

Second Session - Thirty-Eighth Legislature
of the
Legislative Assembly of Manitoba
Standing Committee
on
Legislative Affairs

Chairperson
Mr. Daryl Reid
Constituency of Transcona

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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Eighth Legislature

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WOWCHUK, Rosann, Hon.	Swan River	N.D.P.

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON LEGISLATIVE AFFAIRS

Monday, June 7, 2004

TIME – 6:30 p.m.

Mr. Edward Lipsett, Manitoba Association for Rights and Liberties

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Daryl Reid (Transcona)

WRITTEN SUBMISSIONS:

Bill 19–The Public Schools Amendment Act
 Mr. Wilfred McKay, Rolling River First Nation
 Ms. Lori Johnson, Winnipeg School Division

VICE-CHAIRPERSON – Ms. Kerri Irvin-Ross (Fort Garry)

Bill 25–The Amusements Amendment Act
 Mr. Lanny McInnes, Retail Council of Canada

ATTENDANCE - 11 – QUORUM - 6

Members of the Committee present:

Hon. Messrs. Bjornson, Lemieux, Robinson,
 Hon. Ms. Wowchuk

Mr. Cummings, Ms. Irvin-Ross, Messrs.
 Maguire, Martindale, Penner, Reid, Mrs. Taillieu

Substitutions:

Hon. Ms. Allan for Hon. Ms. Wowchuk at
 6:57 p.m.
 Mr. Schuler for Mr. Cummings at 8:46 p.m.

MATTERS UNDER DISCUSSION:

Bill 19–The Public Schools Amendment Act

Bill 25–The Amusements Amendment Act

Bill 27–The Agricultural Societies Act

Bill 30–The Safe Schools Charter (Various Acts Amended)

Bill 32–The Provincial Railways Amendment Act

Bill 36–The Highway Traffic Amendment Act

Bill 37–The Labour Relations Amendment Act

APPEARING:

Mr. Lamoureux, MLA for Inkster
 Mrs. Stefanson, MLA for Tuxedo

WITNESSES:

Bill 27–The Agricultural Societies Act
 Ms. Lynda Witty, President, Manitoba Association of Agricultural Societies

Bill 19–The Public Schools Amendment Act
 Mr. Brian Ardern, President, Manitoba Teachers' Society

Bill 25–The Amusements Amendment Act
 Ms. Maureen Wilson, Private Citizen
 Ms. Marianne Cerilli, Private Citizen
 Ms. Beverley Ridd, Private Citizen

Bill 30–The Safe Schools Charter (Various Acts Amended)
 Mr. Roland Pokorny, Private Citizen

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Mr. Chairperson: Good evening, everyone. Will the Standing Committee on Legislative Affairs please come to order. This meeting has been called to consider the following bills: Bill 19, The Public Schools Amendment Act; Bill 25, The Amusements Amendment Act; Bill 27, The Agricultural Societies Act; Bill 30, The Safe Schools Charter (Various Acts Amended); Bill 32, The Provincial Railways Amendment Act; Bill 36, The Highway Traffic Amendment Act; and Bill 37, The Labour Relations Amendment Act.

We have a number of presenters who are registered to speak this evening, and their names, I

believe, are posted on the board at the back. I can also read them for the record.

On Bill 19, we have Brian Ardern, President, Manitoba Teachers' Society.

On Bill 25, we have Maureen Wilson, private citizen; Marianne Cerilli, private citizen; and Bev Ridd, private citizen.

On Bill 27, we have Lynda Witty, Manitoba Association of Agricultural Societies.

On Bill 30, we have Roland Pokorny, private citizen; Edward Lipsett, Manitoba Association for Rights and Liberties.

On Bill 36, we have David Grant, private citizen.

If there are any other individuals wishing to make a presentation this evening, please see the staff at the back of the room, and they will add your name to the list.

For the information of all presenters, 20 copies of any of your versions of presentations are required. If you need help with photocopying, please speak with one of our staff.

As well, I would like to inform presenters that, in accordance with our rules, a time limit of 10 minutes has been allotted for presentations, with another 5 minutes allowed for questions and answers to occur.

Also, in accordance with our rules, if a presenter is not in attendance when their name is called they will be dropped to the bottom of the list. If the presenter is not in attendance when their name is called for a second time, their name will be removed from the presenters list.

Written submissions have been received and distributed as follows: two submissions on Bill 19 from the Rolling River First Nation and the Winnipeg School Division, and a submission on Bill 25 from the Retail Council of Canada. Does this committee agree to have these documents appear in the Hansard transcript of this meeting? *[Agreed]*

On the topic of determining the order of public presentations, I will note that we do have an out-of-town presenter in attendance marked with an asterisk

on the list. In what order does the committee wish to hear presentations here this evening?

Ms. Kerri Irvin-Ross (Fort Garry): I would like Bill 27, The Agricultural Societies Act, in its entirety, presenters first and then clause-by-clause, and then do the remaining bills in order.

Mr. Chairperson: It has been suggested that we commence with Bill 27 in its entirety, starting with the presenter, and then proceed to the bills as they are listed on the order paper. Is that agreed? *[Agreed]*

I would also like to inform all in attendance of the provisions in our rules regarding the hour of adjournment. Except by unanimous consent, a standing committee meeting to consider a bill in the evening must not sit past midnight to hear presentations unless fewer than 20 presenters are registered to speak to all of the bills being considered when the committee meets at 6:30 p.m. As of 6:30 p.m. this evening, there were eight persons registered to speak to these bills. Therefore, in accordance with our rules, this committee may sit past midnight to hear presentations. What is the will of the committee?

Hon. Rosann Wowchuk (Minister of Agriculture, Food and Rural Initiatives): I would suggest, Mr. Chairman, that at midnight we review whether there is need to continue after midnight.

Mr. Chairperson: It has been suggested that this committee review the sitting time at the midnight hour. Is that agreeable to the committee? *[Agreed]* Thank you, to the committee.

Prior to proceeding with public presentations, I would like to advise members of the public regarding the process for speaking in committee. The proceedings of our meeting are recorded in order to provide a verbatim transcript. Each time someone wishes to speak, whether it be an MLA or a presenter, I have to first say the person's name. This is a signal for the Hansard recorder behind us here to turn on and off the microphones that you will see around the table and at the podium.

Bill 27—The Agricultural Societies Act

Mr. Chairperson: I thank each and every member here for their patience, and we will now proceed with the public presentations, beginning with Bill 27. We

have Lynda Witty, Manitoba Association of Agricultural Societies. Ms. Witty, will you please come forward. Do you have a presentation you wish to have distributed?

Ms. Lynda Witty (President, Manitoba Association of Agricultural Societies): Yes, it is being distributed right now.

Mr. Chairperson: If you wait a moment please, until some are distributed. I hope I have pronounced your name right.

Ms. Witty: Yes.

Mr. Chairperson: Please proceed when you are ready.

Ms. Witty: My name is Lynda Witty, and I am the president of the Manitoba Association of Agricultural Societies, and I would like to thank you for offering me the opportunity to address you this evening.

The Manitoba Association of Agricultural Societies, which I am now going to refer to as MAAS, would like to submit our report for the passing of The Agricultural Societies Act, or Bill 27, on behalf of the agricultural societies of Manitoba. Because of a series of issues that were brought forward by agricultural societies, the current act was discussed at sessions during the 2001 and the 2002 annual conferences of agricultural societies with the recommendation that MAAS request a formal review and revision of the act. It was seen that revising the act would suggest a number of benefits.

Agricultural societies have been active in communities for many years. Many have celebrated over 100 years of activity. A new act, recognizing the changes in our communities and allowing the agricultural societies to be a part of the leadership and community development, will be seen as a positive step.

Agricultural societies want a simpler process for grants. This would make it easier for the volunteers in the agricultural societies to get their allotted funds and use them for a wider variety of educational activities or events in their communities. Agricultural societies can also help as partners with Manitoba Agriculture, Food and Rural Initiatives staff in delivering programs and services in the communities.

*(18:40)

With the new act, agricultural societies would be able to be seen as an active and dedicated organization in the community with a strong number of volunteers who have the best interests of their community at heart. With support from the Minister of Agriculture, Food and Rural Initiatives (Ms. Wowchuk) in carrying out a review with agricultural societies, the MAAS board of directors established the following process.

The current act was sent to all agricultural societies and offices in 2002, requesting comments on the act. The MAAS board of directors personally called all the agricultural societies' secretaries and presidents as a follow-up, making sure they had all received their packages of information and offering to hold district meetings for discussion if required; 22 out of the current 62 societies responded with written comments and there was one district meeting held in Neepawa with 5 agricultural societies being represented there.

The MAAS board met in the 2002 year to review the comments and the act, incorporating comments from the various agricultural societies as well as the MAAS board. These suggested changes were re-sent to all agricultural societies and the Manitoba Agriculture offices asking for additional comments; seven societies and one office responded with written comments.

The MAAS board met again and incorporated the comments into a final draft. Once the act was formally redrafted, it was reviewed a third time by the MAAS board.

In conclusion, it is felt by the Manitoba Association of Agricultural Societies that the new act will be a benefit to Manitoba agricultural societies and we wish to formally acknowledge our support to the passing of Bill 27.

Mr. Chairperson: Thank you very much for your presentation. Are there any questions of the presenter?

Hon. Rosann Wowchuk (Minister of Agriculture, Food and Rural Initiatives): Since there are no questions from other committee members, I would like to take this opportunity on behalf of the committee and on behalf of the department to thank

you and the members of the ag society who have worked with the department through this whole process of drafting and coming back with your comments. We hope these changes will meet the needs of the societies across the province. Thank you for coming into the city to make your presentation.

Ms. Witty: Thank you very much.

Mr. Chairperson: Thank you.

Are there any other presenters to Bill 27? Seeing no other presenters then, as previously agreed, we will proceed to clause by clause of Bill 27.

Does the minister responsible for Bill 27 have an opening statement?

Ms. Wowchuk: Thank you. I would just take a few minutes to comment on the bill and indicate to members of the committee that ag societies play a very important role. For many years, as our presenter said, the ag societies have been in place, in some cases for 100 years. They have played a role in carrying on a variety of community activities. I want to recognize the many volunteers who give of their time to ensure that ag societies are successful.

This bill replaces The Agricultural Societies Act in a more modernized way and really gives the societies opportunity to become involved in different activities and bring more flexibility to their organization.

Just with those few words, I would, again, like to reiterate my comments and recognize the staff of the Department of Agriculture, Food and Rural Initiatives for the work they have done in consultation and the many people who have been involved in modernizing this act and making it more flexible for the people involved in societies. I hope to see the number of ag societies grow in this province.

Mr. Chairperson: We thank the honourable minister.

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

Mr. Jack Penner (Emerson): Thank you very much, Mr. Chairperson. Very briefly, I want to, first of all, thank Ms. Witty for bringing forward their thoughts on how a new act should be drafted. Having been a president of an ag society for better than a

decade myself, I have a great deal of appreciation for the people who let their names stand for boards of directors in ag societies.

I also want to commend the ag societies in general for the tremendous amount of work they do in areas such as research, community development, and I refer only to the Altona ag society, when I was the president of that society, when we decided to take it upon ourselves to build a community hall and the tremendous amount of community involvement that happened during that process and the exercise. That hall stands today and has become the pivotal point of the development of a community centre that is second to none in the province of Manitoba.

It includes now a skating arena, a hockey arena, a curling rink, general conference area and a number of other facilities attached to that centre. I think that is just a demonstration of how an active ag society can have a tremendous influence on the development of a community that has an intergraded community for both rural and urban.

I want to commend the ag societies for having played a pivotal role in development of fairs, community activities and, especially, in the areas of research and ensuring that our young people, through such things as 4-H and calf clubs and other things, can learn how to participate in a meaningful way in rural and urban communities.

So, again, thank you. We would encourage the minister to quick passage of this bill. I understand that there will be an amendment. We had also drafted an amendment to section 7. I understand that we were thinking along the same lines. Maybe we should have discussed it before we each proceeded to draft, but we concur with the amendment that is being brought forward.

Mr. Chairperson: I think, Mr. Maguire, you have had your hand up to wish to speak, but at this point it is the opening statements by both the minister and the critic for the official opposition. You would require leave of the committee to add a comment at this time unless you wish to add your comments on the clause by clause.

An Honourable Member: Later.

Mr. Chairperson: Later, okay, thank you. We will now proceed to thank the honourable Mr. Penner for his comments.

We will now proceed to clause by clause.

Clause 1—pass; clause 2—pass; clauses 3 and 4—pass; clause 5—pass; clause 6—pass.

Shall Clause 7 pass?

Ms. Wowchuk: Mr. Chairman, we have an amendment to clause 7. As the Member for Emerson (Mr. Penner) indicated, both of us in discussion recognized that this is a place that we should make a change, and so I have an amendment to this clause.

I move

THAT Clause 7 of the Bill be amended

(a) *by renumbering it as Clause 7(1);*

(b) *by striking out "100" and substituting "50"; and*

(c) *by adding the following as Clause 7(2):*

Minister's approval for a headquarters within 50 km

7(2) Despite subsection (1), the minister may, on request from the persons who wish to organize a society, permit the society's headquarters to be closer than 50 km to the headquarters of another society.

Mr. Chairperson: It has been moved by the honourable Ms. Wowchuk

THAT Clause 7 of the Bill be amended

(a) *by renumbering it as clause—*

An Honourable Member: Dispense.

Mr. Chairperson: Dispense.

The motion is in order. Any comments, questions?

Mr. Kevin Lamoureux (Inkster): Mr. Chairperson, just a quick question to the minister. The Manitoba Association of Agricultural Societies, would they have been aware of this particular amendment?

* (18:50)

Ms. Wowchuk: Yes, Mr. Chairman.

Mr. Chairperson: Any further comments or questions?

Is it the pleasure of the committee to adopt the amendment? *[Agreed]*

Clause 7 as amended—pass; clause 8—pass; clauses 9 and 10—pass; clause 11—pass; clauses 12 and 13—pass; clause 14—pass; clause 15—pass; clause 16—pass; clauses 17 to 19—pass; clause 20—pass; clauses 21 to 23—pass; clauses 24 and 25—pass; clauses 26 and 27—pass; clause 28—pass; clause 29—pass.

Shall clauses 30 to 33 pass?

An Honourable Member: No.

Ms. Wowchuk: Mr. Chairman, I have an amendment to clause 33.

Mr. Chairperson: Before we proceed then, is it the will of the committee to pass the previous clauses: clauses 30, 31 and 32? *[Agreed]*

Clause 30—pass; clause 31—pass; clause 32—pass.

Madam Minister, on clause 33.

Ms. Wowchuk: Mr. Chairman, I move

THAT Clause 33(2) of the Bill be amended by striking out "classes of societies" and substituting "associations".

