impossible, to make a complaint on these grounds and to substantiate such a complaint. We would hope that this amendment would not be proceeded with at this time, but if it must be, then in the interest of true justice, it would be reasonable to suggest that rather than putting the onus on the applicant, it should be placed on the employer. We would propose that this amendment would be less objectionable if it required an employer to file an application with the Commission for permission to apply any of the accepted categories and to establish first that such a category is actually a reasonable occupational qualification as well as a*bona fide* requirement for a particular position.

Now moving on to clause 4, which is subsection 7, paragraph 3 of The Human Rights Act. This Section which exempts the Manitoba Public Insurance Corporation and the Manitoba Insurance legislattion from The Human Rights provisions is contrary to the desired goal that The Manitoba

Human Rights Act shall ultimately become primacy legislation in this province. In other words, we believe that The Manitoba Human Rights Act should ultimately be recognized as taking priority over other government legislation which may include discriminatory provisions. Such Acts may have been passed at a time when we did not give the same consideration to the nature and importance of specific human rights' protection as we do today. It should be noted that the recently adopted Federal Human Rights Act includes a provision allowing for the examination of federal statutes or regulations for their compliance with the Federal Human Rights' legislation. We believe that ultimately this principle will have to be recognized in every government jurisdiction and for this reason, we believe that the present amendment to exempt The Insurance Act is a step backwards. This is a bad precedent to set for other government agencies or Crown corporations because of the desired goal of making The Human Rights Act primacy legislation. If there remains some validity for maintaining the existing rate differential, then the auto Insurance Corporation should be required to justify these discriminatory rates in a hearing before the Human Rights Commission.

It is our view that the equalization of automobile rates among all drivers, regardless of sex, age or marital status, is a desirable goal and that steps can be taken to impose higher rates on those particular drivers who have a proven record of bad driving habits resulting in highway accidents. The number of young people involved in automobile accidents may be higher than older aged groups according to actuarial findings but if out of every 100 teenage drivers are causing accidents, it is highly unfair to suggest that the other 92 responsible young drivers should be equally penalized through higher rates. Surely the actuarial experts can determine some justifiable forumlla for fixing auto insurance rates that will be more equitable to all drivers in relation to their driving records.

Now I want to deal with the Section on special employment programs which is Clause 5 of the amendments and Section 9 of the The Human Rights Act. Having taken the time to criticize those amendments to which we find it necessary to take exception, we feel that we should also offer some commendation for the revision of Section 9 of The Human Rights Act usually known as the affirmative action provision. We feel that it is a definite improvement to change the wording which has read "to increase the employment of members of a group or class of persons on the basis of race, etc.," to read as is now proposed, "to promote the socio-economic welfare and the quality in status of a disadvantaged class of persons defined by race, etc." We trust that this will lead to some positive development in the field of affirmative action where merited.

Now to Clause 6, which is Section 19 of The Human Rights Act, subsection 4. This is a new Section stating that the The Human Rights Commission, when it is satisfied that a complaint is without merit, should be able to dismiss the complaint at any stage of the proceedings. We respectfully suggest that the Commission should be called upon to explain or justify its grounds for dismissal of a complaint so that hopefully the complainant may be satisfied that his or her complaint has been dealt with fairly.

Now I would like to touch on Mr. Axworthy's amendment which did come up in debate I believe earlier this week. In addition to expressing our views about the proposed government amendments to The Human Rights Act, we should also like to indicate our support to a Human Rights Act amendment offered earlier by Mr. Lloyd Axworthy in relation to the prohibition of discrimination in business contracts that would primarily apply to such discriminatory provisions in international trade and commerce which are apparently present in the Bell Telephone contract with Saudi Arabia, with which the Manitoba Telephone System has become involved. We might point out that the government of Ontario has introduced legislation barring discrimination in trade agreements within its jurisdiction. The Ontario example is one which we would commend for the consideration of the Manitoba Government. I understand that the Manitoba Human Rights Commission has also recommended something of this nature.

In summary, we would like to restate our concerns with regard to . . . well the exception for physical handicapped apparently is no longer a concern. I hope that the Attorney-General will tell us about that.

MR. CHAIRMAN: Order please, order please.

MR. ARNOLD: The addition of race, religion and color . . .

MR. CHAIRMAN: Order please. We are dealing with Bill 65. I believe this comes under Bill 32.

MR. ARNOLD: No, no, I'm summarizing now. I'm finished. I'm summarizing on Bill 65. —(Interjections)—

MR. CHAIRMAN: You got away with it. Crry on, please.

MR. ARNOLD: All right. Now point two, the addition of race, religion and color to the exceptions for certain employment and the revision of some of the key words in this clause, we urge that this should be postponed from consideration at this time and in any event, if it must be proceeded with, the employer should be required to prove the need for any such exception as a reasonable occupational qualification and requirement.

And third, the exemption of the Manitoba Public Insurance Corporation under the application of the Act, we suggest this would be a bad precedent in view of the need to achieve primacy for Human Rights' legislation and we would urge that actuarial studies be undertaken to develop a more equitable system of insurance rates based on the principle of equal treatment for all automobile drivers according to their driving record.

And fuur, the dismissal of complaints that are without merit. We urge that the Commission be called upon to explain or justify grounds for dismissal.

And finally, Mr. Axworthy's amendment, we urge that it be given favourable consideration and point to the precedent of the Ontario government. I must say again, Mr. Chairman, in concluding, that I believe that if there had been knowledge about these proposed amendments earlier than there was, that there probably would have been many more people coming out to make representations. In any event, we trust that our submission will be given very careful consideration. This is respectfully submitted on behalf of the Manitoba Association for Rights and Liberties. Thank you.

MR. CHAIRMAN: Thank you, Mr. Arnold. Would you submit to questions of the members?

MR. ARNOLD: I would.

MR. CHAIRMAN: Are there any questions of Mr. Arnold? Mr. Axworhhy.

MR. AXWORTHY: Mr. Chairman, I wanted to ask Mr. Arnold, in his presentation on the clause 2(6), pardo me, subsection 6(6), clause 3, do I understand that the association that you represent would be satisfie if the way in which the particular objective of this clause was achieved was through application to tl Human Rights Commission for exemption, that they would have to prove thereby some specific godd reaso as opposed to having it a blanket clause as it now exists?

MR. ARNOLD: Yes, I think we would be although as I suggested, I think that some of the examples th were given could be covered under subsection 7 which refers to non-profit organizations.

MR. AXWORTHY: But, Mr. Chairman, the point I'm trying to make, and I think Mr. Arnold is agreei but I just want to make sure, is thtt . . .

MR. ARNOLD: Yes, w are in agreement that . . .

MR. AXWORTHY: . . . there needs to be some sanctioning of it.

MR. ARNOLD: . . . if the onus was on an employer to prov that he had to do it this way and it w *abona fide* reason for a particular position to have someone from a certain religion or a certain catego whether it be a handicapped person or a certain sex, and if they had to prove it before the Commissi then it would be satisfactory.

MR. AXWORTHY: Thank you, Mr. Chairman. I would just raise the issue with Mr. Arnold that when he refers to the amendments under Bill 32 that I introduced, I intend to raise the same amendments to this bill so I hope we'll have some further success than we had today.

MR. CHAIRMAN: Mr. Mercier.

MR. MERCIER: Mr. Arnold, thank you very much for your brief. You are aware that Section 6(6) — you're aware of the present provisions of that Section?

MR. ARNOLD: Under the present provisions?

MR. MERCIER: Of Section 6(6).

MR. ARNOLD: Yes, yes. We have it right here.

MR. MERCIER: Which go on to state that "the provisions of this Section relating to any

etc., based on sex, age, marital status, physical handicap, or political beliefs, do not apply where those are reasonable occupational qualification and requirement," so that at the present time, where those iive categories are referred to, there is no requirement to file for approval with the Human Rights Commission

MR. ARNOLD: Well, probably as I said at the outset, probably if we had not felt called upon to make this submission toaay, and were able to do things in a little more deliberate manner and were able to come back in the fall, we would probably be making a recommendation about that Section. But I would say that perhaps for that reason the question of the onus being placed on the employer should be put in, if this Section has to remain as is.

MR. MERCIER: Are you aware, Mr. Arnold, of any breaches of the legislation that have occurred because those filings are not required?

MR. ARNOLD: No, I am not personally aware of that but I shosld say that we have only begun. Our work is in its early stages and while we have prepared a number of reports on some areas, we haven't gone into sections of the Act in detail in relation to how they're working out but we are in the process of gathering more information and likely by the fall we will know a lot more about what's going on.

MR. MERCIER: Have you atteted to form, Mr. Arnold, any working relationship with the Human Rights Commission?

MR. ARNOLD: Well, we've had some informal contacts but we were also hoping that in the near future, in fact, as I mentioned at the outset, we are now in the incopr incorporation process, we are still in the organizational process. Some of our subcommittees and special concern groups have begun to meet, and we expect that beginning in September, we will be making special representations to the Human Rights Commission as well as to other organizations and other bodies about such working relationships. We have only had very informal contacts with certain people in the Human Rights Commission up to this time.

MR. MERCIER: Thank you very much.

MR. CHAIRMAN: Mr. Pawley.

MR. PAWLEY: Mr. Arnold, I would like to just deal with the section pertaining to Autopac and the reference to age, sex or marital status. Now, as we know, at the present time there is a differential in Autopac rates due to age or due to sex. There is not, to my knowledge, one dealing with marital status, yet we have an amendment which would insert the word "marital status." So I would ask you, Mr. Arnold, if you could advise us as to where you feel there could possibly be a move towards some differential based on marital status insofar as our Autopac rates. What, in your view, would be the reason for this particular amendment?

MR. ARNOLD: Well, Mr. Chairman, this would seem like a backward step. I recall when I was living in another province, where a single person would often have to pay a higher rate than a married person. So this possibly presages a backward step to that particular type of practice, and I would simply reiterate that if our recommendation that these rate differentials on the basis of sex, age, or marital status, or whatever, could be eventually eliminated completeply by asking the actuaries to work for us, to work for the people, and produce some new kinds of studies, instead of us accepting the kinds of studies that the actuaries are giving us at the present time in relation to these things.

MR. PAWLEY: So you have no knowledge yourself as to the reason for the inserting of that word, except that in other provinces there is a discrimination based upon one being of married or single in status.? I believe you would agree with me that that was the case in Manitoba, prior to 1970 as well — it would be prior to the advent of Autopac.

MR. ARNOLD: Well, it wouldn't have affected me personally, so I wouldn't be so much aware of it, and I'm glad you drew it to my attention, but I recall this when I was living in another province before 1965, that this was in fact the case. But it was never drawn to my attention in this province, and so that I can only say that I think it would be a backward step at this time. But the proposal we have made would eventually eliminate all these kinds of differentials, and make it possible to equalize the rates.

MR. PAWLEY: Now, in fairness to the present government, there has, of course, been a small differential on age and sex over the past six years in the Province of Manitoba; you are aware of that.

MR. ARNOLD: I'm aware of that, yes.

MR. PAWLEY: And is it your view that that small differential was in breach of the existing Human Rights Act?

MR. ARNOLD: Well, I believe the Human Rights Commission said that, and it seems to me that it does run counter to the Act, and I also recall reading the debates in which some member of the former government even acknowledged that they were, that they had moved rather slowly, and possibly shoudd have taken other steps to remove that differential. But I say, perhaps the method wasn't found, and I think that this is the method that we have to sit down with the actuaries and ask them to come up with some new approach to this question.

MR. PAWLEY: That's all.

MR. CHAIRMAN: Mr. Evans.