Mr. Chairperson: The amendment is in order. It has been moved by the honourable Ms. Wowchuk

THAT Clause 33(2) of the Bill be amended by striking out "classes of societies" and substituting "associations".

Is the committee ready for the question?

Some Honourable Members: Question.

Mr. Chairperson: The question before the committee is as follows: It has been moved by the honourable Ms. Wowchuk

THAT Clause 33(2) of the Bill be amended by striking out "classes of societies"—

An Honourable Member: Dispense.

Mr. Chairperson: Dispense.

Is it the pleasure of the committee to adopt the amendment? *[Agreed]*

Clause 33 as amended—pass.

Shall clauses 34 to 36 pass?

Mr. Larry Maguire (Arthur-Virden): I just wanted to make a comment before we pass the remaining parts of the bill that it was a pleasure for me to attend the Premier's (Mr. Doer) Recognition Awards Dinner this year. I would just like to make a note that the Manitoba Agricultural Societies was the association that was awarded that honour this year. Mr. David Hicks from Boissevain, an ag society member of long standing, was there to receive the award. Recognition was well given and just a great tribute to the organization, the association that has done so much work for communities in Manitoba. Thank you.

Mr. Chairperson: Clauses 34 to 36—pass; table of contents—pass; enacting clause—pass; title—pass. Bill be reported as amended.

Ms. Wowchuk: Mr. Chairperson, I would just like to take this opportunity to thank the members of the committee for recognizing that there were people from out of town presenting and also for recognizing my personal schedule and for making the allowance to have this bill passed in its entirety before we got to the other bill. Thank you very much.

Committee Substitution

Ms. Kerri Irvin-Ross (Fort Garry): With leave of the committee, I would like to make the following membership substitution: Effective immediately for the Standing Committee on Legislative Affairs, St. Vital the honourable Ms. Allan for Swan River for the honourable Ms. Wowchuk.

Mr. Chairperson: Is it the will of the committee to proceed with the substitution? *[Agreed]*

Ms. Wowchuk: Thank you.

Mr. Chairperson: Thank you, Minister.

Bill 19—The Public Schools Amendment Act

Mr. Chairperson: The next bill in consideration of the committee is Bill 19, The Public Schools

Amendment Act. We have a presenter, Brian Ardern, president of the Manitoba Teachers' Society. Mr. Ardern, would you come forward please.

Good evening, Mr. Ardern. You may proceed when you are ready, sir.

Mr. Brian Ardern (President, Manitoba Teachers' Society): My name is Brian Ardern. I am the president of the Manitoba Teachers' Society, and represent 14 000 public school teachers in the province.

This evening I am going to restrict my comments on this bill to the changes being made to section 92 of The Public Schools Act.

Teachers employed by Manitoba school divisions sign contracts with their employers. These contracts set out some basic terms of employment for teachers. However, it is our collective agreements in 39 school divisions in Manitoba which cover salaries, rights and working conditions for our members.

Teachers on permanent contract sign what is called a Form 2 contract. It is called that because it is Form 2 in the schedule attached to The Public Schools Act. Teachers who are hired on term contracts sign a Form 2A contract. The Form 2A contract is not part of the schedule of The Public Schools Act, and, as you will see later, that is important.

Form 2A contracts were introduced about 25 years ago. At that time, Form 2A or term contracts for teachers had a specific purpose. According to Maureen Hemphill, Minister of Education at the time, they were to be used when permanent teachers were on leave such as lengthy sick leaves, sabbaticals, unpaid leaves of absence, maternity leaves or deferred salary leaves.

Unfortunately, regulations to clearly define the use of 2A or term contracts were never put in place. This has led to serious abuses in some school divisions. The most common form of abuse is the use of term contracts to indefinitely extend a teacher's probationary period. In some school divisions, teachers have been on revolving term contracts for five years or more. This denies our members the benefit of due process. We believe that teachers should have the same protections other workers enjoy under The Labour Relations Act.

Attempts to correct these problems through collective bargaining have failed. For example, in some divisions the collective agreement says that after two years on a 2A contract, a teacher hired for a third year must be given a permanent contract. Now, teachers are routinely hired on 2A contracts for their first two years without regard to whether or not they are replacing another teacher on leave. These teachers work for two years, only to find that when their second term contract expires, the division may arbitrarily decide not to offer them a permanent contract. Because teachers have no right to due process until one year and one day after they are on a permanent contract, some teachers work three years and are then let go, two years on term contracts and one year on a permanent contract.

* (19:00)

Recently, teachers in one division who had taught on 2A contracts for two years were denied a third permanent contract when they became pregnant. This was the only reason these women were not given permanent contracts. They had stellar evaluations and recommendations for renewal. After the society filed grievances, the school division backed off and offered these teachers permanent contracts.

However, in the 21st century, it is shameful that any woman has to face losing her job because she becomes pregnant. Still, today, teachers in this division are often advised to hide any evidence of pregnancy as long as possible.

The amendments that you are considering to section 92 of The Public Schools Act will help address these abuses. Manitoba teachers are hopeful that once this legislation is passed, the minister will immediately put in place regulations governing the use of contracts for teachers that will prevent the abuses our members have experienced.

These regulations should clearly state that Form 2A contracts, or term contracts, may only be used when a teacher is hired to replace a permanent teacher on leave. A school division should not have more teachers on Form 2A contracts than it has teachers on leaves.

No teacher may be on a Form 2A contract in the same division for more than two consecutive years. If staff reductions become necessary for any reasons,

there are provisions for layoffs in every collective agreement and there should be penalties for abuses.

I would also like to briefly mention substitute teachers. As a result of changes to our bargaining legislation in 2001, local teacher associations were required to apply to the Manitoba Labour Board for bargaining certificates. As part of this process in 2002, several of our local associations sought declarations from the Labour Board that substitute teachers be included in our bargaining units.

In January of 2003, the board issued an order stating that substitute teachers were not included in local teachers associations' bargaining certificates. The board stated that they were not part of the bargaining unit because they were not employed under a written contract under section 92 of The Public Schools Act, which I referenced earlier.

This same section is under consideration today. This decision was made despite the fact that the board recognized that substitute teachers are qualified teachers and that rates of pay for substitute teachers are contained in all but one of the collective agreements in the province.

After more than 40 years of bargaining for substitute teachers, the society believed that there was voluntary recognition that substitute teachers were part of our bargaining units. We appealed this Labour Board decision and whatever the outcome of this appeal, it is certain that the decision will be appealed, and then the subsequent decision will be appealed to a higher court after that.

In the meantime, four of our local teachers associations have signed up their substitute teachers and made applications to the Labour Board to form separate bargaining units for these substitute teachers. Substitutes have been eager to sign up in separate bargaining units if that is what they have to do. Labour Board hearings began in April, and additional hearing dates are scheduled. It is quite possible that whatever the outcome, this decision will also be appealed.

If the Labour Board grants substitute teachers separate bargaining certificates, they will be entitled to all the rights under The Labour Relations Act including the right to strike. This is an inefficient approach. Substitute teachers want to be part of the Manitoba Teachers' Society. Substitute teachers have

always considered themselves as part of the Manitoba Teachers' Society. In fact, despite the ruling of the Labour Board, we are still providing services to substitute teachers.

However, the extent that we can do that is extremely limited. Our ability to protect and extend the welfare of our members is a function of our ability to bargain on their behalf. It is a fundamental tenet of labour law. The Rand Formula was put in place so that even people who did not want to join a union would pay union dues if they benefited from the union's efforts.

In our case, substitute teachers want to be part of our union, but we cannot act on their behalf. It is ironic, after all the discussion about the floodway labour agreement and forced unionization, that we have teachers who want to be part of a union and cannot.

A substitute teacher who is disciplined unfairly or has an unreasonable complaint against him or her would only have recourse through the courts. They would not have recourse through the collective agreement. In effect, our substitute teachers are being treated as second-class citizens.

The Manitoba Teachers' Society believes in the Charter of Rights and Freedoms to provide freedom of association to all Canadians. All teachers, including substitute teachers, should have the right to be represented collectively by their association.

Currently, applications are before the labour relations board for four bargaining units. However, there are 39 school divisions with substitute teachers. If substitutes are organized separately, it will mean the school boards will have an extra round of bargaining, time that trustees and superintendents could better spend addressing the needs of students. Teachers will bargain under The Public Schools Act, while substitutes will bargain under The Labour Relations Act, with the right to strike.

My point this evening is that we can wait and see what the labour relations board and the courts will do, or the minister can issue a written contract for substitutes, a power he already has. This will make substitute teachers members of the Manitoba Teachers' Society under the definitions contained in The Public Schools Act. As a result of the amendment in Bill 19, the minister will have the

power to make appropriate regulations that govern the use of substitute teachers' contracts.

There is a better, simpler way; 2A contracts and the rights of our substitute teachers are critical concerns for our members. The amendment in Bill 19, if the needed regulations are proclaimed, will help address these concerns.

However, an alternate and more effective way to correct this problem is to eliminate all teacher contracts and place teachers under The Labour Relations Act. Teachers will then be treated like all other employees in Manitoba and like most other teachers in the country. Matters currently contained in contracts will then become matters subject to collective bargaining, which is where they belong. This would be a streamlined and long-term way to stop the abuse of 2A contracts and result in substitute teachers being the same bargaining unit as teachers. As well, this solution will solve a host of other issues concerning teachers' contracts.

Thank you for the opportunity to present our views this evening.

Mr. Chairperson: Thank you very much, Mr. Ardern. Any questions, comments by members of the committee?

Hon. Peter Bjornson (Minister of Education, Citizenship and Youth): Thank you for taking the time to be here tonight, Mr. Ardern. Have a good evening.

Mr. Chairperson: Any other comments, questions? Seeing none, thank you, Mr. Ardern, for your presentation here this evening.

Before we proceed, are there any other presenters for Bill 19? Seeing no other presentations, then we will proceed with Bill 25.

Bill 25—The Amusements Amendment Act

Mr. Chairperson: The first person listed for presentations under Bill 25 is Maureen Wilson.

Ms. Wilson, are you in the audience? Please come forward. Do you have a written presentation?

Ms. Maureen Wilson (Private Citizen): Yes.

Mr. Chairperson: You may proceed when you are ready, Ms. Wilson.

Ms. Wilson: Good evening, and thank you for affording me this opportunity to speak to you tonight.

As a parent and video game consumer, I have a vested interest in the topic of violent video games and felt it was important to speak to you tonight on the issue in support of new regulations.

When I was young, the debate about video games surrounded whether or not children could hurt their eyes looking at the TV for too long, and the hand-eye co-ordination aspect of playing was always offered up as a positive attribute. For several years, video games were the domain of children and there was a very small adult audience.

Perhaps this began to change earlier, but in 1987 a game called *Leisure Suit Larry*, a personal computer game with adult and suggestive themes, was released. In my mind, this is a benchmark for a change from video games becoming just for children into video games being developed for an adult audience.

I would hazard to guess that the majority of people my age have played video games or still play video games on occasion, as I do with my own son. Now there is a substantial market for adult-themed video games, as all of us who grew up with this emerging technology have aged. Together with the successive generations of gamers, we feed a \$30-billion-a-year industry, a figure which now surpasses movie revenues.

* (19:10)

This issue, as I see it, partly involves the need to draw a distinction between games marketed to children who are 17 and under and games marketed to adults, 18 and over. Marketing is the responsibility of the gaming industry. However, a 2001 report conducted by the Federal Trade Commission found that:

1. The companies in those entertainment industries still routinely target children under 17 in their marketing of products which their own rating systems deemed inappropriate or warrant parental caution due to violent content."

2. "The FTC found evidence of marketing and media plans that expressly target children under 17, and promote and advertise products in media outlets most likely to reach children under 17."

For example, action figures such as those tattoos, Spiderman, the Hulk or any number of other themes which are designed for children six years and older can be based on "R" rated movies or "M" rated video games.

Self-regulation by the industry seems pointless to me when on one hand they claim to be protecting children from violent material while on the other they are still actively marketing violence to children. When I, as a parent, am told I am solely responsible for what kind of media enters my home, I find the marketing techniques developed by the industry to circumvent its own rating system a hindrance. I am in charge of instilling the correct values and morals in my child, while others spend enormous amounts of money trying to get my son's business, not my own.

The Retail Council of Canada has developed a program called Commitment to Parents, which has been running in British Columbia for three years. The Commitment to Parents program sounds good, partly because it includes major retailers and will be able to run a bigger and more widespread information campaign than any regular non-governmental organization would ever be able to conduct. However, I do not think the program can stand alone as a viable alternative to legislation.

The Commitment to Parents program is entirely voluntary. Retailers may feel some pressure from the Retail Council of Canada to sign on but ultimately the decision rests with each retailer who sells or rents video games. Consumers have been told by the Retail Council of Canada that the reason these disturbing games remain in stores is because there is a market. Yes, there is a market, and I believe that if kids get ID'd at Zellers or Wal-Mart they will quickly find the nearest retailer who can still be legally selling inappropriate material to minors. To me, a plan which only includes some retailers makes no sense. Regulation is a simple way to ensure that every retailer follows the same guideline.

A non-released survey conducted by the Manitoba Film and Classification Board in 1999 pointed to difficulty in keeping ESRB initiative

brochures and other informational material in stock and available to the public. In his summary, the Manitoba Film Classification Board inspector found that, "Most places did not follow the ESRB rating guide but had their own policy. They would sell to anyone because there is no regulation in place and, if they did not, someone else would."

"The retailer generally handled complaints themselves. There is no local Manitoba number on the ESRB material. This is probably the reason we have not received any complaints at the Manitoba Film Classification Board."

"Basic concerns expressed are they, the retailers, would like to have posters or something permanent to display. Brochures, countertops, all get lost. They would like to see the Manitoba Film Classification Board phone number on the material."

Still, the goal is to change the way violent materials are marketed and to provide parents with the information they need to make informed choices about what their children watch or play. The Retail Council of Canada has indicated that no matter the outcome of this legislation, they still intend to introduce the Commitment to Parents program nationwide. I applaud this effort, and I think that new regulations in tandem with a fresh information campaign will send a powerful message to parents and the larger community that violent entertainment does not belong in the hands of children. Thank you.

Mr. Chairperson: Thank you, Ms. Wilson, for your presentation. Are there questions from committee members? Mr. Martindale.

Mr. Doug Martindale (Burrows): No. I was signalling the page.

Mr. Chairperson: Sorry. Any questions from committee members?

Hon. Eric Robinson (Minister of Culture, Heritage and Tourism): Ms. Wilson, thank you very much for your presentation this evening. I believe it is important for all retailers and parents, and others, to be responsible to our children in our province. We believe that this legislation will ensure that throughout the province of Manitoba. We also believe that parents will have that knowledge, hopefully, that violent or sexually explicit video games will not be sold or rented to their children. So

we are hopeful that this is a positive step forward in meeting that.

We also believe that this legislation provides an opportunity for parents, the retailers and government to work together and protect our young children from these images that they may not be mature enough to see but, certainly, on behalf of government, I would like to thank you for your presentation, your thoughtful presentation this evening.

Mr. Chairperson: Thank you, Ms. Wilson. The next presenter—oh, sorry, Mr. Cummings. Did you have a question?

Mr. Glen Cummings (Ste. Rose): I was going to ask Ms.—

Mr. Chairperson: Ms. Wilson, would you mind coming back please. Thank you.

Mr. Cummings: Sorry, I was asleep at the switch. I wondered if you felt that there appears to be sufficient opportunity for enforcement of what happens in retail outlets to support this legislation.

Ms. Wilson: I believe that without the legislation there will be no changes made to industry and there will be no change to the retail market as a whole without regulation, which allows for fines to be imposed upon a retailer. As far as I understand, the Retail Council of Canada's program will put that responsibility on the employee who makes the sale at the point of sale and not on the industry or the retailer as a whole.

Mr. Cummings: Thank you, Ms. Wilson.

Mr. Chairperson: Any other questions? None? Okay, then we will proceed to the next presenter.

The next one on my list is Ms. Cerilli. Please come forward. Good evening. Do you have a written presentation for the committee?

Ms. Marianne Cerilli (Private Citizen): I did not get it photocopied, so you are just going to have to listen. I am just going to arrange my—

Mr. Chairperson: Good evening. You may proceed when you are ready.

Ms. Cerilli: Thank you. I am really pleased to join you tonight to see this legislation come to fruition. It has been a long time in the works.

I just want to let you know that I am actually here representing the Violence Is Not Child's Play Coalition, which is a spin-off of the Project Peacemakers group which has done a number of great things including preparing a peace curriculum for Grades 5 to 8. They did a petition in 2002 on this issue which had over 30 organizations onside and sign on, such organizations as the Manitoba Association of School Trustees, the Child Guidance Clinic, a number of school divisions, the family physicians association, New Directions and a couple of hundred individuals.

So we are here representing many more than just us three. So we applaud the legislation and that Manitoba government is leading the way nationally on this issue and along with Nova Scotia. I am not going to do a comparison tonight with the Nova Scotia legislation which was just tabled a couple of weeks ago on the same issue, but that would be an interesting exercise. What we are wanting to recognize is that you are seeing that there is a negative socialization aspect to violence as entertainment and that these video games deserve some positive action.

The various coalition members you have already heard from. Maureen will be dealing with a whole variety of issues. The thing that I am going to focus on specifically is how to make this legislation as current, as relevant and as preventable as possible. We really want to emphasize that we want to focus on prevention and not just punitive measures in the legislation.

So what does this legislation do? It does three things. It puts the video games under the regulatory framework of the Film Classification Board, but it does not specify what that framework would be. As you have already heard from Maureen, we have some concerns about that, that the ESRB classification is just going to be adopted.

The second thing that the legislation does is it allows for the government to adopt the classification system of another jurisdiction. We are concerned that the industry standard or existing voluntary system is simply going to be adopted. We see that meetings such as we are having here tonight are crucial to the process of social change and de-escalating violence. We want to encourage that the Minister of Culture (Mr. Robinson) and his colleagues from across Canada as well as their officials continue to meet to

ensure that the community is engaged in this issue. We would also like to see issues of violence as entertainment, domestic violence and community violence on the Premier's agenda for First Ministers' meetings.

The third thing that this legislation does is it allows the government to restrict and guide the sale of violent video games to children. That is the big thing that it does that we are very pleased with. We are also concerned that there is confusion among the public about the difference between a rating system for CDs, compact disc movies and video movies and a system for regulating video games. So we want to flag that one.

* (19:20)

I just want to do a little brief why this is so important. I have been working on this issue for probably about six years, and I see it as a huge issue. We are trying to keep up with a very fast advancing industry. The electronic media that is being sold to the community, particularly kids, is rapidly changing, as you heard Maureen reference. The habitual video-game playing by kids who are abused, neglected, bullied and otherwise vulnerable due to a lack of positive messages and influence is a recipe for disaster and a recipe for violence among kids and by kids.

So we want to put this discussion in a wide social context by saying that we do live in a violent world, and it is difficult to raise peaceful kids in this violent world. Our culture does glorify violence as entertainment, as an acceptable way to solve problems, make decisions and to entertain ourselves. We take exception to the idea that shooting people, fighting people, raping and killing people should be presented to kids as entertaining.

Now, just let us stop for a minute and take a breath, because I do not know how many have actually seen the content of what is in these games. The ones that are coming out that are going to be at a store near you and your kids, the kids that you care about, are going to be way worse. So, entertainment that gives points for raping prostitutes, for stealing cars, for beating people up, especially targeting certain demographics, certain ethnic groups, certain gays and lesbians, for example, or the police, I would think that we all want to not see that in the hands of kids. So that is what this is about.

There was recently a book profiled in the *Free Press* called *Who is Raising Your Child? Battling the Marketers for Your Child's Heart and Soul*. The cover says it all. It also says, "Help Kids Care Less about Things and More about People." I have other examples of what I am talking about with magazines that teach companies how to market to kids. This one is called *KidScreen; about reaching children through entertainment software*. There are ads in here. "Twenty-thousand wired kids and they are all yours." So they have conferences teaching companies how to access kids as a market for selling all sorts of stuff.

These games that market the conditions for bullying, violence and discrimination, making it seem normal, no big deal, or just the way things are. Kids learn what they play and kids learn from the environment they live in. If you have any doubts about the importance of this issue, go and watch the movie *The Corporation*. How many of you have seen that already? It has got a segment on violent entertainment that is really worth the price of admission.

So I am going to focus, as I said, on how to make this legislation preventative. What do we mean by preventative? Well, like I said earlier, not focussing just on penalties that are levied after the fact when violent games are sold to minors in violation of the new rules, but rather, taking a broad strategy to inform and educate parents, caregivers and kids about the effects of violence as entertainment to counterbalance the effects of advertising, peer pressure, through media literacy and parenting skills, to recognize and counter the addictive nature of these forms of entertainment due to target marketing and their interactive nature, I am calling these video games, particularly the ones that are extremely violent, pornographic, as the crack or cocaine of the entertainment industry, stipulating the consequences that incorporate those concepts of prevention and non-violence into the focus to change attitudes.

The legislation would be made much stronger by requiring this public education campaign and parent support. I recommend to the committee to add these changes as an amendment to the legislation. So making an amendment that would also require there be an attached media literacy parent education program and we are also, at the end, going to recommend some research to go along with this

legislation into the addictive nature of violent video games.

Just today, I was ad hoc talking to someone on the phone, a friend, telling them what I was doing tonight. They were talking about a teenager, of a friend they know, who is definitely hooked on these games. They play them compulsively. They do not want to go to school anymore. Their grades are falling. They are not doing anything else, like playing soccer, or doing any other kind of fun things that kids do, because they are hooked on playing video games.

So here are some ideas for the legislation. This legislation is a shell, and the important regulations will have to address the following:

- a. Clear information about the content of games available to parents, guardians and kids. Large stickers with rating information about the contents of the games on all games, new and used. The posters, Internet information, and I also have a copy of the study that was done by the Film Classification Board in 1999 that found that the existing voluntary system is not being adhered to, and why this legislation is so necessary.
- b. Clear instructions for retailers about how to separate the games, display and store the games, so little ones are not exposed to the ads, the toys, the target marketing and the propaganda. Being exposed to these games does allow the discussion between a parent and a kid to occur about multi-media nature of this industry, and it is overwhelming to children and many parents. It is tough to compete for your child's attention as a parent with multinational companies. They have a larger staff and a much bigger budget for advertising.
- c. Information to parents, teachers and caregivers about why everyone needs to be concerned about violence as entertainment, and how it must be contextualized, the issue to show why it is important and why they need to be concerned about what their kids are exposed to. This should include some information about child development, and how we learn from play and our environment.

As an aside, there was just a really good conference that Healthy Child sponsored called

"Children of the Environment." There was a workshop on whole community planning that really dealt with these concepts of how understanding how kids learn from their environment. The government did sponsor that conference.

- d. The sales outlets must be registered with the Film Classification Board or some other governing bodies that will sell or rent these video games. This gets to the issue that Mr. Cummings was addressing.
- e. There needs to be regulations addressing the cross-marketing of figures, characters of violent video games to younger children. For example, what happens is the figures from a team-rated game are marketed as toys to preschool children and primary-age children that would play with the game figures, even though they cannot actually rent those games. They are games that are intended for older kids or adults, but the target marketing is occurring through figures and toys to little wee ones. These are the tactics used by manufacturers and marketers to get very young children interested in these violent games, before they can rent them, and this sets up for pressure, or the nag factor, to begin using this form of entertainment.
- f. We want to encourage the government to hold further public meetings on this issue, to sponsor guest speakers, and invite retailers to these educational events. We realize that these are the ways that we are going to actually change and affect attitudes. The regulations at the retail level are something that has to also be done at the manufacturing level. There is a rule for government to invoke the hate laws with some of these games. It is a concern when there is lots of attention to the criminal mind at the level of street crime; however, the criminal mind that is at the level of the captain of industry, and thinks up these cool "toys" that are mass-marketed to kids is much more dangerous.
- g. The challenge with the new legislation also brings with it the obligation of enforcement, and we have some ideas about that. The Manitoba Film Classification Board does not have a huge ability to be proactive but, rather, will depend on a complaint system once the ratings have been given.

The legislation, therefore, needs a mechanism for complaints from the public when sales to minors occur in violation of the regulation. This will help the public be the watchdog. This requires a mechanism for filing complaints.

* (19:30)

- h. The other legislative issue of the "how" of the enforcement also needs to be addressed. One strategy would be licensing retailers. Then retailers could have the license to sell video games revoked. After a number of chances and a few violations, the games would not be sold or rented or marketed to kids. This adds another preventative aspect. Perhaps, after a few chances, there could be a sign on the door that says something like, in big capital letters, "This establishment no longer is licensed to sell video games as they have been in violation of selling adult material to children," end caps.

As is often the case with fiscal fines, industry is encouraged to simply see them as a cost of doing business. The deterrent nature of fines is, therefore, limited. The real goal is behaviour change and not just being caught avoiding a code. The system of fines is supported by the coalition, but it should not be the only penalty.

Time? Well, I have (h), (i), (j), (k), (l), (m) and (n) to go through.

Mr. Chairperson: Perhaps if I might interject at this point. We are past the allowable point in time for the presentation, which was 10 minutes, and we went well over into the 13-minute mark. I am just wondering if we could get copies of your presentation that, perhaps, could be distributed to members of the committee, and then they could see the remainder of the points that you had listed there. That will give us a chance to give consideration to each of those points, and then, at this time, give members of the committee the opportunity to ask any questions that you might have with respect to the presentation that has been made by Ms. Cerilli here this evening.

Is that agreed? *[Agreed]*

Mr. Lamoureux, did you have a question?

Mr. Kevin Lamoureux (Inkster): Yes, Mr. Chairperson, I would just ask if the member would

like to be able just to maybe conclude on her last points. I will put it in the form of a question, if that is okay.

Ms. Cerilli: Are you asking if I would like to finish and then forfeit my time to answer questions?

Mr. Lamoureux: As my question, I would ask if Ms. Cerilli would just kind of enlighten us on those last few points.

Ms. Cerilli: Okay. I will just go through them in point form. Then, there will probably be a couple of minutes to answer questions. *[interjection]* Cannot do that?

Mr. Chairperson: Just please proceed.

Ms. Cerilli: I am recommending that you adopt the idea of the "john school" and that violators of the new regulations go to, I do not know, video game school. Again, keeping in mind the preventative aspect of that, we recommend making the disclosure of the content of the games public. So, right now, the ESRB has a form that is completed. The manufacturers actually have to disclose, but the public does not have access to that information.

I will skip over (j) because Maureen dealt with that. No. (k) is we want to make sure that there is a citizen or community standard and not just an industry standard on this issue, that we do not just adopt the industry standard. We like the idea of the porn tax. The video game tax is a sales tax that would also get parents' attention. We do not want to see any grandfathering of old games.

As I said, we realize that it is difficult to legislate culture, so we want to encourage you to do research and public education as part of the bill. Thank you very much.

Mr. Chairperson: Are there any other questions of the presenter?

Mrs. Mavis Taillieu (Morris): Just one question. You said that you would prefer not just to see an adoption of the ESRB ratings. What kind of rating would you prefer to see, and how would you see that evolving?

Ms. Cerilli: I think that there needs to be a community standard. The ESRB is an industry

standard. We did meet with the local person, who is actually a former Conservative staff researcher, interestingly enough. I thought he might be here to make a presentation.

But what we want to see is that there is a community standard, and that we do not just adopt the industry standard for the games.

Mrs. Taillieu: I just want to note for the record that the gentleman from the retail sales council is out of town and he has provided a written report.

I am still unclear though as to what you are looking for. Are you looking for another rating of every single video game?

Ms. Cerilli: We think there are some cracks in the way the existing rating system reviews games and the actual ratings themselves. The way they set the ratings, we have seen information that it is based on a clip the ESRB gets from the manufacturer and a disclosure form. The community needs to really be able to look at that.

The other thing, when we met with the Retail Council of Canada, their interest is protecting retailers' market share, their reputation, their trustworthiness. Their stake is not in reducing violence. That is the community's interest. Do you understand what I am saying? There is a difference in what the industry standard is going to be and what a community standard is going to be.

Mr. Cummings: There might be a difference of degree but I do not think there is any difference about the concern that can be raised around some of the material that is being made available in increasing numbers.

The problem I have with this bill—by the way, your presentation, I do hope you will share your (a) to (m) listing with us at some point. The enforcement aspect, I am afraid you could look at this bill and suggest there is a lot of nice verbiage but when the rubber hits the road there is not a whole lot happening.

Would you be in favour of a more defined method of enforcement?

Ms. Cerilli: I remember saying those words to you in this very room a number of times, Mr. Cummings.

I think the trend in legislation is to do more and more in the regulation part. So what we are advocating in terms of having a community standard is that there needs to be more meetings, that there needs to be some kind of community engagement and involvement in making those regulations.

I have definitely said one amendment would be to require that, so that there could be an amendment that would require there be those two components in the legislation, research and some kind of public engagement strategy, because that is also what is going to get parents to realize this is new.

I have also raised the issue that there is going to be some confusion out there. You are going to have Johnny who, up until one week, is able to go and get certain games. Then all of a sudden there are going to be some more requirements. He is going to have to show ID. There are going to be some new requirements on the retailer. Secondly, there is going to be then what the parents do when all of a sudden these kids do not have as much access to these games. There are going to be some interesting dynamics happening with this legislation.