MR. LEONARD S. EVANS: Mr. Chairman, I believe perhaps Mr. Arnold may have answered the question that was posed by Mr. Mercier on Section 6, subsection (6), re the reference to exceptions for certain employment, whereby this particular section adds the words "race, religion and colour," and I was going to ask Mr. Arnold if he could give us any evidence or any information on any experience — not of himself, but of associate — or of any information regarding race, religion, and colour, where this exemption would create hardship or would create difficulties, as you see it.

MR. ARNOLD: Well, in my experience, Mr. Chairman, I have been involved in community organization work for many years, and mostly in the non-profit field, so that I can't speak for the other, for the business field, particularly, but certainly in the non-profit field any possible exceptions that were required would be covered under subsection (7) of The Human Rights Act, and as far as that goes, even those organizations with which I have been associated — I know, for example, that the Friendship Centre, where I am now involved with the Human Rights with our organization, certainly doesn't restrict its staff or the peopletthat are involved there, to native people. There may be certain particular categories for which they may need a native person, and most of the staff are native people but I see white people working there, and I see East Indian people working there, and I see various types of people working there. And the same thing with the Jewish organizations that I have been associated with, while we wouldn't expect to hire a Catholic as a rabbi, but nevertheless, in the Jewish community centre, there are non-Jewish staff members, social workers working for the YMHA, and non-Jewish secretaries working for the Jewish Community Council, so that this probably really doesn't apply in that regard.

MR. EVANS: Yes. Well, in other words, you believe, I presume, that this whole section, 6(6), is really not necessary, because of the other section that you referred to — I think it was 7.

MR. ARNOLD: I would say so, yes. I would say that whole section is really unnecessary from my point of view, and if the Human Rights Commission has some other reasons for which they feel certain of those categories should be in there, then I say the onus should be on the employer to get special permission, in each specific case, rather than giving them a blanket opportunity to do this.

MR. EVANS: Yes. Well, thank you, Mr. Chairman. I think that's it. I'm inclined to agree with Mr. Arnold. I just thought he could provide us with certain case examples, but just concluding then, I gather, then, you believe that this is providing too broad a range of possibilities for an employer to abuse a situation, or it could lead to some possible discrimination that otherwise might not take place if this section weren't in existence.

MR. ARNOLD: That is our fear, Mr. Chairman.

MR. EVANS: Yes. Thank you.

MR. CHAIRMAN: The Chairman would like to also thank Mr. Arnold for his presentation and coming down and answering the questions of the members. Thank you, Mr. Arnold.

MR. ARNOLD: Thank you very much.

MR. CHAIRMAN: I call Mr. Donald Gordon, Afro-Caribbean Association of Manitoba, Incorporated.

PROF. DONALD GORDON: All right. Thank you, Mr. Chairman, members of the Committee. I apologize for not having a written brief. I became aware of this proposed amendment quite late last night and only at 11:30 this morning, did I know that the Committee would be sitting today at 2:30. So I trust you will bear with my oral presentation.

I would first of all, wish to outline the provisions of the The Human Rights Act, as I understand them, speaking on behalf of the Afro-Caribbean Association of Manitoba. And of course, I would be quite happy to be corrected if I am wrong.

The publication of The Human Rights Act assented to June 14, 1974, and published in November, 1974. Section 6(6), the section we have b◡ ɔn discussing, the provisions of the section relating to anti-discrimination limitation, specification, or preference for position or employmnnt based on sex, age, marital status, political beliefs, and s f r , is a reas nae ccuiai n qqalpfication and requirement for the purpose of employment. Those will constitute an exception.

Now, my association and I had thought — and I'm sort of correcting this — we had thought that that had been removed from the Act. Our reason for so believing was that this brochure here put out by the Manitoba Human Rights — under The Human Rights Act states that the Act prohibits any employer from denying employment to any person, or refusing to train any person for employment, or dismissing any person, or discriminating working conditions, because of race, colour, nationality, ethnic or national origin, sex, marital status, physical handicap, age, family status, religion or political belief.

Now, the point I'm making quite simply is this: we were not aware that Section 6(6) was still in the Act, because this brochure here — The Manitoba Human Rights Act — the highlights from it does give the impression that those grounds of discrimination had been taken out completely and totally. So that was the impression we had.

Now, the present amendment, if we go back to 1974, the present amendment adds the following categories, in addition to sex, age, marital status, and political beliefs, the present proposals are to add race, religion, or colour. We believe that those proposals run contrary to the Canadian Bill of Rights, certainly to the spirit of the Canadian Bill of Rights, and we certainly believe that those proposals run contrary to the Federal Human Rights Act.

Our feeling — and I shall try to use very temperate language — our feeling is that an unfortunate atmosphere has been created in the province in recent months. In March of this year, there was the use of unfortunate terminology in expressing very unfortunate views before the Committee of the Legislative Assembly. That brought some criticism in the press and so forth, and some kind of retraction was published. That kind of atmosphere has been added to by such other acts as the removal of health insurance protection from foreign students. That is in the public domain. In the private domain a few weeks ago on a radio program, within the space of two weeks, there were two speakers, one representing the Canadian League of Rights — a very respectable name — the other representing the Ku Klux Klan, Messrs. Ron Gostick and David Duke. There has been an upsurge of what in common parlance is called "a white backlash" represented by such groups as the Western Guard in Ontario, the American Nazi Party, and the butt of that kind of feeling has been what the sociologists call, people of high visibility.

I would suggest that it will be a most retrograde step, despite what the good intentions might be, if this amendment were to be approved, and were it to go through. It runs quite contrary in spirit to the Ontario Human Rights Act, which is approved as far back as 1961. That Act, 1961, states that no employer or person acting on behalf of an employer shall refuse to employ or to continue to employ, any person, or discriminate against any person, with regard to employment, or any term or condition of employment, because of his race, creed, colour, nationality, ancestry or place of origin.

What Ontario brought in in 1961, and what we brought in in 1974, we are now repealing, going in quite the opposite direction. Perhaps we feel that what Ontario does, we should do the opposite. I should only hope that this kind of legislation will be taken out of the arena of partisan politics, or the arena of votes, because there is a suspicion abroad that the time is right for this kind of legislation, for this kind of promotion, as it were, for white backlash.

I would respectfully suggest that the function of government is to lead, and to lead in a very positive direction. It is quite ironic that this kind of proposal is being brought forward precisely when the United Nations, for exale, has declared 1973 to 1983 the decade for action to combat racism

and racial discrimination. In that very decade, slice it how you may, we are going quite contrary to a spirit of what the United Nations proposes, because the United Nations stated or declared that discrimination between human beings on the grounds of race, color, or ethnic origin is an affront to humanity and shall be condemned as a violation of the principles of a charter of the United Nations.

Now that may, perhaps, sound quite academic but let me bring the matter on a more human level. I am quite familiar with very many cases of discrimination and, at the moment, as the Act stands, it is hard enough getting satisfactory action from the Human Rights Commission without giving carte blanche to employers to discriminate on the grounds of race or color.

There is a particular case where a hospital advertised for a technologist and the ad came out in the paper on a Saturday afternoon — this was documented in the recent reports of the Human Rights Commission — an interested party phoned, I believe, at a quarter to nine on the Monday morning, only to be told that the job had been filled. The person was quite suspicious that the job could have been filled so quickly because the ad came out in the Saturday evening paper and yet by Monday morning, quarter to nine, the job had been filled. So, with this suspicion, the person asked a friend with a Canadian accent — the person who I am referring to is a person that has an obvious non-Canadian accent — asked a friend with a Canadian accent if she would phone the hospital. The person did so and was given an appointment to come in for an interview for the job. The original person asked another friend with an obvious non-Canadian accent to phone the hospital to make inquiries. The person was told that the job had already been filled. The original person asked one more Canadian friend to phone — a person with the Canadian accent — and the person was also given an appointment.

The matter was pursued through the Human Rights Commission and, to cut a very long story short, the hospital issued some sort of apology stating that it was the employee in eersonnel, it was that person's own discriminatory attitude which had caused this kind of unfortunate incident and that it was not the hospital policy to discriminate.

Now, I would suggest that we should be moving in the other direction, where aggrieved parties are given financial compensation when they are discriminated against. That, I believe, now obtains in the Province of Ontario, where if wilful discrimination is proven and the person has lost income that the person practising the discrimination must make compensation.

I would humbly suggest that we should be seeking to strengthen the legislation and not weaken it. And regardless, whatever the rationale might be, it will be felt that it is simply a matter of legislators using much more delicate and refined language but that, in any event, the message is the same as that being mouthed, propounded by the American Nazi Party or the Western Guard or the Ku Klux Klan. That feeling is quite inescapable.

I would not, perhaps, go so far as to say that it would be a matter of a degree of differentiation, only, between that kind of attitude and that which obtains, for example, in South Africa.

I have expressed the views of the Afro-Caribbean Association of Manitoba. I believe that to some extent I might also have expressed the feeling of the Manitoba Carib of Chinese Studies — Dr. Wong, I believe, is here and could speak for himself if he is allowed to — and of the Anti-Apartheid Coalition of Manitoba, presented by Mr. Joe Fowler. I should be very happy to answer any questions you may have.

MR. CHAIRMAN: Mr. Mercier.

MR. MERCIER: Professor Gordon, I want to assure you that this amendment results from a recommendation of the Manitoba Human Rights Commission prior to the unfortunate remarks that were made that you referred to and it certainly has nothing to do with any form of a white backlash movement that you made some small reference to.

Having made that statement, Professor Gordon, are you aware — this section, as you aaid, for some time, since 1974 I believe — are you aware of any breaches of the provisions of that by-law? You have referred to one incident, which I appreciate, and I would like to review the contents of the Human Rights brochure that you referred to. Are you aware of any breaches of the existing Section 6(6) which has this qualification of requiring a reasonable occupational requirement for a position?

MR. CHAIRMAN: Mr. Gordon.

MR. GORDON: I'm not sure if I understand what you mean by if I am aware of any breaches of this section. What I am suggesting, Mr. Mercier, is that this section should not be in the Act at all, that is was want to suggest. I believe I said that we honestly thought that that section no longer existed. On the grounds for so believing we did not check into this complete Act, our grounds for so believing was this brochure, as I mentioned, put out by the Human Rights Commission.

I am not exactly sure of what you mean by any breaches of this section. If what you mean is whether I am aware of any cases of discrimination on grounds of color and so forth, I am aware of several cases, if that is what you mean.

MR. CHAIRMAN: Mr. Boyce.

MR. BOYCE: Yes, Mr. Chairman. Perhaps you could be of assistance, Professor, on this . Many of us are not too sure what Bakke decision means in another jurisdiction, but accepting the fact that even under present legislation discrimination does exist, if there was an amendment to this subsection that if for some valid reason — I mention the Bakke decision relative to this particular cause in that I can think of some instances where it has to be taken into consideration in the positive sense. For example, in trying to have employers employ native people in the contracts that are issued. I think you can understand my quandry and my difficulty because, you know, we don't want to get whitelash, backlash, reverse discrimation, and all the rest of it.

So I wonder if it would not solve the problem if we amended this particular section to take care of your point, that you didn't want to give employers carte blanche because they might misinterpret it and then you would be in an enforcement problem. But if there was some valid reason that the commission could issue a certificate to an employer for a specific instance which, in their judgment, would take care of your concern, would that solve the problem?

MR. GORDON: If I understand you right, what you are saying is that perhaps the members of some minority groups who have particular qualifications for a certain kind of job' if I understand you right. My fear is that what the legislation will do, as you point out, will be to give the employer — after all, the society by and large is of a certain pigmentation and it might give the prospective employer carte blanche to discrimate against minority groups.

Now, I would humbly suggest that in the kind of case where you mention that where there is no needlegislation to be enacted becaus in the case of minority people, for example, I think usually the way the die is cast perhaps, usually, that sort of thing resolves itself perhaps almost by process of osmosis.

As to the Bakke case, I don't think anybody is quite sure as to what the Supreme Court has ruled, except for two things, and that is qualifications ought to be taken into consideration but, at the same time, remedial legislation must be continued to benefit people who have been discriminated against for very many years in the past.

MR. BOYCE: Yes, Mr. Chairman. We must be careful that the case that I referred to was in another jurisdiction. But you had made reference in your presentation that, in your opinion, this was in contravention of the federal Human Rights Act. You know, I am not an Attorney so I wouldn't express an opinion. But would you agree that the effectiveness of any legislation is the ability of enforcement, or having the people adhere to the intent or purpose of the law. And in your presentation you said from the case that you cited that it was difficult enough at the present time, that if this amendment is passed the way it is that it would be that much more difficult unless it is restrained or deleted.

MR. GORDON: Yes.

MR. BOYCE: Thank you, Mr. Chairman.

MR. CHAIRMAN: Mr. Evans.

MR. EVANS: Thank you, Mr. Chairman. I'm sorry; I was looking for a copy of the Act.

I would like to congratulate Professor Gordon for an excellent brief, particularly prepared on such short notice, as I gather, and I want to tell him that his concerns I share with him.

Even though the Professor only learned of this recently — very, very recently — I wonder, though, whether Professor Gordon had any opportunity to discuss this section of the Act with the Human Rights Commission administration. I hadn't realized that that section existed myself, I must confess, and we have been told in the Legislature that this particular addition to Section 6(6), because it did exist before and now, as you pointed out, it is being added to. "Race, religion and color" are being added and we were told that this was necessary for some, I guess easier administration or more efficient administration or whatever the term is. I don't want to put words in anyone's mouth but I gathered it was recommended by the administration of the Human Rights Commission.

So my question is: Have you had an opportunity to discuss this with anyone of the Commission and has there been any explanation given to you about it?

MR. GORDON: No, I have not had any such opportunity. I am somewhat surprised that the Human Rights Commission would make such a request. But I have had no opportunity to discuss it with the administration of the Human Rights Commission, none at all.

MR. EVANS: Thank you, Mr. Chairman. Well, specifically, Professor Gordon, are you suggesting that this section be struck out of the Act entirely.

MR. GORDON: That's exactly what I'm suggesting.

MR. EVANS: Thank you. You are aware — I was trying to get a copy of it, but it's apparently . . . Are you aware of Section 6 subsection 7, it's referred to as 'Exception' — well perhaps I'll read it:

"The provisions of this section relating to a limitation or preference in employment, do not apply to an exclusively religious philanthropic educational fraternal or social organization that is not operated for private profit. It is operated primarily to foster the welfare of a group or class of persons characterized by a common race, nationality, religion, colour, sex, age, marital status, physical handicap, ethnic or national origin, where in any such case, one or more of the above enumerated criteria is a *bona fide* occupational qualification and requirement."

It seems to me that that is an exception that's provided in the Act, for some perhaps obvious reasons such as a religious organization requiring someone of their own faith to be the leader of that organization, etc. Are you aware of that particular section, and have you any comment on it?

MR. GORDON: I have just read the section. I will submit that, of course, in some cases like religion, perhaps, you might not want a person of a particular faith heading another kind of denomination, but up until now I believe that simple common sense has prevailed in all such cases, and as Mr. Arnold pointed out there are organizations in this city who employ people of other religious faiths in certain capacities. So until now, I would say that simple common sense has taken care of that kind of thing. I would be more concerned about the definition, for example, of exceptions for certain employment — what would constitute certain employment for which colour or race would be a requirement. That is more my concern.

MR. EVANS: I would gather, then, that you would not be unhappy to see Section 6 subsection 7, that I just read, — you are not necessarily unhappy with that as it exists, you seem to accept that as some sort of a reasonable group of exceptions in this particular Act. If that is the case, I presume that whatyyou are suggesting is that since that does cover . . .

MR. GORDON: That subsection 6 could be removed.

MR. EVANS: . . . pretty normal exceptions, then it's not necessary at all to have Section 6 subsection 6 in the Act.

MR. GORDON: : I would concur with that.

MR. EVANS: Thank you.

MR. CHAIRMAN: Mr. Mercier.

MR. MERCIER: Mr. Chairman, just to follow up, Professor, you indicated that you were aware of a number of breeches of the Act on the basis of discrimination on account of colour.

MR. GORDON: I beg your pardon, I'm sorry I didn't hear the first part.

MR. MERCIER: You indicated previously that you were aware of a number of cases of discrimination on account of colour.

MR. GORDON: Right.

MR. MERCIER: Were complaints filed with the Human Rights Commission?

MR. GORDON: In at least one case, which I am familiar with, yes.

MR. MERCIER: What was the result of that complaint?

MR. GORDON: The ultimate result of the case was that the person, against whom the discrimination took place, was no longer interested in the job. You see, Mr. Attorney-General, this is an off-shoot of those kinds of experiences. If you apply for a job at a certain place, and you are not wanted because of your race or colour, even though ultimately you may be offered the job, you would feel somewhat uncomfortable — unless you are like me — in accepting the job. So, to answer your specific question, was that the hospital issued some kind of an apology, and the result of the case was that the person who applied for the job, was no longer interested in the job.

MR. CHAIRMAN: I thank you, Mr. Arnold — Mr. Gordon, for your presentation.

MR. GORDON: I'm sure I am very flattered being called Mr. Arnold.

MR. CHAIRMAN: Mr. Gordon, I apologize. That'e not some kind of an apology, that is an apology. Thank you very much for your presentation.

MR. GORDON: Thank you.

MR. CHAIRMAN: Family Services of Winnipeg Incorporated. Are you preparing to make a presentation? We have a letter that there will not be anybody making a presentation.

MISS WINNIE FUNG: We want to table the letter as it stands, and will be prepared to present the letter as it is.

MR. CHAIRMAN: Fine. We have a letter from the Family Services of Winnipeg. There will be copies submitted to all the members, and the letter will be tabled.

MISS FUNG: Yes. name is Winnie Fung. I work for the Family Services of Winnipeg.. I'm reading a letter that has been signed by Maxine MacRae, who is chairperson of the Community Services Board-Staff Committee of Family Services of Winnipeg.:

"Dear Mr. McKenzie: Since Family Services of Winnipeg Inc. is a voluntary agency funded by United Way we are confronted every day by the tragic consequences of social discrimination against many groups and individuals in our community. Therefore we feel it our responsibility to protest any amendments to The Human Rights Act which may tend to reinforce existing attitudes that discriminate against any groups or individuals in this province.

"Because we have had access to amendments contained in Bill 65 for only a few days, we are not prepared to present a brief at this time. However, we are most concerned that any clause adding "race, religion or colour" as "a reasonable occupational qualification or requirement" appears to legalize some forms of discrimnnation in this province. The onus should be on the employer to show just cause in writing to the Commission for any possibly discriminatory hiring practices.

"We are opposed in principle to any amendments to The Human Rights Act enacted without serious consideration of all possibie outcomes, and without time for full public disclosure and discussion.

Yours sincerely, (Mrs.) Maxine MacRae."

MR. CHAIRMAN: Thank you, Mrs. MacRae. . Would you submit to questions from the meers?

MISS FUNG: I will try. Perhaps at this point in time, it would be possible for me to represent some of my personal views, and some of the views in discussion with members of my board and staff that served on that committee.

MR. CHAIRMAN: I have just been advised that you are not Mrs. MacRae, I apologize for that.

MISS FUNG: That's fine. It is late in the evening.

MR. CHAIRMAN: Could I have the correct name, please.?

MISS FUNG: My name is Winnie Fung.

MR. CHAIRMAN: Mr. Mercier.

MR. MERCIER: Thank you very much for the brief, Miss Fung. This is the second opportunity in a couple of weeks now that we have had the pleasure of your company at these meetings late in

the evening.

I don't know whether you are aware of the existing Section 6(6) which presently allows sex, age, marital status, physical handicap, or political belief to be a reasonable occupational requirement.

MISS FUNG: Yes, Mr. Mercier, I am aware of the present section as it stands. I would like to represent at this point in my response my personal opinion, as we have done this very quickly, and I'm personally, and perhaps because I've had such positive experience, that I have felt complacent in comfort with what may not happen, and therefore as a person I would like to give my own support to say, "There need not be legislation such rare exceptions where I have seen common sense and good sense rule. To me it is incredulous, and I have only had a short time in the last few days to look at this, that the examples given, which has always existed as you and I well know, should become a matter over which we are sitting here to discuss, and you have looked long and hard at for the last I don't know how long, but that you have heard people here running and saying to you, "Look, there is no need for it," and I would like Mr. Mercier to appeal to you, as Attorney-General, to consider this most carefully.

MR. MERCIER: Well, Miss Fung, I can sincerely say that I think it's Canada's good fortune that you chose to come to this country, but in your experience are you aware of any abuses or breeches of the existing 6(6)?

MISS FUNG: I can only talk from personal experience, and not in relation to a particular case, for instance, that has gone before the Human Rights Commission, or whatever. I can only talk about the times when, and again you see this becomes speculative, when there has been experiences I have felt personally, sometimes when waiting in line to be served and knowing that I have been disregarded, and not wanting to be paranoid or speculative about that, but there are times when you know, albeit you may also be too much of a Polyanna to say that it didn't make a difference. I would prefer to cite those instances.

I'm also aware from my work with people who are . . . I'll give an example, and perhaps it doesn't particularly relate to that except it says what I feel about discrimination, and that is that we deal with many women recently in employment, and having separated from their families and needing credit, and the difficulty that they have in obtaining credit now that they have become a single parent householder, is something you know I think that you and I are well aware of. Those kinds of discrimination go on and I would wish that the Human Rights covered those discriminatory practices, when we hear from clients who say, I have a down payment for a house," but when people tell me that when I tell them they question the fact that my marriage has recently broken down, and that I'm earning this amount of money. I have known of personal acquaintances where single women, for instance, have not been able or have with great difficulty finally to get a mortgage company to take her on.

MR. MERCIER: Thank you very much, Miss Fung.

MR. CHAIRMAN: Mr. Axworthy.

MR. AXWORTHY: Mr. Chairn, I would just like to ask Miss Fung, I think Professor Gordon in his presentation suggested he felt there was an increase or a change in the attitudes in this community on the question of discrimination, and that there was perhaps an upsurge, I think was the word used, in attitudes of discrimination against people, I guess primarily from Asian, Carribean, African countries. Do you have the same sense of a change in attitudes. Is there a higher reaction and is the human rights legislation we have presently sufficient protcction against that kind of a change.

MISS FUNG: Yes. First let me say that no legislation can legislate human behaviour completely, I mean that is a fact of life. However, legislation can lead and can provide the atmosphere. If I talk about — I feel that there is imminent danger in the fact that there might be more upsurge whether this be in Manitoba, in Canada, at this point and I guess i base my observation on my understanding and life experience, partly out of my education and what I've seen elsewhere, when times are difficult, that is when employment is difficult to obtain, there will, I feel, be more possibilities that people will feel more anger against newcomers and I would like to define newcomers at this point not necessarily in terms of race, creed or color. Nevertheless, I would need to say again the reality is if you look different, you are of higher profile. There is that, I think, that is concerning

to me.