Mr. Cummings: When is it enough? One of the questions that was raised about this bill to me, in fact a couple of questions, came from a class of students touring this building. They were scoffing at the concept of the bill. They have other ways and means of acquiring the material without always going through your normal retail methods. Therefore, that led me to reinforce my questioning of whether or not there should be a more definitive aspect to this bill about enforcement. Then it might go further than just laying out some broad parameters, which is what we have here, enforcement where underage are supplied, either through legal or illegal means.

Drinking, smoking, pornographic material, we get onto everybody's case. This, by your own words, is heading in that direction in some cases. Does that not make sense?

*(19:40)

Ms. Cerilli: It is trickier, because you are regulating, as I said, culture. You are trying to apply a mechanism that is designed for something like tobacco or alcohol in some ways, but there are all sorts of things that the government regulates that are equally as slippery.

Some people have said, "Well, there is way more harmful, disgusting stuff on the Internet, which is more difficult to regulate yet." But let us do what we can. Let us do what is right in front of us.

There are other ways where—I have just got an ad from a magazine here that says, "To 12-year-old Lisa, he is simply 11-year-old Jenny." It has a picture of a guy on the Internet and it says, "25 percent of kids have been asked to meet someone they have met on-line." So 25 percent of kids that are in these chat rooms are being lured to meet people.

So it is tough to regulate all this stuff, but we have to make an attempt. I would rather do something and see how it works than do nothing and sort of throw up our hands and say, "Well, you know, we can't do it."

Mr. Chairperson: That concludes the amount of time that we have set aside for questions and answers. Thank you, Ms. Cerilli, for your presentation here this evening. If you would not mind leaving a copy, our page will take that and photocopy it, and we can distribute it to members of the committee. If you would like your original back, we can do that as well.

Ms. Cerilli: Yes, I would like my original back. I can also send a copy that is a little bit less written on, but you have my scratch notes too. Thank you very much.

Mr. Chairperson: Thank you. The next presenter on our list is Bev Ridd. Ms. Ridd, could you come forward please.

Do you have a written presentation?

Ms. Beverley Ridd (Private Citizen): I do.

Mr. Chairperson: The page will help you to distribute it to committee members.

Mr. Chairperson: I think we are ready. Please proceed, Ms. Ridd.

Ms. Ridd: My name is Beverley Ridd. I thank you for this opportunity of speaking to the committee.

I am speaking, actually, from the perspective of a parent and a grandparent. I am the mother of three children, grandmother of seven, five of whom are

boys, and boys are particularly vulnerable in this whole video game world. They are the ones who do the most playing.

I am also a person who has had a lifelong concern for the well-being of children. I am a graduate of the Children's Hospital of Winnipeg, and was the first director of the River Heights Family Life Centre.

I became concerned about violent video games in 2001 after being asked to participate in a pre-Christmas toy store inspection. The purpose of the inspection was to ascertain the type of toys being marketed to children that year; for example, what percentage of the toys on display encouraged violent play or depicted graphic violence.

In the course of the inspection, our group visited the video game section. This was new territory for me. I was quite naive about the content of video games and what kinds of games were being sold to children. To put it mildly, I was shocked. The illustrations of violence and explicit sexual themes, as well as the written descriptors on the boxes were an eye opener.

I did see that there was some information about a rating system explaining the meaning of the small letter on the corner of the boxes, for example, that E meant suitable for everyone. But, as these games were shelved alphabetically, an E game could be adjacent to an M, mature-rated game with a very lurid cover, many at the level of a small child. I also discovered that, unlike videos, there was no law outlawing the sale of these M-rated games to young children. It was strictly voluntary on the part of the store to refuse such sales.

I have known for many years that the way children learn about life and society is through play. We give young children pots and pans to teach them about cooking, or miniature toolsets to give them their first experience with hammers and screwdrivers.

Ms. Kerri Irvin-Ross, Vice-Chairperson, in the Chair

I became very alarmed about what these violent video games were teaching young players. Also, I wondered if most parents were as ignorant as I about what their children were playing. Since then, I have spent a lot of time reading the current research on the

effects of violent video games, and speaking with parents.

In 1999, the Canadian Pediatric Society, in their position paper, *Children and the Media*, noted that, quote, "The influence of the media on the cycle social development of children is profound."

In July 2000, four major public health groups—the American Medical Association, the American Psychological Association, the American Academy of Pediatrics, and the American Academy of Child and Adolescent Psychiatry—issued a joint statement to the American Congress, which specifically addressed the connection between media viewing and aggressive behaviour.

This report said, in part: "Viewing entertainment violence can lead to increase in aggressive attitudes, values and behaviour, particularly in children. Its effects are measurable and long lasting. Moreover, prolonged viewing of media violence can lead to emotional desensitization toward violence in real life. Children exposed to violence are more likely to assume that acts of violence are acceptable behaviour."

The statement went on to say that, "although less research has been done on the impact of interactive entertainment such as video games, on young people, preliminary studies indicate the negative impact may be significantly more severe than that wrought by television, movies or music." The evidence of the link between viewing entertainment violence and aggressive behaviour is now indisputable.

Since that statement was made, much research has been done concerning violent video games. For example, one study carried out by Smith, Lachlan and Tamborini in 2003 entitled *Popular Video Games: Quantifying the Presentation of Violence and its Context* gives us some idea of the content in these games. Here are some of their findings:

"Boys aged 8-18 surveyed in this research spent 40 minutes a day playing computer or video games. The number of violent interactions in a 10-minute play period ranged from 2 to 124.

"Boys who play Teen- or Mature-rated games for a minimum of 40 minutes a day may witness over 180 incidents of aggression per day or 5,400 incidents per month.

"In 98 percent of the games surveyed, aggression went unpunished. In fact, in more than half the video games the perpetrators were rewarded for their aggressive actions.

"Only 10 percent of all video game perpetrators possessed 'good' or 'prosocial' qualities."

You can see the kind of toxic content that is in these games.

Another study, *Video Game Violence and Public Policy*, conducted by Dr. David Walsh, the director of the National Institute on Media and the Family, a psychologist, in a meta-analysis of 35 different studies of violent games in 2001, showed a consistent pattern of results in five areas. Exposure to violent video games increases physiological arousal. Exposure to violent video games increases aggressive thoughts. Exposure to violent video games increases aggressive emotions. Exposure to violent video games increases aggressive actions. Exposure to violent video games decreases positive, helping actions.

What I have not put here is there is new research that has just come out this year. It is called video game neurology where they have actually done studies that these chemical changes that take place in the brain actually change the brain itself so that, although the person playing the game may think this is fantasy, the brain thinks it is real. It is a profound experience that our children are having when they play these games.

Anderson and Dill, in their research paper, *Video Games and Aggressive Thoughts, Feelings and Behaviour in the Laboratory and in Life*, concludes there are some key characteristics of violent video games that suggest their dangers may well be greater than the dangers of violent television or movies. They find three reasons for this. The first concerns identification with the aggressor. You are actually the one doing the killing and the shooting. The second reason for concern involves the active participation involved in video games, and a third reason to expect video games to have a bigger impact than television or movies involves their addictive nature.

Griffith and Hunt, in 1998, found that one in five adolescents can be classified as pathologically dependent on computer games. I did a workshop

with Marianne for high school students. We were shocked when one young man told us that when his parents stopped him from playing violent video games, he actually went into a depression and felt suicidal. He was that addicted.

Some recent research, as I pointed out, was disturbing. William Illsey Atkinson, writing in *The Globe and Mail*, Saturday, March 13, 2004, describes the findings of a new scientific discipline called video game neurology that shows how electronic games affect the human brain. Neurologists discovered that playing a video game sparks a unique neurochemistry in the brain. For example, they discovered that increased activity in a brain region called the posterior cingulate proved that the images were being burned into storage as vivid, persistent and traumatic memories. The team concluded that the children retained violent video game images in a way that could influence their future behaviour. In other words, their brains were actually being changed, as I said.

Anderson and Dill conclude their study with this warning: With the recent trend toward greater realism, more graphic violence in video games and the rising popularity of these games, consumers of violent video games and parents of consumers should be aware of these risks.

So the question is how can legislation help our children and parents. Restricting the sale of mature-rated games to under age children is, obviously, a very good start and we commend the government for that, but many researchers, however, point out problems with the current entertainment software review board rating system.

*(19:50)

First, because the ratings are different from the current rating system for movies and videos, they can be confusing for parents. I find this when I go and speak to parents, that they are confused that we have one system for movies and one system that is on the boxes for the games.

Second, because researchers, such as those from the Harvard School of Public Health, as well as parents, frequently disagree with the appropriateness of the ratings. There is a very large study that was just done by the Harvard School of Public Health on violence in teen-rated video games and it is quite

horrifying what they found in these games, that they found this was not appropriate. They did a similar one on E-rated games and, again, there was a disproportionate amount of violence to what one would want in an E-rated game, E for everyone.

Daphne White from The Lion & Lamb Project found that although E-rated game indicates that the game has content suitable for persons 6 years and older, as many as one third of all E-rated games have such violent descriptors as, quote, "animated blood and gore," "animated/pixated depictions of mutilation or dismemberment of body parts"—this is in an E-rated game—"realistic violence."

Furthermore, parent raters for the National Institute on Media and the Family disagreed with one out of every four ratings. So you can see that the problem is profound.

The ultimate goal of the Manitoba government, we believe, should be to work toward a national enforceable rating system that is consistent with the current film classification system. That would be the way we would really like to go, for Manitoba to take the lead and work toward making a national enforceable rating system consistent with the current film classification.

In the interim, it will be important to communicate to the public the substance of any new regulations introduced. This alone can have the beneficial effect of raising awareness of the issue. I find, when I speak to parents, a lot of them really do not know what is going on.

Furthermore, this is another problem parents find, it would give parents who do not wish their children to play these games the information and the authority they need when speaking to other parents to prevent children from having access to games which are not allowed in their own homes.

Another problem with the rating system not being visible enough, and that was mentioned, I will just mention it briefly again, video game retailers should ensure that information about any rating system is very visible. As was mentioned, a permanent display is preferable to pamphlets that get misplaced. Larger rating stickers on the boxes would help get the attention of purchasers and, above all, the M-rated and teen-rated games should be located in a separate section from the E-rated games.

I agree that parents have a responsibility to be vigilant and monitor their children's activities. However, they are up against an industry that spends millions to advertise their products to children. As White says, parents cannot stem the tide of entertainment violence on their own. We need help from our government.

Legislation also needs, I believe, to look at the arcades. It is incongruous that a child cannot attend an R-rated movie but can play an M-rated video game in the foyer.

Madam Vice-Chairperson: Excuse me, Ms. Ridd. We are at 11 minutes and 46, so if you could wrap it up, because I know that we probably have some committee members who have some questions for you.

Ms. Ridd: Okay. I have just a couple of paragraphs.

Parents and children would also be helped if there were regulations for the promotion and marketing of games. As was pointed out, Marianne or Maureen, I guess Maureen pointed out that routinely the industry targets young children. Just recently, Doug Gentile from the Iowa university gave this quote: Advertisements for M-rated games have appeared in *Sports Illustrated for Kids*. It is unfair of the industry to label games as 'not for kids' when marketing to kids.

The other problem that was spoken about was how they cross market, the toys and the games. One of the things that could be done there is to place a warning label on the action figures that would address this problem. In other words, if the action figure was from a mature-rated game, that could be on the figure to say where this is from.

In conclusion, I would just like to say that, although I am speaking, sort of, primarily as a parent, I do believe it is the responsibility of our whole community to provide a safe and nurturing environment for all children. So a large scale public education program that would include information on these effects would be very helpful, and, also, helping parents with alternative activities, and information on parenting skills to address this very serious problem. Many people bemoan the amount of violence in our society today; addressing the problem of violent video games is one preventative action that the government of Manitoba can take. Thank you.

Madam Vice-Chairperson: Thank you, Ms. Ridd. Are there any questions?

Mr. Lamoureux: Ms. Ridd, I really, truly, did appreciate your presentation. In it, you make reference to legislation needs to also target arcades. Then Ms. Cerilli was talking, and there was some table discussion about Internet. I am wondering if you feel that the legislation should take into consideration, let us say, the distribution of things that would be downloaded from the Internet. Do you see that the legislation or regulation should be looking at that?

Obviously, we cannot prevent what people are going to download, but, what they might download, and then bring to the school for distribution, is there a role for this legislation or regulation to address an issue of that nature?

Ms. Ridd: You know, I think somebody made the point earlier that, I guess it was Mr. Cummings made the point, you know, you can get around these things. Kids can buy liquor, get their friends to buy it, that type of thing, but I think just having something like that there makes parents more aware and makes society more aware, and I think that might be something that should be looked at, yes.

I have a couple of examples that people might like to see.

Madam Vice-Chairperson: Okay we can have the page pass those out for you. Are there any other questions?

Mr. Jack Penner (Emerson): Thank you very much, Ms. Ridd, for the presentation. I think you make a compelling case for the vigilance that all of us should have in regard to what we allow our children to see or not to see. I just want to ask one question. Are you aware that there are a significant number, in our Manitoba society today, of parents that will simply not allow their children to view these kinds of materials? Number 1, they have no television sets in their homes, nor would they allow material such as this to be brought into their homes. Are you aware of that?

Ms. Ridd: I would say they are, probably, very much in the minority, because I have been invited to speak to parent councils and parent groups, and that would be a rarity that somebody would not have

access to that. In fact, I think the study has just been done. I think Maureen just got a study that the Canadian children play more video games than any other children in the world. So I think it is a broad problem. If those people do not have them, they are not going to be worried about this, except how it affects, maybe, their children from somebody else's behaviour.

Mr. Penner: I guess the question I have, would you agree, that, if we, as adults, played a more proactive role in ensuring that our children were kept from these kinds of materials to a much maturer level in society, we would have a different society?

Ms. Ridd: I believe that is the ideal, but I also believe there are a lot of children who do not have those types of parents. I believe there are children who are vulnerable. I think most parents really want the best for their children, but, maybe, are ignorant of the effects of these games, do not think about it.

I am quite surprised when I go to speak to these groups that well-meaning parents have never looked at what is in these games. When I show a video of clips of some of the things that are in these games, they are totally shocked. So I just think that we cannot expect individuals to take full responsibility. This is a huge industry that markets these things to our children. I think, as a community, we have a responsibility to care for the children of our community.

* (20:00)

Mr. Penner: Just one short question, then. Do you truly believe then that government could impact these kinds of decisions, when parents cannot impact the decisions of their children?

Ms. Ridd: Yes, because it would give parents the backing that they need, Mr. Penner. Parents would be able to have that authority that they could speak to a parent of another child, or a friend of theirs, and say, "You know, I do not want my child to see this, and it is not allowed." It would just be, I think, very helpful. It would really raise the awareness among parents of what the effects of these games are, and the problems that they are affecting our children with.