I can understand somebody who says, "I've been born in this country; my family has been here for generations." Here is somebody coming in and I need that job as much as the other person does and I think I should get first preference." I see this being enacted as we see it happening. It's not a reality that I necessarily always agree with but it is the reality that, for instance, you see happening with the policies of Canada Manpower as it is changing.

When times are hard, when there is little for many, then I think the separations of races, classes, become much more distinct. Again, I don't credit myself as being a sociological expert. I've have seen it happen. I think the way I feel about it and I have lived in Britain, I think there is a lesson to be learned from what we see happening in Britain. I see a reasoning for Canada limiting the inflow of people because I do believe personally — and this is a personal view of mine — immigration policy is largely governed by economic considerations as much as perhaps also, you know, one is impressed to see sometimes by humanistic concerns. Nevertheless, I have a strong feeling that once you have allowed us in, and we have, along with the rest of the citizenship, tried to be good citizens, it is imperative that the government considers us all equal under the law. And that is my concern and I do, when I hear more people saying, "Those Pakis," when I read about the small incident it may be seem in the Safeway strike where, you know, people were called all kinds of names, incidents are small but they spread and the feelings are there. Perhaps that is only an incident. I would assume and speculate and would consider that the feelings are there because of the economic considerations, because people have a lot more to worry about and a lot less place to displace their anger. I think some times race and color becomes an easy target. your general concern

MR. AXWORTHY: Well, Mr. Chairman, taking and applying it to this legislation, is it your feeling that if the amendment went through as it is presently constructed, that this could provide a place wherein those who wanted to discriminate could hide that discrimination and begin defining job characteristics in order to maintain their defenses against newcomers.

MISS FUNG: I feel that the change in legislation opens the door for more possible abuse. I would personally submit that I would support the striking out in fact of the previous section and certainly of this amendment.

MR. AXWORTHY: Mr. Chairman, if I could ask Miss Fung, would you, without knowing the inclination and the mind of the government — but I asked the same question of Mr. Arnold, I'm sorry I didn't have a chance to ask the question to Professor Gordon — but would it be a satisfactory arrangement if Section 6(6) was in the Act, but that the onus for proof rested upon the employer and that they had to go to the Human Rights Commission to have it sanctioned in order for any such conditions of employment to be exercised.

MISS FUNG: Not in my personal opinion, and I would like at this point to talk about, as an immigrant, or as a person that is new in the country, I have myself, in spite of what I consider my privileges in terms of education and opportunities, when one is new in the country, when one is uncertain and making one's way, any one coming in faced with authority is in itself a very difficult barrier. I think, you know, as much as I support the concept and the institution of the Human Rights Commission, a commission cannot safeguard the rights of many citizens because, like I think some of my fellow immigrants have said this evening, for the people who go before the Commission to complain, you and I are well aware and I think all we need to do is perhaps look back to your forefathers, you know, that there are tens, hundreds, thousands, who have suffered it but have not chosen to go, have been too frightened to go and have not used that access. So I do not believe in my, you know, own opinion that the establishment of a Human Rights Commission in and of itself safeguards the rights and opportunities of all race, creed and color. I think it is an adjunct and is added help but most, and far by most, it is public opinion, it is you as political representatives who set the examples, who will provide that kind of atmosphere.

MR. CHAIRMAN: Mr. Kovnats.

MR. KOVNATS: I'm not going to take too much more of your time but as a son of a couple that immigrated to this country and that were invited to come into Canada and there are many others around the table just like myself, you've got to accept that we do have some personal feelings towards your situation. Just one remark. You made a remark about when you crossed the American border and they asked you the country of your birth. I was born in Canada and I get the same question and honestly, I don't feel any feelings about it at all and I would hope that maybe you would get to accept that it's nothing personal and it's not discriminatory on the part of these customs officials.

Just one other little point, my mother and father were born in the Old Country and did immigrate to Canada and I remember references made to them as being "the stupid D.P.s" — displaced persons — and I felt very proud of my folks who could speak eight languages and I would hope that you would accept that in time that whatever this bill is meant to be, it's not on a discriminatory fashion.

MISS FUNG: Your point is well taken. Perhaps it just underlines in spite of my opportunities, my paranoia and my fear of crossing borders. And your point is well taken. There is a lot we need to do to feel proud o ourselves, you know, to take pride, to speak up and I guess one attempt is to stand before you and reveal myself.

MR. KOVNATS: Thank you.

MR. CHAIRMAN: Mr. Boyce.

MR. BOYCE: It wasn't too many generations ago that my ancestors were starving to death in the ditches of Ireland too, so I think your point is well taken.

What I understand, and I'm sorry I was out of the room for part of your brief, Miss Fung, I understand your biggest apprehension is the misunderstanding of this Section as it exists or how it would be amended.

MISS FUNG: No, I would say that interpretations, you know, well, I guess people will interpret whatever they interpret. I think basically my principle is: I do not see for such rare exceptions, you know, it stands on record, has been dealt with reasonably, in reasonable fashion, by most organizations. I question the whole concept of including not only those three added categories but including this categorizations when there is a Section that in effect takes care of religious organizations needing particular people of employ or a special educational employment program to upgrade minority groups. I just do not see why we need to have that section and perhaps I, too, have been, as I call it, complacent, but I suppose it's confidence in the government in that I had always thought because of what I have heard of human rights and what I have read of it, that there was no such thing. Perhaps that was my mistake.

MR. CHAIRMAN: Mr. Desjardins.

MR. DESJARDINS: Mr. Chairman, all I wanted to say, the same as Mr. Kovnats said — and I agree with the young lady 100 prrcent except in one case — and at crossing the border, I believe they ask everybody. I've been here for seven generations on one side, nine generations on the other side, and they've always asked me, every time I've crossed the border: Where were you born? And they've asked everybody that came with me so I hope that makes you feel at . . .

MISS FUNG: Yes, I stand corrected but I also want to say perhaps it is the fact that I have lived in a fairly unstable country and that crossing borders means something. I've discussed this with my Canadian friends at times, you know, when we have crossed over and they have said, "You literally look as if you've got something to hide." And I said, "You know, I wish I could get over that feeling, but I feel it." And that is the good fortune of being born in a country like Canada. You have said you never even think of it. And isn't that a beautiful privilege?

MR. CHAIRMAN: Any other questions of Miss Fung? Mr. Kovnats.

MR. KOVNATS: Just on a point, after the remark of my friend, Mr. Desjardins, I was just wondering whether Miss Fung would agree that when they were questioning Mr. Desjardins when he was crossing the border whether he had something to hide, there would be an awful lot of place for him to hide it.

MISS FUNG: I have no opinion to express about that.

MR. DESJARDINS: I'm going to support your amendment.

MR. CHAIRMAN: Are there any otber questions of Miss Fung? Miss Fung, I thank you for your presentation.

MISS FUNG: I thank you for hearing me out.

MR. CHAIRMAN: That is all that I have on Bill 65.

BILL NO. 29 — THE COMMODITY FUTURES ACT

MR. CHAIRMAN: I call Mr. Strong from the Amcor Management Corporation. It says here that Counsellor Moore will be with you.

MR. STRONG: Counsellor Moore had a meeting of his own and due to the length of the wait, he had to leave.

MR. CHAIRMAN: Very good.

MR. STRONG: In regard to Bill 29, an article in the paper some time ago that appeared that Bill 29 was to protect the unsophisticated investor, made by the Honourable Minister,$ Mr. McGill, some time back in the Winnipeg Free Press. However, I wonder if the members themselves are aware of what constitutes a sophisticated investor in the commodities market.

I have here the Commodity Trading Manual from the Chicago Board of Trade, the manual which is used in teaching and has been for some number of years in the larger exchanges in the United States, to wit, the Chicago Board of Trade and the Canadian Mercantile Exchange. It states that a professional or a sophisticated investor, in order to invest wisely and with knowledge of what he's doing, would have to know at least one of the following two approaches: the fundamental approach to commodity trading, or the technical approach. The fundamental approach goes through 14 different factors, all of which require a great deal of analyzation and information. I will briefly cover them so that you understand the background of why I am speaking about Bill 29 today.

The first thing, what is the basic supply situation? What is the basic demand situation? Will there be an addition to or reduction in the carry-over at the end of the current marketing year as compared with beginning year inventories? Are production estimates for the current production season expected to be larger or smaller than average, or than the latest official estimate? What is the supply of competing commodities, both domestically and internationally? What are the export prospects for the commodity? What is the price of the commodity in relation to its price at the same time of the marketing year, in past years, and so on, through 14 different points. That constitutes the fundamental analysis. In order for any man to draw up a working model on the fundamental approach, would require many man hours of labour, and literally pages and pages and reams of paper.

Then, of course, there are charts, which is the technical approach, and the interpretation of charts, all of which require the average person to spend virtually his entire day analyzing the market.

And then there is the third factor, and that is, the knowledge of the market itself, to wit, the ability to be there at the market when it's happening. I submit that the only sophisticated investor is in fact, the analyst, as it always has been and always will be. Or the professional trader. Therefore, I don't see how the reference to protecting the sophisticated or unsophisticated investor really applies, since any man investing in commodities, other than a professional trader, or an analyst, is literally unsophisticated investor.

But I have some points about Bill 29 which are much more important. On Section 2, subsection (1) of Bill 29, it defines the types or the people who may trade with the public in commodity futures in Manitoba. There are a number of inconsistencies, and in my opinion, a number of discriminations. If you are a member of an exchange in Canada, you are regulated only by that exchange. You do not have to report your employees to any other body than to the exchange. You do not have to answer to any other body, other than to the exchange. Giving the exchange here that authority virtually gives the competition the right to limit who its membership will be. For example, obviously, any members of the exchange today are trading now, and they are members, so the bill has no effect on them. However, any new firm wishing to start in the Province of Manitoba — we were one of them; we spent many thousands of dollars attempting to get someone to regulate it, have gone in a complete circle from the Winnipeg Exchange, back to the Winnipeg Exchange, with Bill 29.

The exchange, under its by-laws and regulations, do not have to disclose any reason for the rejection of any applicant. Nor do they have to disclose the vote that is taken. Obviously, the members are made up of the membership committee and of the Board of Governors, amongst the members of the exchange who actually do trading, either in a legitimate hedging operation, or in speculative trading. This bill would propose to give the authority of limiting those who wish to remain wholly Canadian, and trade with the public in Manitoba, the authority of the Winnipeg Exchange to limit their own i.e., if I am a member of a board, which is a membership board, and I feel that the acceptance of any firm that is large, or perhaps may be able to produce the volume which will counteract the effect I can have on the market, it's obviously in my interest not to accept. Nor do they have to answer.

However, in the same section, or part 2, subsection (1), part (c)"Is a member of a commodity exchange recognized by the Commission . . . " — the Commission herein referring to The ' Securities Commission — ". . . who is authorized by the rules of that exchange to trade with the public in commodity futures contracts?" However, it does not stop there. It goes on to say, "If that exchange is in the United States of America, he is registered with the Commodities Futures Trading Commission as a futures commission merchant." Strangely enough, under The Commodity Futures Trading Act The Exchange Act, it is not necessary for you to be a futures commission merchant in order to trade in the United States, nor is it necessary for you to be a member of a recognized exchange. The outside body, which is the Commodity Futures Trading Commission, regulates licensing. There are a number of licenses, one of which is a futures commission merchant. The financial requirements are spelled out; the requirements of record keeping and everything are spelled out in the Act. I show you The Commodity Exchange Act, the Commodity Futures Trading Commission produced, which regulates commodity trading in the U.S., and I show you the Canadian Act.

In the United States, a person can be an associate person; they can be a commodity pool operator; they can be a commodity trading advisor, or any number of licensed people other than futures commission merchants to trade. Let me go one step further: in United States, in order to become a futures commission merchant, the requirements within two months will be that you have a liquid reserve on hand at all times — and that's not including customer funds; that's personal funds — of $100,000 or in excess, in order to get the licence. You must also, if you are going to be a member of the exchange, in the larger exchanges such as the Chicago Board of Trade, the seats are going for $165,000 to $200,000.00. That's how they propose regulating anyone who is not accepted as a member of the exchange here. However, any exchange here, your membership is roughly $2,300, including fees.

In the exchange regulations — and again, it brings me to wonder if, in studying this bill, and proposing it, they have in fact studied it — you may also be aware that on Page 14 of the by-laws and regulations, the Board of Governors, and I quote: "The Board, however, shall have the absolute right and discretion, at any time and for any reason, and with or without assigning any reason, by vote of two-thirds of its members present at any regular meeting, rescind any resolution recognizing the membership of any firm or corporation." Now, that also gives them the opportunity again — and perhaps this will never happen but it is my fear that it is happening today, and in conversations with some members of the Winnipeg Exchange, who obviously must remain nameless, for fear that their membership would also be rescinded, it has been noted that by this regulation in the by-laws, that even if I were to become a member of the Winnipeg Exchange and were allowed to trade with the public in commodities, at any time that Board for any reason, without disclosing the reason, could rescind that, which literally would leave me, as a new firm, totally at the mercy of my competition. Now, it would be kind of nice if Shell could have gotten a bill like this to keep Texaco out, and BP, and all the rest of them that wish to come in. Fortunately, that never happened.

I agree wholeheartedly that there must be legislation to regulate commodity trading, for it's been proven in the past that it's not only necessary, but expedient, and that it should be done rapidly. There's no doubt that commodity trading will grow in Canada on a very rapid pace in the near future, since there are many firms now opening up in B.C., in Alberta, and hopefully, some will find it to their benefit to also come to Manitoba.

There are a number of other points. It goes on, under Section 2(1), parts (c), to say that: "in any other case . . . " — I take any other case to be "any other case" to be anywhere outside the United States or Canada — ". . . he is regulated by the laws of the jurisdiction in which the exchange is situated." I would take that to mean — obviously, it's my interpretation — that if I were an associate person out of London, I could solicit business in Manitoba, because I am regulated by the laws of that exchange.

There is another point that's rather interesting. Every single firm who wishes to do business in Manitoba, under this legislation, if they are not a member of the Winnipeg Exchange, can be suspended or denied the right to deal with the public by the Securities Commission. However, no member of the Winnipeg Exchange can be denied that same right, since only the Winnipeg Exchange has to a total autonomous control, according to this bill.

Now, in the study that went before this bill was proposed, I presume that the bill was brought about as a result of one case — which I am personally familiar with — of a company here that did start, and folded. Again, I feel the there's a great need to regulate licensing of all people who are in the commodities industry; I feel that there should be an independent body, be it through Consumer Affairs, or the Securities Commission, that regulates the industry in Manitoba. I feel that there should be licensing requirements clearly spelled out, and membership requirements that are clearly spelled out. In our process of application for membership, we were unable to determine any regulations that were necessary to be met at the exchange in order to become a member. We were told two or three; I asked if I could have a copy of the list of the requirements for membership,

and they said, "No, we don't give that out." We were also told, "We do not need a reason to turn you down," which they did, ultimately. We appealed then, and asked for a copy of the letter they sent out to the members that appealed; we were told we couldn't have that. We appealed the membership, and we were told we didn't get the required number of votes. We don't know the number of votes that were cast, nor the number we got, nor the number that we lost by.

So I again reiterate, that to put the control of commodity trading in Manitoba into the hands of the Winnipeg Exchange, not only defeats the purpose of the legislation, but literally makes the Winnipeg Exchange answerable only to itself. I understand that it is regulated by Parliament. However, in talks with members of the Winnipeg Exchange, some of whom were sympathetic to our cause, I have found that not only is the parliamentarian there as much of a figurehead as anything else — i.e., he's there to be there, and that's why he's there.

I find that it's very interesting that you must be a futures commission merchant and a member of an exchange if you are a U.S. firm, since it isn't even required in the U.S. Nor do they spell out that requirement that you be a futures commission merchant in the Winnipeg Exchange, nor are there any tests, exams, technical knowledge levels, or any other tests given by the Exchange, other than a verbal hearing as to what your proposed method of operation is going to be.

I therefore submit that this bill, in its far-reaching effects in the commodity industry and perhaps, in great detriment to the growth of the commodity trading industry in Manitoba, which has an exchange, could not only limit the influx of new firms and speculation to Manitoba, and therefore, new employment and the production, as it may be, of taxable incomes in Manitoba through successful speculation, but will drive that to alternative markets such as Vancouver, Alberta, Ontario, the United States. So, I respectfully submit that more research and thought, and planning, should go into a bill that could have far-reaching effects on an industry which last year in the United States did in excess of $650 billion worth of business.

That's all. The only two proposed changes I would make in the bill is that it be an outside body that regulates the trading and that regulates the licensing, and that there be spelled out regulations. Thank you.

MR. CHAIRMAN: Thank you, Mr. Strong. Any questions to Mr. Strong? Mr. McGill.

MR. McGILL: Mr. Chairman, I would like to thank Mr. Strong for his representations here this evening. I think the committee should know, Mr. Strong, that you did meet with me and that I was aware of your concerns and your particular problems in obtaining authority to proceed with your business ambitions.

Mr. Strong, do you have any specific suggestions for amendments to the bill before us, other than the ones which you mentioned in a general way?

MR. CHAIRMAN: Mr. Strong.

MR. STRONG: Thank you, Mr. Chairman. If, for example, the bill were to say that all firms be regulated by the Manitoba Securities Commission, or the Consumers Bureau, I wouldn't find that disagreeable. If, for example, another change that could be made would be that if the exchange is in the United States, he would be regulated by the laws of that exchange, or by the Commodity Futures Trading Commission, i.e. that he has the authority to trade in the United States, therefore, he should have the authority, after submitting his name, etc., in due process, to the Securities Commission to trade in Manitoba. This Act requires that he not only be regulated by the CFTC, but he in fact be a futures commission merchant and in fact also be a member of a recognized exchange in the U.S.

MR. McGILL: Mr. Chairman, I understood you, Mr. Strong, to say in general terms that the Winnipeg Commodity Exchange would regulate and control the amount of business being done in Manitoba, but you did indicate that you understood under the bill that we were accepting membership in other Exchanges, other recognized exchanges outside of Manitoba and that as long as the person involved was connected with, or a representative of, a firm which had a membership in a recognized exchange, that they would be permitted to operate in Maniotoba, so that the specific membership requirements for the Winnipeg Commodity Exchange would not, in itself, limit completely the ability of people to trade in Manitoba. Is that not correct?

MR. STRONG: That is correct, Mr. McGill. In answering that question, I might also add that if I am a member of a Vancouver Exchange and I am soliciting my business in Vancouver, then my main market certainly is not going to be Manitoba. However, if I wish to make my main market Manitoba, it appears now I must either be a member of the Winnipeg Exchange, or I must be a member of a U.S. exchange. All I am saying is that there is a great inequality between the fact

that you be a member the Winnipeg Exchange, and the conditions for membership if you are a U.S. member, i.e. it would cost, in the United States, to become a U.S. member at least $100,000, and probably in the neighbourhood of 250, and yet the qualifications, if you are a member of the exchange, are that you have $2,300 for the certificate and the transfer and the yearly fee. I am not talking about the reserve that is necessary in operating capital, I am talking only of the money that must be there on hand at all times according to CFTC regulations in the United States in order for someone to become a futures commission merchant. If that were to read, if that is in United States of America, "he is registered with the Commodity Futures Trading Commission and is authorized to trade in the United States" then I would have no objection. But since it does mention distinctly a futures commission merchant and a member of the exchange, both, I find that highly discriminatory on anyone who is from the United States. It so happens, strangely enough, that in our whole process of five months of seeking someone to regulate us, our analyst is from the U.S. So I find that fascinating, since he is not yet a futures commission merchant.

MR. McGILL: Mr. Chairman, to Mr. Strong, you have indicated you are dissatisfied with the way in which the Winnipeg Commodity Exchange dealt with your application for membership. You recognize that the Winnipeg Commodity Exchange is under Federal supervision and there is a federal supervisor in Winnipeg who has that specific responsibility. Have you communicated your concerns to the representative of the Federal Government under whose supervision this exchange operates?

MR. STRONG: No, I have not. However, in a conversation with a business reporter who has been at the Exchange, in speaking to the federal representative, and then in speaking to me about the effects of Bill 29 on our firm, it was found, or in her opinion, he was on the side of the Exchange and for the Exchange and was not too concerned about the individual memberships. Because the way the Exchange by-laws and regulations are written, they do have autonomous authority to reject any member. I have no objection to that. I do object to the fact that we were given no reason.

MR. McGILL: Mr. Chairman, to Mr. Strong, but you have not directly consulted with the federal supervisor of the Winnipeg Commodity Exchange?

MR. STRONG: No, I have not.

MR. CHAIRMAN: Mr. Uskiw.

MR. SAMUEL USKIW: Perhaps I missed it, sir, if I did, would you repeat: What is your particular interest in commodity trading?

MR. STRONG: We intended to start a commodity brokerage firm in the Province of Manitoba.

MR. USKIW: That is you and other people along with you.

MR. STRONG: That is correct.

MR. USKIW: You now have a business in Winnipeg, is it, or you operate other business enterprises in Winnipeg?

MR. STRONG: No, we have an office.

MR. USKIW: I see. Are you a Winnipeg citizen?

MR. STRONG: Yes, I am. I have been a Manitoba citizen all my life.

MR. USKIW: Are you familiar with the old regulations dating back to the early 1900s, introduced by the Rodmond Roblin administration with respect to the Exchange, which were later repealed?

MR. STRONG: No, I am not. I'm afraid that was before I had any connection with commodity trading.

MR. USKIW: In those particular regulations, there was an opportunity for appeal and supervision by the courts at that time, as they called it Courts of King's Bench at that time. Are you suggesting

that despite the fact that we have federal regulation governing commodity exchanges in Canada, that there should be additional provincial authority, regulatory authority overlapping or filling in the gaps, whichever?

MR. STRONG: I was suggesting that you have federal regulations governing exchanges, however, that does not say that the exchange still does not have the autonomous right to reject a member for whatever reason. Because they regulate the exchange, does not mean they regulate its membership. I feel that there is a great need, both in licensing and in the ability of an outside body, to go into any exchange that is within its jurisdiction, examine its records at any time, and the records of its members. I feel that that would go much further towards upgrading the quality of commodity trading, and in fact, upgrading the industry as a whole, than would Bill 29 by putting that authority right into the hands of the Exchange.

MR. USKIW: In the old regulations, there was a provision that no one could be denied entry into the Exchange, as a member. Secondly, there was a provision for a ceiling on entry costs. Would you advocate a return to that policy, by regulation?

MR. STRONG: No, I think that under some circumstances. . .

MR. USKIW: Should anyone be allowed in, in other words?

MR. STRONG: I feel that under some circumstances, no.

MR. USKIW: What would they be, though? What would those circumstances be?

MR. STRONG: Probably mainly past convictions, or a criminal record, or the normal things which would bar somebody from that type of a profession.