Madam Vice-Chairperson: Any other questions?

Mr. Lamoureux: One request, because you do seem to have quite a bit of information. You made reference to a video clip. Is it a VHS tape that depicts some of these that you might be able to—I know I, personally, would have an interest in just getting—it sounds like you make presentations. Is that something which, maybe, you could make available to each of the three political parties?

Ms. Ridd: Yes. One of our volunteers just recently made a new video. Her boyfriend plays video games, so she did a video of three of the most popular games, but mature-rated games, which are still available to young children; one is *Grand Theft Auto*, *Vice City* and *Manhunt*, which is the notorious one that the province of Ontario has just outlawed being played at all. Yes, I certainly have that available and would be willing to show it. It is quite shocking.

Madam Vice-Chairperson: Thank you. That will conclude our time for questions.

Mr. Robinson: Ms. Ridd, thank you very much for your well-researched and thoughtful presentation. It is, indeed, something that we, as a committee and, ultimately, as a government, take very seriously. Both yourself, your presentation and the one previously by Ms. Cerilli, is something that is very informative, firstly.

Secondly, there are a number of good recommendations, I believe, that are contained in both your presentations ranging with the 13 recommendations that Ms. Cerilli had with respect to the work that we should be doing. I want you to know that this amendment to our Amusements Amendment Act is, simply, the first step, we believe. I believe that opportunities are there for, perhaps, amendments as a possibility, as the work continues on the interprovincial working group that you are very familiar with, as the industry itself evolves.

At the Vancouver meeting of the working group very recently, the Retail Council of Canada and the ESRB made presentations to this working group. I want you to know that there was discussion about whether the ESRB ratings were sensitive to Canadian values. We have to make some inroads there, as well. As a result of lobbying efforts on behalf of Canadian

provinces and our representatives, we have had a position on their advisory board offered to us here in Canada. So I think that is a substantial move in the right direction.

I believe that Ms. Cerilli in her presentation said that we should have a homemade community-standard product developed. I think that is, ultimately, the goal down the road. We are, also, mindful the industry is changing on a regular basis. As a committee, I believe, as legislators, we are very familiar with that. Whereas, we are just as concerned—certainly, I am, as a parent, potentially a grandparent soon—that we must be very mindful of what is accessible to our children.

I want to thank you for your very thoughtful presentation to this committee tonight.

Madam Vice-Chairperson: Thank you.

Bill 30—The Safe Schools Charter (Various Acts Amended)

Madam Vice-Chairperson: Now we will move on to Bill 30, The Safe Schools Charter. Our first presenter is Mr. Pokorny. All right, Mr. Pokorny, if you would like to start, please.

Mr. Roland Pokorny (Private Citizen): Due to time constraints, I am only going to briefly read over it.

My name is Roland Pokorny. I am the parent of a severely bullied child. Bullying cannot be prevented if it is only addressed at the school level. It has to be addressed on a community-wide basis. In school, bullying is a pack animal sport. It usually involves two or more bullies picking on one individual. This is why adults are so easily fooled. They see a group of popular kids accused by one less popular child.

For adults in authority, including school staff, municipal councillors, or any other responsible adult, they will work hard to discredit the victim.

There are different types of bullies. For child bullies, bullying is a learned behaviour. Bullies are taught to bully. To a child bully no means no, yes means yes, and silence means yes. There are no spectators.

Most of the time bullying is not physical; it is psychological. They will call you names. They will

tease you, torment you. They will humiliate you, mock you, embarrass you in front of your friends. They will threaten your friends to isolate you and ostracize you from all other children.

Now where the real problem lies: the pro-bully adult. The pro-bully adult usually believes that bullying is okay, that bullying will toughen you up, that it is a rite of passage, that bullying is part of life and you just have to accept it.

Mr. Chairperson in the Chair

The best way to distinguish a pro-bully adult from an anti-bully adult is the desire for proof. Pro-bully adults will always demand large amounts of proof that a problem exists. The amount of proof is so great that it usually comes at great cost to the victim of bullying. The anti-bully adult always believes in being pro-active. Prevention is the rule. Proof is never needed to implement new ideas that will prevent bullying.

The adult bully and the serial bully: It is estimated that 1 person in 30, male or female, is a serial bully. Introverted bullies are the most dangerous type. They sit in the background and recruit others to bully for them. Extroverted bullies can be charismatic and seem to bewitch people. The serial bully knows what they are doing. They are responsible for their behaviour and thus liable for its consequences to other people. Most cases of bullying involve a serial bully. When called to account for the way they have chosen to behave, the bully instinctively exhibits their recognizable behaviour responses.

Denial: The bully will deny everything. They did not do it. A variation of this is trivialization; they may have done it, but they think it is insignificant to report.

Retaliation: The bully immediately counterattacks. The bully quickly and seamlessly follows the denial with an aggressive counterattack of counter-criticism and counter-allegations, claiming to be the victim and saying the victim is the bully.

Feigning victimhood: This commonly takes the form of bursting into tears.

By using these responses, the bully is able to avoid answering the question and thus avoid

accepting responsibility for what they have said or done. As a pattern of behaviour learned by the age of three, most children learn or are taught to outgrow this, but some are not, and by adulthood this avoidance technique has been practised to perfection.

A further advantage of the denial/counterattack/feigning victimhood strategy is that it acts as provocation. The target who may have taken months to reach this stage sees their tormentor getting away with it and is provoked into an angry and emotional outburst, after which the bully simply says, "There, I told you he or she was like that."

I have included some more information on bullying, but I have also included, on page 6, common excuses used by pro-bully adults and adult bullies, as well as what an anti-bully adult would say. On page 7, I have included some ideas on how to prevent it within our schools as well as within our community.

Now my story and why I am here. In October 2002 was the last time my son attended school. He was 10 years old and in Grade 5. On a Monday he got off the school bus. His clothes were damaged and had dirt on them. He ran into the house crying and ran into his room. He did not say anything, but, when we asked, he said, "What is the use; no one believes me anyway." Scott's older sister, Kelly, was also in the bus, and she saw everything and told us what happened.

Kelly is an honour roll student and four years older than Scott. In her own words, which she said do not change: "When Scotty walked outside the school, he bumped David with his backpack. With that David ran after him and started bashing him with his backpack. Scott then started running up the steps to get on the bus. On the last step David pounced on Scotty like a lion would onto its prey. David started punching, hitting, kicking and swearing at Scotty. The bus driver was watching the whole thing, and she just sat there with a smile on her face. When I saw that the bus driver was not going to do anything, I ran to the front, grabbed Scotty and told David, 'You are in trouble now.'"

* (20:10)

"When I sat down in my seat, Scotty sat down and just started crying in my arms. I have never felt so bad in all my life. Sitting across from us was a

boy named Andrew. When he saw Scotty crying, he walked over to David and started punching him and asked him how he liked it. He even asked David if it felt good being beaten. Now the bus driver did not stop David from beating Scotty, but she did stop Andrew from beating David."

When I came home from work, I looked at Scott. He had bruises on his arms, legs and back. I went to the school the next day, and I talked to the vice-principal. I told him what had happened and invited him to my house to see Scott's condition. I told him Scott would not be back at school for at least a week, so he could heal.

He declined the invitation, and said he would investigate. A few days later he called to say he investigated the matter and concluded that nothing had happened. The boys who attacked Scott said they never touched him and that it was little more than a little pushing and shoving to get on the bus. The bus driver did, however, file an incident report against Andrew. He was the only one to get in trouble.

The vice-principal never talked to Kelly. I told the vice-principal this was not the first time something like this had happened, but it would be the last. Scott never returned to school. The school cared nothing about Scott's condition. No one ever called to see how he was doing. A few weeks later we received a call from the school requesting that we remove his belongings from the school. We were requested to come after school.

When we came, Scott's teacher tried to convince us to say that we are pursuing a different type of teaching and to not say that Scott was bullied. We left the school with Scott's belongings and said that Scott would not be back until things changed. We never heard from the school again. It was as if Scott had never existed for the school. Only after writing several letters to various school officials did we receive a call, but nothing ever came of it.

They offered to move him to a different school, but that would not address the problems on the school bus.

Today our son is home-schooled, wondering why everyone hates him. We do not know what to say. The problem with bullying did not start at the school. It did not even start with the kids from his class. It started right in the neighbourhood. In

November of 2000, a couple moved into a house they had built right next to ours.

Within a few days of moving in they started an illegal day care. Within a few days of opening the day care my children started to get bullied by the older boys at the day care. The couple that ran this day care taught the kids they looked after how to get what they wanted using harassment, threats and intimidations.

The kids learned the lessons well. I complained to the couple and I was simply told off. The couple stated their kids could bully anyone they wanted on public property. The day-care couple arranged for their kids to be brought to their house on the school bus. This made my children prime targets. My son came crying off the school bus almost daily. Even my daughter was upset most of the time.

The bullies even spread their efforts to the school, which now became a nightmare for my children. Shortly after the day care opened, we got a new bus driver. The new bus driver was friends with the day-care owner and decided to ignore the school bus safety rules. She decided to drop the children off at the property line between the two homes, which meant there was only about two feet between the bus door and snow bank.

On the last day of school before Christmas 2000, the bus stopped only a few feet from the snow bank. This meant that my children had to jump onto the snow bank to get away from the bus. Kelly jumped on the snow bank and made it safely to the house. Scott did not make it. He hit the snow bank and slid under the school bus. The bus driver did not see Scott slide under the bus and simply drove away.

My wife grabbed his coat and pulled him out from under the bus with only inches to spare. During the months after Christmas, my son was almost run over in his own driveway, as parents used it to turn around, going to the day care.

By July we had had enough. One day while outside in their front yard, some of the older boys started calling all of us names. I tried to find an adult at the day care, but I could find none. My son eventually ran crying into the house. I met with the husband that runs the day care and told him what had happened. A couple of days later the wife made all

the kids line up in front of their garage and apologize to us.

The peace was short-lived, though, and I finally complained to the local government. The council would not respond and told me to write a complaint to the Selkirk planning commission which enforces the by-laws. A hearing was scheduled for September 13, 2001, at the local council office. I was told a petition and proof of the problem. Some neighbours told us that a day-care owner had lived in the area for more than 20 years and were just moving to a new house. They also told us this couple were good friends with the local council and planning commission and that the municipality is very pro-bully. The hearing was a joke. The council and Selkirk planning cared nothing about our problems and, even after seeing a petition and pictures, sympathized with the day care. They cared nothing about safety or quality of life. The day-care couple admitted to the bullying but stated it was not their problem; the council agreed with them.

The two weeks following the hearing was a nightmare of harassment and intimidation. Our children were terrified and did not want even to go outside. I contacted my local councillor to try and arrange for a meeting between the day-care owners and myself to discuss the dangers their day care was causing, but the day-care owner would have no part of it. Even though there were no children at the hearing, bullying at the school increased 1000 percent. My son suffered from panic attacks and anxiety as a result of all the problems, which made things even worse. He was now being bullied at home, on the bus, and at school. He had no break from the bullying. He was constantly terrified during his years at school.

My son averaged three to five panic attacks a day. His weight was down 10 pounds. He could not sleep; he would not eat; he looked dead. It was very rare to see him smile. The bullies would damage his clothes, smash his school work, destroy any crafts he made. He was constantly called names and put down.

We met with people from the school. They insisted there was no proof to back our claim and insisted the problems were of Scott's own doing. We were told he had learning disabilities, emotional problems, problems relating to others and that he was too sensitive. It is funny how they never say bullies are insensitive.

The bullying at school spread with amazing speed. Eventually, kids were bullying Scott from his own class, other classes as well as other grades. He would be blamed for things he did not do and further humiliated by school staff who would make him apologize to the bullies for things he did not do. He was even made to apologize for things he was accused of doing when he was not at school. Whenever Scott tried to get help from the school staff, they would call him a tattletale and say he did not have enough proof. Whenever the bullies would say something to get Scott in trouble, they would back each other's stories and the school staff would believe them.

Eventually, the bullies started to threaten Scott's friends. They said they would pound anyone caught talking to him. Scott was alone. He tried to regain his friends, but they would rarely talk to him and eventually joined in the bullying. During the winter following the hearing, two more parents picking up their children from the day care drove almost 45 feet up our driveway and forced Scott to jump into the snow to avoid being run over. We tried desperately to get help. We made many phone calls and wrote many letters, but all either ignored us or abandoned us. No one cared; nobody wanted to help.

We do not know what will be coming next as the laws, by-laws, rules and regulations do not apply here. I gave a list of all the people I wrote letters to and contacted. All said there was not enough proof, or that it was somebody else's problem, and they would not get involved. In September, 2003, I contacted my councillor, the reeve and the CAO of West St. Paul. I told them we would be willing to move to another area of the city, but it would take us a few years to collect up enough money to move. I asked if they would just put a few conditions on the day care to at least make things a little safer for my children.

I then reminded the council of the following: when you establish specific conditions, the purpose should be to protect the primary use of the neighbourhood and ensure that the quality of life and safety of the neighbours is not affected by the operation. A month later, I received a letter from the CAO of West St. Paul who stated he would not place any conditions on the day care as doing so would be unfair to their operation. I later called the reeve and expressed my disappointment. He stated that I was the only one complaining and did not have enough

proof to back up my complaint. He said he would do nothing.

Today, the day care continues to operate as before. Whenever they get a chance, the adults and the children who are at the day care damage our property, or glare at us any time we are outside. The bullies continue to get a good education from the school system while my son sits at home, and we must continue to pay one of the largest tax bills in the country. I believe my time is up.

Mr. Chairperson: Thank you, Mr. Pokorny, for your presentation here this evening. Any questions by members of the committee?

Mrs. Heather Stefanson (Tuxedo): I would like to thank you very much for your presentation tonight, bringing your personal experience forward to this committee. This is a very serious issue which you have indicated tonight. I think, certainly, some areas can escalate into things that we cannot even imagine. We have seen them happen in Littleton, Colorado, in Tabor, Alberta, some of the situations that have taken place in those schools and how scary bullying can be and how quickly it can escalate into situations that have taken place so far.

I was intrigued by what you mentioned at the beginning of your presentation about more community involvement. I just wanted to see if you had a couple of comments as to how we could go about involving the community a little bit more in this matter.

Mr. Pokorny: Yes, I did a lot of research on this. What I discovered is that, as I heard before, about video games and all this, a lot of our kids would prefer to be outside playing in the streets with their friends, but the bullies rule in sporting events. That is why people are becoming couch potatoes. If we had community prevention programs, as I said on page 7, we could establish a community-level bully prevention committee consisting of homeowners within a certain area and one councillor present to address any problems that arise. You can modify by-laws to include quality-of-life issues, because, after all, right now many of our by-laws are strictly robotic. They address issues relating to fencing and so forth, but they do not allow quality of life to play a role in anything, and, if they do, quite often they are just simply ignored.