MR. USKIW: But other than that, by and large you think it should be open to the public?

MR. STRONG: I definitely think so. As a matter of fact, the only way that the Exchange can prosper is by bringing in more speculators. Contrary to most opinion, speculators do not incresase the market. As a matter of fact, speculators are the side of tee market that in many cases holds the price down. For example, if a large grain company is hedging and places an order for a great number of carloads on the futures market, the tendency without speculators is to drive that market up. With speculators who are analyzing the market and know the true supply and demand situation and are using a technical as well as a fundamental approach, it will have the reverse effect since the speculator is very well aware that that particular commodity should not be at that price for the supply that is on hand, and he will in fact short the market, which is to sell short, and hold that price down rather than having it driven up. That is the role of speculators. It always has been, but it has been grossly misunderstood throughout history in terms of commodity trading. The speculator's only role is to remove the element of risk from the producer and from the manufacturer of the commodity.

MR. USKIW: What would the entry ceiling be, if there should be a ceiling, in your view?

MR. STRONG: In terms of?

MR. USKIW: In terms of membership, the membership fee. Should there be$ a limitation on the size of that fee?

MR. STRONG: Are you regarding now the seat, the membership fee for the seat in the Exchange itself?

MR. USKIW: That's right.

MR. STRONG: I think that should be the same as any other system which has always worked, and that is the system of free trade, in other words, bid and offer. I think a seat will only be as valuable on any exchange as the ability of that exchange to produce the liquidity necessary for successful speculating.

MR. USKIW: Well, if I take you back to the old regulation, there was, at that time — now, this dates back a long way, back to the early 1900s — a $2,500 ceiling on a membership, or a seat.

So therefore you would have to add to that, obviously, for reasons of inflation and costs and so on. But what benchmark figure would you establish if there was to be one, by regulation.

MR. STRONG: Again, you are talking once again about putting a price ceiling on seats, which are not always necessary for commodity trading. It is not always necessary to have a seat to trade in commodities. In fact, most firms and most people in the United States who trade in commodities, brokerage firms, are not actual members of the exchange, but trade through members. Again, I feel that the seats should bear the bid and ask market price. I don't think that they should be driven up artifically, but nor do I think they should be held down.

MR. USKIW: Do you feel that the American Securities Commission regulations are adequate?

MR. STRONG: That's not the American Securities Commission that regulates it. It is the Commodity Futures Trading Commission.

MR. USKIW: That's right, yes.

MR. STRONG: Yes, in fact, in comparison, everything is very clearly spelled out under the CFTC Act. The requirements to become a futures for commission merchant, for example, are clearly spelled out, along with the financial requirements in order to be a futures commission merchant. So are the requirements for an associate person; so are the requirements for every step down the line, up to and including the imposition, if required, of a written examination by the CFTC in order to qualify that man — every step of the way. As a matter of fact, in the Commodity Futures Trading Commission Act, it is also open information on all votes. On all procedures that go on in the Commodity Futures Trading Commission, it is open information, whereas that is not true of the Exchange today.

MR. USKIW: Should there be a move to regulate margins?

MR. STRONG: I think that margins, as they always have been, should be regulated proportionately to the risk involved.

MR. USKIW: By whom should they be regulated?

MR. STRONG: By the Exchange itself.

MR. USKIW: Not by an outside body?

MR. STRONG: The CFTC does not regulate margins, only the exchanges do, and they increase or decresase proportionate to the risk involved in trading in a commodity.

MR. USKIW: Let me put the question in a different way. It has been reported, and I certainly am authority in this regard, that there have been situations which resulted in extremely high-priced commodit from time to time and then the reverse, based on someone cornering the market, so to speak, as t terminology goes.

MR. STRONG: You are not talking then about margins. Let me correct oou, Mr. Uskiw.

MR. USKIW: All right, go ahead.

MR. STRONG: You are talking about open interest and percentage of the volume controlled by any c person. I definitely think that there should be a limit as to the percentage that any one particular fi or person should control in the marketplace. Since there are those limits and always have been in a other exchange, it stops exactly what you are talking about, cornering the market and pushing it up a down. But literally, that can be done through in-house deals. If the exchange is not run properly, it c be done through in-house deals with or without the percentages. For example, if Sam and George a Fred and Henry all get together and decide they are all going to buy flax seed this morning, and tl are all going to buy within the limit, they are still going to push that market up unless there are enou speculators to hold it down.

MR. USKIW: Do you recall a fairly recent incident in the United States with respect to the soybean market, I believe it was, which got away up out of sight and there was some court action, or Federa Government action, forcing companies to unload?

MR. STRONG: There have been a number of cases — Bunker Hunt battle in silver.

MR. USKIW: That's iight, that's the one.

MR. STRONG: He was also involved in another battle in silver. However, it should be noted that many of those orders were rescinded. He was forced to liquidate his positions, in many cases at a loss, and he was also fined.

MR. USKIW: Is that a reasonable procedure?

MR. STRONG: I would say, definitely, for manipulation of the market, absolutely. It is no longer a free market then.

MR. USKIW: Do we have that facility in Canada at the present time? Is there the probability, or even the possibility under Canadian law, that they may be likewise ordered to reduce their volume of control of a commodity?

MR. STRONG: Not that I am aware of.

MR. USKIW: Canadian regulations don't provide for that?

MR. STRONG: Not that I am aware of.

MR. USKIW: I see. Should they provide for that?

MR. STRONG: I think, again, that there should be an outside body that does regulate commodity trading as a whole, whether it be on the provincial level or on the federal level, that an outside body should regulate it and therefore ensure what the purpose of the exchange is in the first place, and that is to promote free trade and to let the price of any one commodity reflect the actual supply and demand situation of that commodity.

MR. USKIW: Have you any reason, or do you know in your mind, do you believe that you know in your own mind why it is that the Winnipeg Exchange would not accept your membership, or your application?

MR. STRONG: I have a number of suspicions, obviously none of which I can prove, or I would be elsewhere bringing. . .

MR.USKIW: I see.

MR. STRONG: I feel that we could provide — it is very strange, because we literally could provide the volume with our system, that is necessary for the market to be a free market. Yet, in talking to members, after our rejection, one in particular — and he shall remain nameless because I would sign his death warrant at the Exchange — we were told that there are many many firms today who are working cross-type deals where, "You run it up one day and I'll push it down the next," and that this literally was the reason that they were a little afraid of it. I have statistics to prove that we could very well have brought the volume in.

I also have projections done by a good friend of mine who is with the Internal Audit Division of the Income Tax Department as to the revenues we would produce in the Province of Manitoba through capital gains investment and through corporate profits, and to say the least, the only people who stand literally to lose by our entire system is the government itself and the people of Manitoba. Our system was designed also with limited risk, which literally meant that if a person started with us, the amount he put up was his entire risk. I won't go into how that works because it has to do with the intricacies of the market and the use of stop-loss orders. It can very easily be done, and it has been proven, and it has been used. However, they are also afraid of that, since no one else has that. Literally right now, when you sign a contract for commodity trading, other than if you enter a stop-loss, you are at the mercy of the market.

MR. USKIW: You indicated a moment ago that there are some beneficial aspects of commodity trading to producers of grain. We are really talking about grain as far as the Winnipeg Exchange is concerned.

MR. STRONG: Well, yes, but there are many commodities which could be marketed in

MR. USKIW: I appreciate that, but at the moment, and historically speaking, we are really talking about grain.

MR. STRONG: That's right. Right now, the companies who are using this as a benefit, obviously are the large grain companies. No large grain company who handles any great amount of grain could afford the risk of the fluctuations of prices in the world market, and therefore hedges The farmer could also hedge. Any user of large amounts of products of grains could hedge. Hedging is simply a method whereby if someone grows something, for example, let's say a farmer grows wheat, he would sell wheat in a futures market. If the wheat went up and he lost money there, he would gain it in the cash market when he sold his wheat. If it went down and he made money in the futures market, he would lose it in the cash market and therefore he would break even. It was simply a way for him to protect his price, but that is only possible where you have both sides of the market, where you have the legitimate hedging and you have the speculators as well who are willing to take the other side of the market.

MR. USKIW: Under what circumstances would the farmer, whether he participated. . . Let's take two farmers, one who participates in the exchange, and one who does not. Are there any ways through which they can be hurt by the operations of the exchange, the one who participates and the one who does not?

MR. STRONG: The one who participates, if he is in a liquid exchange, by liquid I mean it bas a large enough volume to handle the hedging and the speculative end both, will definitely gain because he can predetermine literally, almost to the cent, the price that he will receive for his wheat in the fall, but he can determine that in the spring.

MR. USKIW: How can he do that?

MR. STRONG: Quite simply. It would take a working model, but to put it very briefly, he determines what his costs are to run the farm, what he feels is a legitimate profit for him, and he creates what is called a selling hedge in the market, at that price. Now, if that commodity goes down in the futures market, he makes money in the futures market, in which case he sells. But since historically the cash price and the futures price meet during the delivery month, then he would lose money in the cash market. So therefore what he gained in the futures market, he would have lost in the cash market, but he would have got the price he originally wanted.

MR. CHAIRMAN: Mr. Uskiw, we are straying widely from this bill that is before us.

MR. USKIW: No, we are not, I beg your pardon.

MR. CHAIRMAN: The Honourable Member for Brandon West.

MR. McGILL: Mr. Chairman, on a point of order, I appreciate very much Mr. Strong's expert Views on hedging, but surely this is not the place, Mr. Chairman, where the committee should be instructed on how to hedge in the futures market. We are not dealing with that and if we need instruction on taat, that is not part of that bill.

MR. CHAIRMAN: Mr. Uskiw.

MR. USKIW: Mr. Chairman, on a point of order, we are passing a bill with respect to regulating the Commodity Exchange. Now, the Commodity Exchange. . .

MR. McGILL: We are not regulating the Commodity Exchange.

MR. USKIW: Well, perhaps that's the problem, that we are not, but we are passing a bill giving them powers to regulate themselves, and the argument has been made that there should be government regulations, because from time to time some very negative effects of an in-house regulatory system. The witness before us is making that very point. I am merely trying to determine who all is going to receive an impact, negative or positive, from the operations of the Exchange, and on that basis, the importance of a public regulatory body to supervise the Exchange. That is what I am trying to determine.

MR. CHAIRMAN: Gentlemen, will we try to keep to the bill that is before us.

MR. USKIW: Mr. Chairman, I haven't uttered one word that is not in keeping with the principle of that bill.

MR. CHAIRMAN: Proceed.

MR. USKIW: I would like to ask you whether or not you can cite examples where there have been tremendous losses sustained by masses of producers as a whole, whether they participated or not is irrelevant, because of the actions of commodity exchanges in certain parts of the world, in North America' or in Canada?

MR. STRONG: I cannot cite specific examples. I am sure there have been very few cases in a liquid market where that has in fact happened, and if it has, it would be such as in the Bunker Hunt case, in which case the man was fined, was forced to liquidate the positions, and many of the customers regained the losses they had made. You are talking about the exchange having the ability to push the cash price around, of the commodity?

MR. USKIW: Yes.

MR. STRONG: That literally cannot happen in a liquid market because the cash price and the futures price must always meet on delivery day and will always reflect the true supply/demand situation, if in fact the market is liquid. By liquid, again, I reiterate that it must have the volume. But again, that doesn't deal with the specific point that I was trying to make about Bill 29, which is simply that to give the body who is interested in producing those profits for their firms, the authority to regulate what members they will have, seems to me much the same as giving Shell Refinery the right to regulate whether Texaco or not will operate in Manitoba. I feel that there is a great need for regulations. I also feel that if this Exchange is to continue to grow and serve the purpose it was created for, it needs more and more the legitimate hedger and the speculator, and that can only be accomplished through new members and through the solicitation of speculators in the marketplace.

MR. USKIW: My point of questioning, sir, has to do with the fact that there are other interests beyond your particular interest. You wish to be involved in the Exchange, and that's fair. But you do recognize that there are community interests in what happens because of the operation of exchanges anywhere. I am talking about commodity groups where prices have a major impact on incomes and so on, and if the market is distorted, that sometimes could result in very severe negative effects on a given commodity group who may be producers of that commodity.

MR. STRONG: Was that a question?

MR. USKIW: Well, yes, I'm putting it to you in the form of a question. Do you not recognize that as a possibility or a probability and so on?

MR. STRONG: Any exchange which is workable has a decidedly favourable effect on prices in that it normally has the effect of holding prices down rather than driving them up.

MR. USKIW: From a producer's point of view, that may not be what they want.

MR. STRONG: From the producer's point of view, yes, but it will reflect the true supply and demand situation worldwide. It is six of one and half a dozen of another. Do you want a true price which reflects the supply and demand situation, or do you want a price that will keep the producer happy, in which case it will not keep the consumer happy. It must reflect the true world supply situation and not the local situation of wheat, for example, in Manitoba.

MR. USKIW: I get your point; that's fine, thank you.

MR. CHAIRMAN: Mr. Evans.

MR. EVANS: Very specifically, I unfortunately missed part of the brief, but at any rate, very briefly, what would you do with this particular piece of legislation? I believe you are the only delegate that we have had on this particular bill.

MR. CHAIRMAN: He has made recommendations. . .

MR. STRONG: I have made distinct recommendations, a number of which are workable.

MR. CHAIRMAN: They are already in the record.

MR. EVANS: I see. Mr. Chairman, as a matter of interest, is there any other delegation on this particular bill, or is this the only delegation?

MR. CHAIRMAN: It is the only one.

MR. EVANS: It is the only one. But generally speaking — I'm sorry I missed that part — but generally speaking, you are against this particular bill?

MR. STRONG: I am not against the bill in principle. I feel that commodity trading should be regulated, absolutely. I am against the way the bill is put together and, in my opinion, the lack of planning and the lack of thought that went into the bill since — at the end of February, the beginning of March, we were told when we first applied at the Winnipeg Exchange, that there was in fact no legislation yet and that it was only in the rough draft stages. And yet when we heard on June 9 from Consumer Affairs finally that they would not license us because the bill was before the House, or they were going to drop the matter entirely, that means that in the span of March, April and May, the bill was able to be drafted, drawn, thought through and planned, and proposed to the House and had second reading and has appeared before Law Amendments Committee by July 19.

MR. EVANS: So, as I gather, you are concerned about the lack of communication with such as yourself who are, in effect, in this particular business, or have an interest in this type of activity?

MR. STRONG: That is correct. You see, the only effect literally that bill will have is on anyone new. It will not regulate anybody who is already in existence or a member of any exchange. It will not have any regulatory effect on the so-called ''unsophisticated'' investor who may now be investing with brokerage firms today. And I talked to a particular example not too long ago that did not even know what a stop-loss order was; was in the market; was in August Wheat and doesn't even know that come August he is going to have to liquidate that position at a loss of $3,000.00.

MR. EVANS: So, in effect, Mr. Chairman, the delegate is saying that this bill has the impact of — if I can use the word — of limiting the freedom of persons who may wish to be in this type of business. In other words, there is a restriction of freedom in this particular economic activity.

MR. STRONG: In my opinion, yes, although I wouldn't misconstrue that to mean that there shouldn't be any regulations.

MR. EVANS: It protects the existing legislation.

MR. STRONG: It protects — that's exactly right.

MR. EVANS: But to that extent it is limiting competition, in effect.

MR. STRONG: It could very well have that effect simply by the fact that the Winnipeg Exchange has the authority to refuse any membership for any reason whatsoever, or to revoke it at any time.

MR. EVANS: At any rate, Mr. Chairman, so that I don't take the time of the Committee, I understand you have made some specific suggestions and they are on the record now.

MR. STRONG: Yes, I have.

MR. EVANS: Thanks.

MR CHAIRMAN: Mr. Boyce.

MR. BOYCE: I am going to be brief, Mr. Chairman. I want to thank Mr. Strong. He got carried

away on my rapt attention because I know very little about trading. What would be the effect, Mr. Strong, if the government, in their wisdom, chose not to proceed with this bill at this time? What would that do to the situation?

MR. STRONG: Actually, it would only throw it back into the situation we have previously been in, which is we would go back now to Consumer Affairs. Since we have been in the Exchange, and then to the Securities Commission, and then to Consumer Affairs, over a five-month period, and then when we were all set to meet all the requirements of Consumer Affairs, were then told by one of their officers that they had just become aware on June 9th — though it already had second reading, I believe, by that time — that there was a bill before the House and that they were going to drop it at that time. It has been a simply amazing story.

MR. BOYCE: Mr. Chairman, do I understand you correctly, Mr. Strong, that this will do nothing for your personal situation.

MR. STRONG: Do you mean if the bill were passed or if it were revoked?

MR. BOYCE: If the bill is passed; I'm sorry.

MR. STRONG: If the bill is passed, it puts us right back in the same square where we started with, and that's right back at square one at the Winnipeg Exchange, which has total autonomous control over whether or not we do business here, other than if we go to the U.S. and put out $265,000 to become a member of the Chicago Board of Trade, or the CME , any futures commission merchant.

MR. CHAIRMAN: Another question, Mr. Boyce?

MR. BOYCE: Yes, Mr. Chairman, please. What would be the situation if you were in Calgary or Vancouver?

MR. STRONG: In Vancouver right now the regulations are a little different. It comes under the Securities Commission Act. I believe there is a bill before the House in Vancouver as well. I do not have a copy of the bill. However, up until, shall I say, yesterday, the Securities Commission has a clause which just exempts commodity trading from the Securities Act. It's kind of a catchall cluuse. They can exempt you. You do have to apply to them; they check you out and they can exempt you from coming under the Securities Act, but in effect they have condoned you.

MR. BOYCE: Mr. Chairman, I share your apprehension about private clubs controlling themselves. I share the opinion with yourself and McRuer in his inquiry into civil rights in Ontario some years ago, but yet you say that there has to be some control. Have you some idea in your head how or who, what body, would have . . . ?

MR. STRONG: I would say that either the Securities Commission itself or the Consumer's Bureau have a division which regulates commodity trading, which has spelled out regulatoons as to licensing and types of licensing, which would not require you to be a member of an exchange, but we would have to meet the licensing requirements of that particular body, be they either examinations, as well as the application, checking of the character and integrity and also with financial conditions.

I think perhaps a great deal could be learned if someone were to study or to read the Commodity Futures Trading Commission Commodity Exchange Act.

MR. BOYCE: One final question, Mr. Chairman, through you to Mr. Strong. Perhaps I over simplify the situation but is it not the case, as far as anybody operating in this field, what we, as legislators, should be concerned with is that the institution and the establishment is not damaged, making the valued judgment that they should be sustained and also the public is not bilked. Is that not the two things that we have to be concerned with? The legislation that we passed is: one, that is it an institution which we are continuing in the community; and, number two, to protect the public so that they are not bilked. Can it not be put in those simple terms?

MR. STRONG: I agree 100 percent that the regulations are needed so that that does not happen to the public. However, on the other hand, at the same time if, for example, the Winnipeg Exchange is a regulatory authority and they limit their competition then, in effect, the people who are investing, whether they realize it or not, are going through that exact process.

MR. CHAIRMAN: Mr. Uskiw.

MR. USKIW: Yes, Sir. You talked about supply-demand situations and that that should normally govern the price mechanism, but yet we have the example of the Hunt case, which distorted that completely. And if they have distorted the supply-demand situation, then it's obvious that it must have been harmful to a tremendous number of people.

MR. STRONG: I believe that if you look at any particular thing, be it commodity trading or stocks, or any form of investment, or in fact any organization, you are going to find an individual who will try to circumvent the rules.

MR. USKIW: That's right.

MR. STRONG: Regardless. You can impose all the controls you want but you cannot control human behaviour or human thought patterns. However, to say that it is not good because one man did a bad thing is the same thing as to say that the Legislature is not good or the Federal Government is not good because one man did not follow his particular concepts. It doesn't make any sense.

MR. USKIW: Well, but, sir, it deals with the point of regulatory power and who has that power. I'm merely pointing it out because I believe that if we are going to have commodity exchanges — and I'm not one that believes in them, by the way; I want to put my position quite clear. I could just as well do without them, but if we are going to have them I do believe that they should be fairly stringently regulated by public bodies. That's the position that I have taken on this bill.

I agree with a lot of what you have said in that connection, that if we are going to have them they should be regulated by public authority, rather than in-house regulation, which in essence always protects the membership that is already there.

MR. STRONG: Exactly.

MR. USKIW: Yes. The other final question I have has to do with the constitutional question, because we have been led to believe that there are very severe limitations on what any province can do with respect to legislation because of the federal presence now. Under their regulations, Act and regulations, which, by the way, as you are probably aware, have not been implemented until about 1974, I believe it was, even though the Act has been on the books since the thirties. How do you see the question of constitutionality on the part of the provinces moving in?

MR. STRONG: Frankly, I think you're outside my sphere, Mr. Uskiw. I think that would be probably a decision that would have to be resolved between the Federal and the Provincial Governments themselves.

MR. USKIW: The reason I raise that, sir, is because, while that is raised as a reason why we shouldn't be moving in that direction in Manitoba, Ontario, British Columbia and other provinces already have regulations that overlap, perhaps, and some who are introducing regulations and I thought you might be aware of what is happening there with respect to other constitutional arguments.

MR. STRONG: I believe in Ontario it comes under the Securities Commission Act.

MR. USKIW: Yes.

MR. STRONG: It is regulated by the Securities Commission. Again, I reiterate, I have no objection to being regulated by any body which is outside of the body that is my competition, if I am a new firm coming in.

MR. USKIW: Okay, that's fair.

MR. CHAIRMAN: Any other questions of Mr. Strong? I thank you, Mr. Strong, for your presentation.

MR. STRONG: Thank you, Mr. Chairman.

MR. CHAIRMAN: Bill No. 60, An Act to amend The Liquor Control Act(2), Mr. Nurgitz.

Bill No. 71, The Statute Law Amendment Act (1978), Mr. Tom Dooley. Mr. Art Coulter.

BILL NO. 66 — AN ACT TO AMEND THE TEACHERS' PENSIONS ACT

MR. CHAIRMAN: Marilyn Thompson.

MS. MARILYN THOMPSON: Thank you, Mr. Chairman. My name is Marilyn Thompson. I am representing the Manitoba Teachers' Society. The Society does not wish to present a brief at this time but we would like to put on the record our support for Bill 66. Also, we would like to indicate our appreciation to the government, both last year and this year, for the involvement that we have had in discussions leading up to the proposed changes. Thank you, Mr. Chairman.

MR. CHAIRMAN: Thank you. Are there any questions?

BILL NO. 62 — AN ACT TO AMEND THE RENT STABILIZATION ACT

MR. CHAIRMAN: Mr. Joey Cyr will be speaking on Bill No. 62, An Act to amend The Rent Stabilization Act. Mr. Cyr represents the University of Manitoba Student's Union

MR. JOEY CYR: I believe the Clerk has made the required number of copies of my brief available.