You can establish a provincial ethics committee that can determine if any action or decision made by a local government may result in animosity or promote bullying while still being legal. You can establish guidelines within government that would tie funding to bully prevention programs. The more bully prevention programs, the greater access to funding. A lot of people ask me, "Where do you get the funding to pay for these programs?"

* (20:20)

Well, one of the side effects of bullying is health care problems. If you go to page 17 there is a predictable outcome. Bullying results in severe negative stress, which results in many doctor visits for many people. If you read the effects of negative stress it includes migraines, aches and pains, reduced immunity to infection, irritable bowel syndrome, thyroid, skin irritations, sleeplessness, fatigue and many, many more. If you started dealing with bullying there is a very good chance your health care costs would either stabilize or even go down. The costs right now to Canada are staggering. The annual cost of stress is in the billions. A lot of it can be related to bullying in the communities, bullying at schools, bullying in the workplace.

A child bully grows up to be an adult bully who trains a child bully. You have to break the cycle.

Mr. Chairperson: Mrs. Stefanson.

Mrs. Stefanson: One more quick question with respect to the legislation that is before us today. Does it essentially address your concerns?

Mr. Pokorny: It addresses many of the concerns, but my biggest concern is that many of the pieces of legislation that are out there already are easily abused by adult bullies. That is not to say that every single person in government is an adult bully, but if you do not write the wording of it in such a way that it cannot be abused, then it can simply be ignored or interpreted in a negative fashion.

Mr. Chairperson: Any other questions of committee members?

Hon. Peter Bjornson (Minister of Education, Citizenship and Youth): Thank you very much, Mr. Pokorny, for being here tonight and bringing this information to the committee. Obviously, a lot of

work has gone into this presentation. It was very important that the committee heard your story and heard your concerns. If I may ask, is Scott still writing?

Mr. Pokorny: Yes, he is.

Mr. Bjornson: And how is that going?

Mr. Pokorny: I just said he did win an award for writing a story, and the Honourable Peter Bjornson came and heard him read it at the Writer's Guild, which made him feel very good.

Mr. Chairperson: Thank you, Mr. Pokorny, for your presentation here this evening. The next presenter I have on the list is Edward Lipsett.

Please come forward, sir. Mr. Lipsett, we have a page here that will take your written presentation, if that is what you have in your hand. Good evening, sir.

If you would just wait a few moments until we distribute your presentation and then we will proceed. Good evening, Mr. Lipsett. Please proceed when you are ready, sir.

Mr. Edward Lipsett (Manitoba Association for Rights and Liberties): Mr. Chairperson, honourable members, my name is Edward Lipsett. I am representing the Manitoba Association for Rights and Liberties. The Manitoba Association for Rights and Liberties, certainly, agrees that pupils must be provided with a safe and caring school environment and that this involves holding pupils and staff to certain standards of conduct. However, existing legislation provides school authorities with ample power to set standards and impose disciplinary sanctions. Yet expressly notifying pupils and staff what is expected of them seems like a good idea. However, we respectfully suggest that imposing or enhancing the duties and responsibilities alone is not sufficient.

We also believe that the rights of pupils and staff should be expressly stated and protected. It is in the latter area where we respectfully suggest that this bill and, perhaps, even the existing Public Schools Act and The Education Administration Act may be found somewhat wanting. We respectfully offer the following suggestions and comments in the hope of improving that aspect of the situation.

Okay, I will get back to clause by clause.

Re: section 1(2) of the act, new section 41(1)(b.1).

I respectfully suggest that it would be better if new clause 41(1)(b.1) were to read something like: (b.1) ensure each pupil enrolled in a school within the jurisdiction of the school board is provided with a safe and caring school environment; (ii) that respects the rights of the pupils and staff including the rights and freedoms protected by the Canadian Charter of Rights and Freedoms, the rights protected by the Human Rights Code and the rules of natural justice and procedural fairness.

Without some reference to the Charter and other rights, there may be a danger that reference to respectful and responsible behaviour could be used or interpreted to bolster any authoritarian tendencies that school administrators might have to an excessive level. At any rate, some safeguards for the rights of pupils seems appropriate in comprehensive school legislation.

New section 41(1)(b.2), it might be appropriate for the legislation to contain criteria or limitations concerning such policy lest they unduly interfere with freedom of expression.

Now we are going to section 1(3) of the act and new section 47.1(2) of the legislation. There should also be a clause, something like (a.1) a statement that the rights of the pupils and staff including the rights and freedoms protected by the Canadian Charter of Rights and Freedoms, the rights protected by the Human Rights Code and the rules of natural justice and procedural fairness be respected.

Without such provisions, there may be a danger that the code would be written and/or interpreted in an unduly authoritarian manner. Words like "respectful manner," especially in a school setting, could be used to discourage dissent or criticism, unless modified in a manner that offers recognition or protection of such rights or values.

At any rate, without such provisions the code and indeed this legislation could be seen as too heavily weighted in the direction of responsibilities of pupils and control over them without being balanced by concern for their rights and freedoms, at least to the extent appropriate in a school setting.

I may wish to add as an aside that I am in no way suggesting that any rights or freedoms are absolute. I am certainly not suggesting that children in school can exercise the full rights of expression that, oh, adults have. However, this issue has been dealt with very extensively in the American courts. They have shown that it is quite possible to balance the rights of the students with the needs of the school.

Our own Charter would apply to public schools. I would suggest the legislation should at least have some mention that there are rights involved for students who, after all, will soon be full fledged citizens and that it is not all a matter of controls imposed on them.

Anyway, getting back to my written submission, new clause (b.1), about the bullying, et cetera, this terminology might be a bit vague or potentially overly broad. It might be necessary to define or limit some of the terms used lest relatively innocuous behaviour or even legitimate expression unintentionally be covered.

One can certainly sympathize with the gentleman who spoke previously and one can certainly understand that there is much bullying in the schools that must be banned. However, the word "bullying" itself does not necessarily cover such matters. Some people could use it to cover just severe criticism, as was emphasized by a recent event in this honourable House before a member of the opposition raised a question of privilege, which was denied, concerning a minister who alleged that calling on her to resign was bullying. I am sure we all remember from our own school days; in my time, it was quite long ago when kids would think of the teacher as the biggest bully on the block, or the teachers would think that the principal was the biggest bully on the block.

* (20:30)

The point I am trying to raise is, not that it is not a severe problem, it is, but bullying, as well as a reference to psychological abuse could be very wide ranging. Other legislation refers to such concepts as intimidation, threatening, violence. So that is what I am saying, we could, maybe, narrow the legislation, just a bit. Even the French side of the bill, "intimider," to intimidate, might be preferable to the word "bullying," which could mean whatever

somebody wants it to mean, as well as serious things that one must deal with.

Anyway, getting back to new (b.2) about Discrimination, Human Rights Code. It might be better if this clause were replaced by "harassment," as defined in subsection 19.2 of the Human Rights Code. In most cases, "discrimination" by the Human Rights Code could not be carried out by the pupil against pupil, but is most likely to be carried out by the staff and/or board policy. That, of course, is already prohibited by the Human Rights Code, and the terminology, which I earlier suggested be added to new clause 41(1)(b.1) and it suggested additional clause 47.1(2)(a.1) would reinforce this message.

New (c.1) with gang involvement. The term "gang involvement" is potentially vague and overbroad and might cause infringement on freedom of association. It lacks any definition or limiting parameters. Would it be deemed to cover a mere membership or communication with other pupils who are perceived to be "gang" members, even though no illegal or harmful activity is carried out or planned. It must be recalled that, if "gang" involvement or group membership can legitimately be penalized, there has to be knowledge of the group's illicit purpose and intention to foster that purpose. It seems that unlawful or harmful activities can be penalized by school authorities at any rate, and this addition is unnecessary.

Getting down to paragraph (d) about the Internet and computers. The phrase "that the school has determined to be objectionable" might give the school too much power over matters that could involve freedom of expression. Furthermore, unlike new clause 41.1(b.2), it is not expressly limited to activities at school. It seems that some criteria, parameters or limiting factors are necessary in the legislation to prevent overreaching.

New paragraph (e). It seems that greater procedural protections should be given to pupils facing discipline, perhaps here and/or elsewhere in The Public Schools Act and The Education Administration Act.

I just conclude by stating that, again, I appreciate there are serious problems in schools that have to be dealt with, but not at the expense of legislation that is so wide ranging that it could cover innocent as well as sanctionable conduct. Further, I do not know if

this would have anything to do with it, but many people wonder why the voting rate among young adults is so dismally low, 25 percent. Maybe it would help the students in our schools, especially at the high school level, who are also adults might be treated as citizens, to learn that there are rights as well as responsibilities. Maybe that would even help to motivate them to greater civic activities in their adult years.

Again, I thank you for your time.

Mr. Chairperson: Thank you very much for your presentation, Mr. Lipsett. Any questions?

Mrs. Stefanson: Mr. Lipsett, I just want to thank you for your presentation today. I think you brought some very compelling arguments forward here, certainly when it comes to the rights and freedoms of individuals in the school. I just want to thank you for bringing that to our attention today.

Mr. Chairperson: Mr. Lipsett, did you wish to respond? If not—

Mr. Lipsett: I appreciate your comments.

Mr. Bjornson: I, too, would like to thank you for taking the time to present here tonight. You have brought some very interesting information to the table. As you said, the community sense of bullying and other issues around this act are very important and it is quite appropriate that we would be having this discussion after we have talked about The Amusements Amendment Act and the relationship is obviously there with respect to what we are trying to do to prevent children to having access to violent media and the pervasive nature of violence in our society.

So it is quite important that we address these issues through our schools and our Safe Schools Charter and again, thank you for being here tonight.

Mr. Chairperson: Thank you, Mr. Lipsett, for your presentation here this evening, sir.

Mr. Lipsett.: Thank you very much.

Mr. Chairperson: That concludes the list of presenters that were registered to speak.

Are there any members of the public in the audience this evening that wish to make a presentation to Bill 30?

Seeing no other presenters, then we will proceed with the next bill.

Bill 36—The Highway Traffic Amendment Act

Mr. Chairperson: For Bill 36, The Highway Traffic Amendment Act, we have one presenter registered to speak, David Grant. Is Mr. Grant here this evening? No.

Calling Mr. Grant's name then for the second time, since he is the only presenter registered to speak to Bill 36. Mr. Grant? Mr. Grant's name, then, will be struck from the list.

Are there any other presenters in the audience here this evening that wish to make a presentation to Bill 36, The Highway Traffic Amendment Act?

Seeing none, that concludes the list of presenters on Bill 36.

Bill 37—The Labour Relations Amendment Act

Mr. Chairperson: We also have for consideration before this committee this evening, Bill 37, The Labour Relations Amendment Act.

Are there any members of the public in the audience here this evening that wish to make a presentation to Bill 37?

Seeing no presenters on Bill 37, I will call then for presenters for Bill 32, The Provincial Railways Amendment Act.

Bill 32—The Provincial Railways Amendment Act

Mr. Chairperson: Are there any members of the public that wish to make a presentation to Bill 32?

Seeing no presenters to Bill 32 then, that concludes the list of bills to be called for presentations here this evening.

Bill 19—The Public Schools Amendment Act

Mr. Chairperson: We will then proceed with clause-by-clause consideration of the bills listed in order which will be Bill 19.

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

title are postponed until all other clauses have been considered in their proper order. Also, if there is an agreement from the committee for the longer bills, I will call clauses in blocks that conform to pages with the understanding that we will stop at any particular clause or clauses where members may have comments, questions or amendments to propose.

Is that agreed? *[Agreed]*

We will then proceed to clause-by-clause consideration of Bill 19. Does the honourable minister responsible for Bill 19 having an opening statement?

Hon. Peter Bjornson (Minister of Education, Citizenship and Youth): Mr. Chair, I just wanted to say that Bill 19 is the result of consultation with our stakeholders and many of the recommendations that are being brought forward as such for this legislation have been a result of that consultative process.

Mr. Chairperson: We thank the honourable minister for the opening statement. Does the critic for the official opposition have an opening statement?

Mrs. Heather Stefanson (Tuxedo): Thank you very much, Mr. Chair. I just do have a couple of comments concerning this bill. It is essentially an omnibus bill that makes several changes to The Public Schools Act.

There are a couple of things where we do have some concerns associated with this bill. In particular when it comes to section 39.6, I think it is fair to say that it is commendable that rules regarding disqualification of school trustees be codified in legislation with standards similar to municipal and provincial candidates.

The decision to bar candidates convicted of criminal offences for a period of four years after their sentence expires could, essentially, be unconstitutional. I would just caution the minister that this section could be challenged and could be found to be unconstitutional and perhaps goes beyond the guidelines laid out by The Election Act, The Legislative Assembly Act or The Local Authorities Election Act.

* (20:40)

So I just want to put a few words on the record with respect to that, that, potentially, if it is challenged could be found unconstitutional.

The other area that I have some concerns with, and some of this was brought forward in one of the presentations this evening, with respect to some of the changes to Form 2A and A of contracts between teachers and the school divisions. Certainly, we understand the arguments brought forward and this will be provided in regulations at a later date. Brian Ardem from Manitoba Teachers' Society brought forward some regulations that he would like to see as part of the regulations that will come forward by the minister at a later date.

I would like to ask the minister at this point in time, although I am not sure if I am allowed to, but if I had the opportunity to I would like to ask him who else had been consulted, because I know he mentioned in his opening statements that all stakeholders had been consulted when it comes to this bill. Clearly, I am not sure that the school divisions would have been consulted with respect to this because, essentially, what this will do is cause an expense to be incurred at the local school division levels.

If some of these regulations are taken into consideration, I would just like to quote from a presentation that was submitted tonight by the Winnipeg School Division. Basically, what they said is, and I will quote them, "In the case of the Winnipeg School Division, we would also advise the government that any change to the schedule of employment would mean the government would be changing the terms and conditions of our collective agreement through legislation or regulation. As our individual schedules of employment are defined in and are attached to and form part of the collective agreement between the Winnipeg School Division and the Winnipeg Teachers' Association, the government, in doing so, would be seen as making a major intrusion in the collective agreement and this would be in direct contravention of the government's philosophy of free collective bargaining."

I guess I would just like to know, there would be potentially significant costs incurred as a result of this change in legislation and it is infringing on the territory of the collective bargaining right that resides with the individual school divisions. Now, potentially, this is perhaps the minister's way of making a

pre-announcement to changing the collective bargaining to being province-wide. We know the Premier (Mr. Doer) has been out stating as such, but I would just have thought that certainly the school divisions would have been consulted when it came to this part of the legislation. I think, clearly, they have not been consulted with respect to this. I would hope that throughout the process of bringing forward the regulations that they will be consulted so that any major costs that will be incurred, and because it is infringing on their territory of the collective bargaining, that I would hope that the minister would be consulting these organizations as well as MTS.