Mr. Chairman, Honoured Members, I would first of all like to apologize for not being here the first time my name was called. By way of introduction, my name is Joey Cyr. I am Vice-President of the University of Manitoba Students Union and I am here representing the approximately 20,000 students of the University of Manitoba.

With the Committee's indulgence, I propose to highlight some points raised in the brief, before referring specifically to the amendments.

I would first of all like to briefly establish the need for rent controls at the present time, utilizing the elementary economics of supply and demand. In order to present a cohesive argument it is necessary to establish the need for rent controls at the present time.

I am aware of the problems of coming up with an accurate estimate of the vacancy rate. However, according to CMHC figures, the vacancy rate has fallen from its October 1977 level of 1.8 percent to 1.6 percent. An adequate supply of rental housing is said to exist when the vacancy rate is close to 5 percent. Thus we see that from the supply side a shortage appears to exist. On the demand side, it is clear that there is a great and increasing demand for rental housing from students.

According to the Simkin Report on Rent Controls published in December, 1977, there are approximately 25,000 full-time students attending the universities and colleges in Winnipeg. About one-third or 8,325 are from rural Manitoba or outside the province and, therefore, must rent. An additional 5 percent or 1,250 are married. The 2,925 further renters brings the total renters to 12,500 or 50 percent of total.

Even subtracting the students who could conceivably live at home and commute and the students who live in residence or co-operative housing, in excess of 9,000 students must rent. These numbers could be further compounded by the students who may be forced to find other housing when the planned rennovations to Tache Hall begin.

The Simkin Report observes that student incomes tend to be less than $5,000 or below the poverty line. I quote from the Simkin Report: "Many already live in crowded or doubled-up conditions", and it continues and it concludes that "the situation looks extremely serious".

I would like to point out that we are not asking for special treatment. We recognize that other low income groups are faced with a similar near-crisis situation. We are asking that all these low income groups, including students, be treated fairly. In a nutshell, we advocate the removal of rent controls at such time as there exists a good supply of decent, affordable housing with a CMHC vacancy rate of 4 to 5 percent.

It appears, however, that the government of this province is not favourably disposed to this. With this in mind, I would like to propose a few changes to Bill 62 and supply my reasoning.

With reference, first of all, to Section 15.2 subsection (2), **application for an exemption order where rent exceeds $400 per month, many students seek low-cost rental housing in large or older homes in groups of four or five. Many of these houses currently charge in the neighbourhood of $400 per month. The exemption of these homes from rent controls will effectively remove a formerly inexpensive form of accommodation from the market. We propose either, a) Omitting the clause entirely, or, b) Raising the exemption rate to $750.00.**

With reference to Section 15.2(3) Application for exemption order on voluntary vacating. We feel the entire clause should be omitted because it represents an injustice to students. It is feared that voluntary vacancy will, in effect, lock many people, especially low-income groups,

into dwellings that for one reason or another may be unsuitable, for example, overcrowding or poor location. They will be afraid to leave because they will be seeking alternate accommodation in an expensive decontrolled apartment. If they leave their present dwelling the rent will go up. The choices are quite obviously limited. Students are especially hard hit. Students are, of necessity, a transient group, vacating their apartments at the conclusion of the school year and returning in the fall to find a new apartment. When they return they will have to try and find inexpensive housing in a decontrolled dwelling, a formidable task.

With reference to Section 15.2(4), Effect of sub-lease for purposes of subsection (3). For much of the same reasoning as omitting the former clause we feel this clause should also be omitted. In addition, it will cause students undue hardship. Most students seek apartment dwelling in September when they return for the beginning of classes. Since the great majority of leases expire September 30th, students seeking apartments in September are most often sub-leasing. Under this clause the student can expect a drastic increase in rent around October 1st.

With reference to Section 15.4(3), Part (a), assuming that the voluntary vacancy clause wa omitted, Section (a) would also have to be omitted.

With reference to Section 15.4(4), we feel it should be reworded as follows: "Where a tenar alleges under subsection 15.2(5) and the board is satisfied that a landlord has resorted to or use any harassment or coercion or intimidation or unconscionable conduct to make or persuade th tenant to give notice of his intention to vacate the premises, or to hasten the vacating of the tenan and the tenant has vacated or is proceeding to vacate, the board may order the landlord to rebat to the tenant an amount not exceeding, " — and this is where the change is — "two months rer or $500, whichever is the greater." We feel it should be reworded as such because many landlord will regard $200 as a small price to pay to jack up the rent. For example, say an apartment i currently being rented at $250 monthly and the tenant is harassed into leaving. The rent can the be jacked up to $300, an increase of 20 percent, not unreasonable to expect. The fine of $200 i paid. In four months the fine is fully recovered, in other words, it's a solid investment for th landlord.

Those are the only suggestions that we have arising out of this brief. In conclusion, I woul like to thank the committee in advance for giving careful consideration to the concerns an suggestions raised by the University of Manitoba Students Union. I leave myself open t questions.

MR. CHAIRMAN: Thank you, Mr. Cyr. Any questions? Mr. McGill.

MR. McGILL: Through you, Mr. Chairman, to Mr. Cyr, I would like to thank him for his brief. I've had the opportunity on two other occasions to meet with Mr. Cyr and his colleagues and to hear their views. I won't attempt to deal with all of the points that you brought up, Mr. Cyr, but just the last one on your list. I think that should be corrected. The idea that one month's rent or $200 is a fairly small amount to pay to enable the landlord to get possession and then to jack up the rent, the point is, of course, that he would be required to pay that penalty but he wouldn't get a decontrol on the suite, so it would have to be understood that this would be the circumstance. So the landlord would not weigh paying $200 against the possibility of having an uncontrolled suite, that would not happen.

MR. CHAIRMAN: Mr. Cyr.

MR. CYR: In answer to that comment, I would say that it was not clear to us one way or the other whether the apartment would then be vacated and thus decontrolled or whether it would remain under controls. I thank you for raising that point. We stand corrected.

MR. CHAIRN: Mr. Axworthy.

MR. AXWORTHY: Well, Mr. Chairman, I would like to ask Mr. Cyr, it seems one of the centra points in your brief is the fact that because of the nature of being a student where you are really having to move really from September to June, that that will create a particular hardship on students Do you have any suggestions as to how students are going to cope with that problem if the voluntary vacancy section is not eliminated?

MR. CYR: Excuse me, I did not hear the last part of your question.

MR. AXWORTHY: Well, the reason why that will cause a problem for students is because ff the voluntary vacancy section of the bill. How would students cope with that if that is not amended or changed?

MR. CYR: It's difficult to say how students could cope with it. In discussions with Mr. McGill, we have agreed to aid his department in monitoring exactly what is happening to students in this regard. I really don't believe the students would have any alternative other than not returning to school because they couldn't find suitable dwelling.

MR. AXWORTHY: Well, Mr. Chairman, that was the question I was going to ask. Do you think this would provide a deterrent to some students in being able to continue their education?

MR. CYR: I believe it would be a definite deterrent and in effect would produce a dccline in the accessability of the university if a significant rise in apartment dwelling rates was witnessed as a result.

MR. AXWORTHY: Mr. Cyr, when you gave us statistics at the beginning of the brief, one area that wasn't entirely clear was the kind of accommodation that students compete for and as I understand it the market is not where the vacancies are, in other words, in the newer, high-rise, more expensive markets, where the students primarily have to compete for the older, less expensive markets primarily in the areas like Wolseley and Fort Rouge and Crescentwood . . .

MR. CYR: Exactly.

MR. AXWORTHY: . . . which means that the push will be on in that particular area where there is probably almost virtually no building taking place or any reconstruction taking place. Have you analyzed specifically where the primary market for student housing, off-campus student housing, does take place and would my comments or assessments be the correct ones?

MR. CYR: Your comments and assessments are essentially correct. We have discussed the question with the off-campus housing officer who has said that although no exact figures are available, as you said, the type of accommodation that is being sought is essentially the older type of accommodation, often in the more central areas such as Fort Rouge, hoping to take advantage of lower rents in these particular areas. Perhaps other areas where there are perhaps higher vacancy rates are unavailable to students on two counts: One in that they can't afford it; and two, in that many of the newer dwellings are not willing to accept students because of what they may feel is unacceptable — for lack of a better word — rowdiness on the part of the students. So on those two counts, a lot of the newer apartments are unavailable.

I should mention again with reference to the one clause about the $400 exemption rate, that is with particular reference to much of the huusing being sought, for example, in the Fort Rouge area where they have larger homes where four or five students rent a home in the hope of taking advantage of the lower rental rates in those areas. Exempting these houses will, in effect, remove them from the low-cost market.

MR. AXWORTHY: Just one further question, Mr. Chairman, I would like to address to Mr. Cyr. When you talked about the availability of housing, it's my understanding that really at both universities and at the community colleges, there's been virtually no student housing built over about the past five or six years. Are there any efforts or attempts by the University or the Students Association or the housing agencies to provide alternative accommodation for students which would be available in the next year or two?

MR. CYR: Not within the next year or two. The only thing that has been done in the area of student housing to my knowledge is the referred to improeements in Tache Hall which in effect will improve them from being close to unhabitable to somewhat liveable but it will not increase the numbers . . .

MR. AXWORTHY: It won't increase the numbers, no.

MR. CYR: . . . and as I understand it, the Red River Community College Student Association has partaken in some efforts to see student housing established on or near the Red River Community College campus, but those are the only two efforts and they seem to be rather insignificant.

MR. AXWORTHY: Thank you, Mr. Chairman.

MR. CHAIRMAN: Any other questions? Mr. Parasiuk.

MR. PARASIUK: Mr. Cyr, one of the questions regarding subletting. Do students sublet their apartments in order to try and keep them over the summer period?

MR. CYR: I think that question is extremely obvious. I don't think students have any choice especially the out-of-town students who return home at the conclusion of the regular session in April, they simply must sub-lease their apartments. That is, of all the clauses contained in the proposed amendments, I think that is possibly the one we find the most objectionable.

MR. PARASIUK: Maybe I missed it in your brief, but I think you were talking about voluntarily vacating an apartment. My experience with students was that they tried to keep their apartment and one of the ways of keeping their apartment when they went home was to sublet it to someone else, come back in the fall and take over the same apartment. Now the Act right now will remove that particular apartment to sublet from controls and I just wanted to know if that was still the practice with students to sublet their apartments over the summer even though they're going to retain that apartment through the next year.

MR. CYR: It certainly is but as you mention, it will fall into the decontrolled category as soon as they choose to sublease their apartment.

MR. PARASIUK: Yes, thank you, Mr. Chairman.

MR. CHAIRMAN: Any other questions of Mr. Cyr? I thank you, Mr. Cyr.
MR. CYR: Thank you.

MR. CHAIRMAN: Members of the committee, do you want to proceed? There is Bill 47, Bill 66 and Bill 69 that are non-controversial, or do you want to proceed with them all? I understand some of the Ministers and their staff have gone home. I think the Highways Minister, I'm advised, his staff has gone home. I'm at the mercy of the committee.
Mr. Green.

MR. GREEN: Mr. Chairman, if there was some possibility that we could proceed clause-by-clause and make a great deal of headway I would have really no objection, but I don't think that that is going to happen and therefore the bills that you talk about as being uncontroversial can be passed in three minutes tomorrow as well as three minutes today. So why don't we pick this as a convenient time for quitting and then when we start again, hopefully we'll be a lot fresher than we are at this moment. We can agree that the briefs are finished and only under exceptional circumstances, which we've always allowed, it would be up to the committee. But the briefs are finished as of now.

MR. CHAIRN: That's all the names that I have before me. Committee rise.