MTS was here tonight to do a presentation on this and, certainly, are aware of what is taking place. So, with that, I will conclude my comments.

Mr. Chairperson: We thank the honourable member for the opening statement. We will now proceed with clause by clause consideration.

Clauses 1 to 3—pass; clauses 4 to 6—pass; clauses 7 and 8—pass; clause 9—pass; clause 10—pass; clauses 11 to 14—pass; clauses 15 to 19—pass; clauses 20 and 21—pass; enacting clause—pass; title—pass. Bill be reported.

Thank you, members of the committee. We will now proceed with the next bill.

Committee Substitution

Mr. Jack Penner (Emerson): Mr. Chairman, I wonder if we could have a change to the committee.

Mr. Chairperson: Yes.

Mr. Penner: Yes, with leave of the committee I would like to make the following membership substitution immediately for the Standing Committee on Legislative Affairs: the Member for Springfield (Mr. Schuler) for the Member for Ste. Rose (Mr. Cummings).

Mr. Chairperson: The committee substitution is that the Member for Springfield is substituted for the Member for Ste. Rose. Is that agreed? *[Agreed]*

Bill 25—The Amusements Amendment Act

Mr. Chairperson: I will now proceed with Bill 25. Does the minister responsible for Bill 25 have an opening statement?

Hon. Eric Robinson (Minister of Culture, Heritage and Tourism): Thank you, Mr. Chair. I am pleased to make a few comments on the record about Bill 25, The Amusements Amendment Act, a timely and forward-thinking piece of legislation. The regulation of video games is an issue that is not specific to Manitoba, it is national in scope. That is why our government has been working with other provinces and jurisdictions to move forward on this issue. Manitoba has about 4 percent of Canada's video game retail market, and we could not have effectively or efficiently brought this legislation without moving in step with our colleagues in other jurisdictions.

In 2002 Manitoba joined an interprovincial working group on the harmonization of film classification. Originally, the only intent of this working group was to look at harmonizing film classification systems across the country. It was our government that put rating video games on the interprovincial working group's agenda. This spring, B.C., Ontario and Nova Scotia moved forward with Manitoba and introduced legislation which enables them to regulate video game distribution. This is directly a result of the efforts of the interprovincial working group.

I also want to emphasize that the protection of our children from violent or sexually explicit video games is not simply the responsibility of government. Parents and retailers, too, have a role to play in this whole matter. I look forward to continuing working with Manitobans as well as organizations like the Violence Is Not Child's Play Coalition and the Retail Council of Canada to develop regulations for this, but also to ensure a comprehensive information campaign is undertaken once a video game rating system is in place.

I want to thank you and the committee for allowing me the opportunity to make a few comments, and I look forward to comments from other members of this committee.

Mr. Chairperson: We thank the honourable minister.

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

* (20:50)

Mrs. Mavis Taillieu (Morris): I would just like to thank those presenters who presented their well-

researched and informative submissions tonight. I think they have raised an awareness as to the increasing violence portrayed through these games. They are interactive in nature and many of us as parents have not ever played those games and maybe our children have not, but we certainly need to be aware of the potential dangers these games do bring to children who will. Through playing these games, these kinds of aggressions could be stimulated from these interactive situations and could spill over into schools, workplaces and homes.

I think we always need to recognize the balance between civil liberties and protecting the best interests of our children. This bill is a good step. This bill should not be seen as any removal of responsibility for parents to monitor their children and their children's video playing and viewing habits. I think it is best to educate the public as to what is in these video games. Education, in my view, is more important than trying to legislate these behaviours. As one of the presenters says, "It is very difficult to legislate culture."

Some of the concerns we might have, we would hope if there is separate licensing, this not be cost-prohibitive to video game retailers. Similarly with segregation of the material, we certainly agree this material should be segregated from view and accessibility of underage children but should not result in any cost-prohibitive measures to video retailers. Certainly, the issue of enforcement is one that remains open, and we will see what the regulations will bring on that.

Just another note is these games evolve very quickly. The technology evolves very quickly, and when you are thinking about video games, even the potential they be played on cell phones and things like that certainly brings a whole other issue into this where retailers of cell phones might have to be included in this video game legislation. Again, I would like to thank the presenters who came tonight and certainly look forward to passing this bill. Thank you.

Mr. Chairperson: We thank the honourable member for the opening statement. We will now proceed with clause by clause.

Clauses 1 and 2—pass; clauses 3 to 5—pass; clauses 6 to 8—pass; clauses 9 and 10—pass; enacting clause—pass; title—pass.

Mr. Kevin Lamoureux (Inkster): Just before we pass it, I did have just a couple of very quick questions of the minister. One of the presenters made reference to legislative needs that would target arcades. I am wondering if the minister might want to respond to what degree that might be the case today, or is this something the government is looking at?

Mr. Robinson: This matter came up, Mr. Chairperson, some time ago. The interprovincial working group has talked about this issue, but it has not really been an item that has been raised as a prominent issue, although Ontario has raised this with the interprovincial working group. As I understand it, the information I am provided with is that Ontario will investigate on a complaints basis as an interim measure with respect to games and arcades.

Mr. Lamoureux: The question I had put to the presenter was one of the distribution of games of a violent nature that would be restricted normally and look at the issue of distribution. I had stated you cannot prevent people from downloading things from the Internet. The issue was of distribution. Does the minister have any comment on where he might be at with that particular issue? That would be it for me. Thank you, Mr. Chairperson.

Mr. Robinson: The issue of downloading, of course, would lie within the realm and the jurisdiction of the Canadian Radio Television Commission, and it is something that has not been discussed with the interprovincial working group. However, as the Member for Morris (Mrs. Taillieu) indicated, it is indeed an evolving industry. There are many issues, such as the one the Member for Inkster has just raised. Certainly, we will be encouraging the Manitoba representatives that participate on the interprovincial working group to continue raising the issue about arcades and the whole issue of downloading and, perhaps, we will require the federal government to be engaged in some of the concerns that are being raised particularly by this committee.

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

Bill 30—The Safe Schools Charter (Various Acts Amended)

Mr. Chairperson: The next bill for clause-by-clause consideration is Bill 30. Does the minister responsible for Bill 30 have an opening statement?

Hon. Peter Bjornson (Minister of Education, Citizenship and Youth): One of the first meetings I attended after my appointment as minister was the group that had been working on The Safe Schools Charter. I was very pleased to bring The Safe Schools Charter forward.

Although I did it during the speech for second reading, I would also like to put into the record the contributions of a couple of students, Patrick Lambert and Christopher Rondeau, both of Glenlawn Collegiate, who had a very important role to play as part of the consultation process, as did all of our partners that were brought to the table. I am very pleased with the work that has been done and our continued support for safe schools in Manitoba. That would conclude my comments.

Mr. Chairperson: We thank the honourable minister.

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

Mrs. Heather Stefanson (Tuxedo): Let me just start off by saying that as a mother with two young children at home who will be entering the school system at some point in the next number of years, I am very concerned about the bullying that is taking place in school.

As I mentioned previously, it was a former member from Fort Garry and a former critic for education who actually did a great deal of work on our side of the House to consult a number of people in the community with respect to this issue. I think she learned and heard loud and clear from a number of stakeholders in the community how serious an issue this is in our schools.

I think it is important to state for the record that there are a number of school divisions that do already have a procedure in place to deal with bullying in the schools. I think it is important not to duplicate what is out there to ensure that we strengthen what is out there now and also just make sure, as was stated in one of the presentations tonight, that it does not infringe on the rights of students in the school. Certainly, I believe that children's safety should be a right in our schools and not just a privilege.

I would like to just say that I am pleased that legislation has come forward. I do have some

concerns with the way this has come forward or with the way that it does read, because I think there is some room for duplication in the system out there. I believe that some of the local communities know best how to deal with situations of this nature at the local level.

So, again, I would like the minister to ensure that all stakeholders will be a part of how regulations, and so on, come forward and how this is dealt with at the local level. I will leave it at that and go from here.

* (21:00)

Mr. Chairperson: We thank the honourable member for the opening statement. We will now proceed with clause-by-clause consideration.

Shall clause 1 pass?

Mr. Ron Schuler (Springfield): I would like to put a few comments on the record. I did have the opportunity to hear the one presentation, a father expressing incredible frustration with the bullying issue. In 1995, when I was elected to the board of the River East School Division, we found at that point in time that the issue of bullying was already there. It seems to be growing increasingly more of an issue. I do not know if that is as much that there is more bullying, or perhaps it is because parents and children are coming forward a lot more.

I find bullying to be right up there with any kind of violence in a school. As a trustee for four years, I was the one who pushed, in no uncertain terms and in no uncertain way, zero tolerance towards violence, whether that was towards a student, particularly if it was against a staffperson, but especially when it came to bullying. I think bullying is an act of a coward. The parent explained how often it was done in such a manner as not necessarily to be seen. It was difficult to report. Children often feel that their word has to be taken over others. Often we tend to pooh-pooh, you know, you are exaggerating that a little bit, oh, it is probably not that bad, when in fact it is that bad, when in fact it is a big issue.

My concern with the legislation is, and I think it is important that we put this on the record, that this not be window dressing, that this not be an opportunity for a photo-op or a press conference. This is very, very serious. I dealt with an incident

just a little while ago. Throughout the system there are individuals in different positions of authority who feel threatened that somehow if there is a bullying incident under their domain that it reflects on them as an administrator, and that is not the case.

We need to have a system whereby children and parents are able to overcome that kind of an attitude and have safety come as the first mantra when it comes to any kind of bullying. Just several weeks ago I had a parent call me in tears. The child was being bullied at a junior high level, and we dealt with it. I spoke with the school division management and it was taken care of, but it is absolutely unacceptable that this kind of thing happened. We must put the mechanisms in place and they must have teeth. It must be able to be used effectively to stop any kind of bullying. We cannot tolerate it in our modern public school system. We should never have tolerated it, and must make sure we do not tolerate it, because it is so demeaning. It is so belittling, and it is so damaging to children.

Again I want to put on the record because now as this bill moves forward, and I certainly hope that perhaps the minister either now at committee and I am sure the committee would like to hear his comments, but even in third reading it be made very clear this is a serious issue. This is not to be taken lightly or to be trifled with, in that this is about protection of those individuals who frankly need the protection and are often the weak ones in school. They are quiet, they are shy, they are withdrawn and they are often the ones that are picked on and bullied.

My heart goes out to those children because they deserve just as much opportunity as the next child, and they deserve the protection our society should afford them. I believe safety in a school is a right. I believe it is a right of every child. We look forward to seeing this bill move on and I again encourage the minister, let us make sure this is not window dressing. This is serious business.

Mr. Bjornson: I would like to assure the member from Springfield this is indeed serious business. We are very concerned about the safety in our schools, and that is why we are at the table tonight to have this discussion. Bullying, of course, is just part of the picture. We have heard concerns tonight with The Amusements Act about Internet and things of that nature and the pervasive nature of Internet and how children can access questionable materials on the

Internet which is why that is part of this proposed legislation as well.

The intent is to make sure we have all of these components covered in the code of conduct and action plans in place. That is the intent of the bill. We have had extensive consultation around this with a number of stakeholders at the table. There were a couple of models that had been brought forward, one from Ontario, one from Alberta. The Alberta model was favoured as a very pro-active approach to dealing with these issues. One thing we cannot do is assume all of these mechanisms are already in place in the schools. A case in point, 11 years ago in the classroom I was quite surprised to discover most schools did not have a clear policy on drug or alcohol use or abuse by students. This is only 11 years ago. I was part of the committee as a teacher that brought that forward to be put in place in Evergreen School Division at the time.

We cannot assume all of these things are being covered currently under codes of conduct. There are very many of these items that are currently covered under codes of conduct, but we want to try and be very proactive and address all these concerns that have been raised at the committee level. As I said, this is extensive consultation that has brought us to this point.

Mr. Chairperson: Shall clause 1 pass?

Some Honourable Members: Pass.

Mr. Bjornson: I have an amendment for clause 1. I move

THAT the proposed subclause 47.1(2)(b)(ii), as set out in Clause 1(3) of the Bill, be amended by adding "unreasonably" after "discriminating".

Mr. Chairperson: It has been moved by the honourable Mr. Bjornson

THAT the proposed subclause 47.1(2)(b)(ii), as set out in Clause 1(3) of the Bill, be amended by adding—

An Honourable Member: Dispense.

Mr. Chairperson: Dispense. The amendment is in order.

Amendment—pass; clause 1 as amended—pass; clauses 2 to 4—pass; clause 5—pass; enacting clause—pass. Shall the title pass?

Mr. Kevin Lamoureux (Inkster): For the minister, we had a very compassionate presentation that was made in regard to bullying. This particular individual pulled his son out of the school system because of bullying and is now home schooling. I am wondering if the minister could just give us a sense of how many kids in the public school system at one time may have been pulled out because of bullying. Is there any sense from the Department of Education on that issue?

Mr. Bjornson: No, I cannot provide that for you.

Mr. Chairperson: Shall the title pass?

Some Honourable Members: Pass.

Mr. Jack Penner (Emerson): Just one more question. I wonder, when we heard the presentation, and I agree it was a very emotional presentation and that person having to pull their children out of the public school system and into a private school setting, has the minister given any reasonable thought to ensuring that if there cannot be reasonable actions put in place to stem the bullying in a public school, such as, obviously, was the case here, has the minister given any reasonable consideration to providing funding for that child to be put in another school where bullying will not be as prevalent, be that private or otherwise.

Mr. Bjornson: I am confident this Safe Schools Charter and the regulations will provide the mechanisms we need to address these issues of bullying.

* (21:10)

Mr. Penner: The minister, obviously, has a lot more confidence in the new regulations than many of the presenters here had or I would, for that matter, have.

The other matter that I think needs to be addressed is we have many people in the province today that home school for that and other reasons. I would suggest to the minister, while we are on this subject the minister should give some very serious consideration and direction to his staff that they make every effort to look into these matters of bullying and other matters we, through a publicly funded school system, adequately supply and provide

education opportunities and protection for the children in our society.

Mr. Bjornson: Again, I would like to reiterate I am confident, through this consultative process and continued consultation on regulations, we will be providing the legislation and the mechanisms to ensure safety is addressed in our schools. As I said, we are being very proactive in some of the clauses we have introduced.

We should not assume all these issues are being covered through current codes of conduct and current school plans. We are being very proactive in introducing a lot of these measures through The Safe Schools Charter, and I am very confident we will see the result that our schools which are, for the most part, safe will be safer.

Mr. Chairperson: Title—pass. Bill as amended be reported.

Bill 32—The Provincial Railways Amendment Act

Mr. Chairperson: Does the honourable Minister of Transportation and Government Services have an opening statement?

Hon. Ron Lemieux (Minister of Transportation and Government Services): I do. Just to be brief, this Provincial Railways Amendment Act is an act that will establish legislative authority for the Minister of Transportation and Government Services by order to appropriate or appropriation of costs related to maintenance and safety improvements to short-line railway crossings. Primarily, in most cases, the cost will be shared between the department and the traffic authority, for example, the municipality and the short-line railway. I am pleased to present this legislation for passage this evening. Thank you.

Mr. Chairperson: Thank you, honourable minister.

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

Mr. Larry Maguire (Arthur-Virden): I would just like to put a few words on the record in regard to Bill 32, The Provincial Railways Amendment Act.

Just a word of caution, I guess. I know in my opening remarks that the bill seems fairly straightforward in regard to dealing with short-line

railroads and the apportionment of costs by allowing the government to move ahead with areas under the former rules of Transport Canada. If those regulations move along. The regulations that the minister has intended, and I think he did assure me that they would be moving with the regulations that are presently in place under Transport Canada with the apportionments of percentages in regard to the provincial, municipal short-line responsibilities, then I would have very little concern with the act.

I would caution against any abuse of that power that the minister may have on this, because there is a considerable amount of power that the minister is gaining in his hands in regard to this particular bill, because it clearly states that the minister is the one that can apportion those costs. Of course, I trust that he will take the fine advice of his staff and department and those who are dealing with this from an industry point of view because all are players in the role of paying for these costs.

I wanted to just ask as well, or perhaps it will come up later, I would like to put out the caution that one of the things that I would have liked to have seen in this bill is that perhaps there be a way to deal with, while we are bringing a bill like this forward, some way of dealing with any outstanding crossings that maintenance fees have not been settled on, whether they could be grandfathered under some kind of a blanket mechanism that can be dealt with or whether they have to be dealt with on an individual basis. It is my understanding from speaking to industry players that there are some outstanding.

I do not think it is from any negligence on either side. It is just that they have not been able to sit down and determine who was there first. I guess if you want to look at some of the cases that are in place today and some of the old areas as we move forward with this new bill and give the minister this kind of power, I would urge him to look at being amenable to sitting down with the short-lines and dealing with some of the outstanding crossings that have not been settled at this time.

Perhaps some kind of a cleanup mechanism should have been included in this so that we can move forward on a more clean basis for the future and just deal with new crossings as they come up in the future as opposed to finding a means to deal with it. I know this bill is to deal with basically new crossings and not some of the outstanding old

concerns, but of course the act has changed the rules of the game in Manitoba. I am assuming that some of the old crossings that are there will now fall under some of the same jurisdiction.

So I would leave my opening comments there, Mr. Chairman. We will ask questions as we go through the bill.

Mr. Chairperson: I thank the honourable member for the opening statement. We will now proceed with clause-by-clause consideration.

Shall clauses 1 to 3 pass?

Mr. Jack Penner (Emerson): Yes, Mr. Chairperson, I wonder if the minister could indicate to us whether it is his intention to bring forward another bill in this province in the significantly near future to deal in large part with a glaring hole in legislation in regulating the railways as to where and when they stop and how they park trains at night over crossings, over roadways without proper reflective mechanisms.

I believe those of us that operate trucks on our highways, if we park those trucks even at the side of the road we are required to put up flares and proper markers to ensure that when they are parked in a manner that would be deemed safe, even off on a shoulder, that they are required to have proper markers.

Yet, when I look at the accident that happened at Plum Coulee which almost killed a person, totally demolished his pickup truck, it appears now that the railways, that the person might even be responsible for paying for damage to the car on the railway when there were no reflectors on the side of those railways cars, and they were parked over a public crossing at night.

I would suspect that there needs to be some action taken for the safety of our people, because this young person had been travelling down the road and he had seen a yard light between the cars and never saw that there was a railway car parked until it was too late and he could not stop, because the yard light down the road, I guess, made him believe that it was clear road and ended up crashing into this parked train across the railway track.

I would suspect that the minister might have wanted to put a clause into this act that would require

all railway cars to clearly be marked on the side with reflectors. I realized what the minister might say, that this is a federal jurisdiction. I do not believe that that is quite correct, if that is where we are going, because I believe there is some ability to pass legislation in a province such as Manitoba that would require either a space to be left at a public crossing that would not be blocked off and that there be proper reflectors put on cars to clearly mark when rail cars are parked over a crossing. I wonder if the minister could give us some comment on that.

Mr. Lemieux: I thank the Member for Emerson for the question. It is a very serious one. We have all heard of accidents that have happened like this where the cars did not have reflector strips on them. Indeed, it is federal legislation. I understand that the member for Portage-Lisgar, a federal member of Parliament, introduced a private member's bill in Ottawa, but I think it died on the Order Paper once the election was called with regard to this particular issue.

Having said that, I certainly have no qualms of raising it with my federal counterpart. It is a serious matter when you have rail cars halfway or partially across intersections in rural Manitoba, where you do not have the traditional falling gates or lights at crossings. It just might be the standard X-designated post, I am looking for the terminology, but signpost, and that is all that is there. If you cannot see that, if you are coming down a gravel road and you cannot see the car sticking out, it is very dangerous. I appreciate the question, but indeed it is federal, but I think it is something that should be raised repeatedly with the federal minister.

Now, having said that, there may be a new government, of what political stripe we are not sure of, in Ottawa. I am certainly going to raise that with whoever the minister is. Whether it is the current government is re-elected or a new government, I will raise that on behalf of all of us in the Legislature. It is a serious matter.

* (21:20)

Mr. Penner: The reason I raise this, I believe that the crossing or blocking of public roadways in the province of Manitoba would fall under the jurisdiction of the provincial highways department to ensure that the public blocking of roadways could not happen in the province of Manitoba.

Therefore, I think legislation could be drafted in this province. We might have to bring forward a

private member's bill to ensure that the Province deals properly, at least this Legislature deals with this matter in an appropriate manner to ensure the safety of our roadways at night and during the day. If it is appropriate for stopping vehicles on our highways to be properly marked when they even partially would be blocking roadways, then I would suspect that it might also fall within the jurisdiction of this ministry to ensure that roadways will not be blocked by such vehicles as railways. I suspect that we would have the right jurisdictionally to pass that kind of legislation.

Mr. Lemieux: Well, we have the right for provincial rail, but not where it is federal tracks. There are time limitations with regard to movement of trains and so on. But having said that, I appreciate the question. It is a serious question. It is a question we should all be concerned with. As I mentioned, we are taking it seriously. We certainly will be pursuing that with our federal counterparts.

Mr. Maguire: As we move forward in this bill to section 5, Apportionment of costs of railway crossing construction, maintenance, or improvement, the minister has indicated that the formula for capital projects, capital costs would be as they were under Transport Canada's, as I mentioned in my opening remarks, about 80 percent, that the Province would assume those 80% costs that the federal government had before, that the 12.5% costs could be split between the traffic authority, which might be in this case a municipal jurisdiction as well, and where not a municipal jurisdiction, absorbed by the Province to make 92.5 percent, and that the short-line railway will pick up what the federal railways were in charge of before at 7.5 percent.

Can the minister confirm that, I mean, this is what he has provided me with in the briefing minutes, and I assume that that is the apportionment that he is talking about when we are using apportionment in the bill?

Mr. Chairperson: Before I go to the minister, if I understand correctly, the member is asking questions about clause 5, and we have not proceeded to that point yet.

Is there leave of the committee to allow the question regarding clause 5 to proceed at this point and allow the minister to answer it? *[Agreed]* Leave has been granted.

Mr. Lemieux: Well, I thank the member for the question. As I mentioned before, the government intends to maintain the status quo, this means the adoption of all existing orders, and in absence of an order, seniority will determine who is not responsible for payment, for example, of maintenance costs.

But with regard to the formula, maintenance formula generally is a 50-50 cost-sharing, however, there are some cases in which either the road or the rail authority is 100 percent responsible due to seniority. For example, one entity exists prior to the other. New automated crossing protection formula is 80 percent Province; 12.5 percent, the road authority; and 7.5 percent, rail authority. A new crossing formula is rule of seniority will dictate. This often means the road authority is responsible for costs, however the road authority and the rail may also negotiate mutually agreeable terms and ask the minister to formalize them in an order.

We have looked at this in many different ways, in different machinations, as to how and what may come forward. I have to credit the department for all the hard work that they have done taking a look at the particular issues that arise, and we feel that we have some good formulas in place and this should be able to work out in a reasonable manner where people will be satisfied with the proportioning.

Mr. Maguire: I certainly appreciate the minister's answer. My question was dealing with just the capital. I know that there have been many areas of 50-50 on the maintenance side, but I was referring, firstly, in my question to just the capital costs. I think the minister has confirmed that my percentages that I was talking about were accurate.

I will also concur that his comments on 50-50 for maintenance have been typical in the past. I do understand, however, that there is some areas where it may be 100 percent financially responsible on one of the parties, and that is where primacy can be determined. That is what I was referring to, perhaps, in my earlier comments about settling some of the ones that are outstanding if we could sit down and clean that up.

I do not know how big a job that would be. I do not know how many crossings we would have in Manitoba to that extent that would be dealt with, with short-lines. I know there are some 400 in the

province, but I do not think there are disputes at every one of them by any stretch.

I would just urge the minister to look at those and try to get those settled as quickly as possible to allow that sort of monkey to be off the backs of our industry so they can move forward and know where they are at in planning.

Mr. Lemieux: I have been advised by staff that there are 48 on the short-line, sorry 48 short-line on provincial ways and 170 on municipal. So there are more there than you would think, but it does not mean that there are necessarily disputes at every single one. Thank you.

Mr. Chairperson: Any further questions:

Clause 1 to 3—pass; clauses 4 to 6—

Mr. Maguire: In prescribing apportionment formulas, I guess under No. 6, the minister has referred to those as being established by regulation. He has also indicated that there are routine maintenance capital costs for new protection infrastructure and a third area recognizing historical arrangements.

Are the historical arrangements that he is referring to what we just talked about in regard to percentages for the old Transport Canada area?

Mr. Lemieux: Yes.

Mr. Chairperson: Clauses 4 to 6—pass.

Shall clauses 7 and 8 pass?

Mr. Maguire: Coming into force, section 8 on this bill, Mr. Chairman, it says to come into force to be fixed by proclamation. I guess, I am wondering why you would look at having to bring this in on proclamation. I am assuming, and maybe I should not assume, but if the regulations are that we are going to use the regulations that were in place, can they not just be transposed?

Mr. Lemieux: Well, after the regulations are essentially in place, at least that is what I have been advised, I mean those regulations have to be drafted, they have to be ensured that due diligence is done on the regulations and then once those are done.

Mr. Maguire: I guess just as a final cautionary note in this type of legislation being drafted where it is very clear that the minister wants to use pre-determined percentages on those areas as we have talked about 50-50 on maintenance, except for primacy cases, 80, 12.5, 7.5. It would be my recommendation to the minister that they could have put the regulations in the bill so that short-lines would have known where they were at. I am just saying that then the bill could have come into force immediately upon passing. I just wonder why, when it is cut-and-dried in regard to the regulation apportionments, that the regulations were not put in the bill.

Mr. Lemieux: Essentially, there is no template to be used as such for this. That is why I have been advised certainly that what we will do is that we have to develop our own and that takes some time to do that. So that is how we are going to be proceeding.

Mr. Chairperson: Clauses 7 and 8—pass; enacting—pass; title—pass. Bill be reported.

Thank you, members of the committee.

* (21:30)

Bill 36—The Highway Traffic Amendment Act

Mr. Chairperson: The next bill for clause-by-clause consideration, Bill 36.

Does the minister responsible for Bill 36 have an opening statement?

Hon. Ron Lemieux (Minister of Transportation and Government Services): I do. I will certainly be brief. My colleague the critic from Her Majesty's opposition may want to have some comments as well, but let me just say that this particular Highway Traffic Amendment Act essentially is an introduction of a bill that will address a number of new initiatives that we are looking at. There are also a lot of housekeeping issues under The Highway Traffic Act that we are also looking at taking care of. The housekeeping amendments address matters such as gender neutrality, section number reference corrections which were incorrect for a number of years and months, and the insertion of reference to the new Youth Criminal Justice Act has also been put inside.

But the new initiatives and the new initiative issues that are as follows look at power assisted bicycles; the stopping at railway crossings, I know people find it hard to believe that people actually stop on railway tracks, they are sitting at a light and then you have got a train coming and they are sitting on the tracks, but that happens often; increased fines for speeding offences committed in construction zones where workers are present; also passing stopped emergency vehicles on highways such as ambulances and police cars and fire trucks, for example.

Also appeal respecting denial of physically disabled persons on parking permits, allowing them to have an appeal process. Also voluntary provincial identification cards which allow people who do not have a drivers licence for example to have some kind of a card when they are asked for their identification in our country that they need something like that.

So, having said that and touched on a lot of these new initiatives, as well as the housekeeping that I mentioned before, I would certainly be pleased to hear from my critic or others who wish to make a comment and proceed with the bill.

Mr. Chairperson: We thank the minister for the opening statement.

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

Mr. Larry Maguire (Arthur-Virden): Thank you, Mr. Chair. I would like to put a few words on the record in regard to what the minister has put before us in regard to Bill 36, The Highway Traffic Amendment Act.

It is very much a housekeeping bill by the looks of the areas that the minister has put in. Whether we are dealing with power-assisted bicycles in the new definition of what a power-assisted bicycle is, the ages and the use of helmets, the authority to close or restrict traffic on highways and a number of concerns in that area.

Whether it is this issue of stopping at railway crossings, and there is more than you cannot stop on a railway crossing with part of your vehicle anymore. Of course, that is parallel to what happens at an intersection today. You are ticketed if you are partly in. It does happen that you may end up being partially on because you cannot get by the person in

front of you. So you have to pay more attention just as you do now in crossings and intersections on streets, Mr. Chairman, so I can certainly understand, although I think it would be much more detrimental to be sitting on a railroad crossing. I think a little common sense goes a long way, and I guess I would say that that is what I see in a great many of the amendments that have been put forward in this bill in regard to it.

I want to say that everybody knows and feels that safety is paramount. I think that there are a few areas that are being dealt with in this, whether it is, as I just talked about, stopping at railway crossings, passing stopped emergency vehicles on highways for firefighters, ambulance attendants, police and that sort of thing, because those defenders of our rights in Canada in police, fire, ambulance have been killed at such occurrences, Mr. Chairman, on highways, and that is atrocious. I just understand the concerns of firefighters and police and ambulance personnel when they are actually already on the road to deal with an accident and someone roars up behind and either runs over someone or causes an injury or a death by ramming another vehicle into them while they are attending to someone else. That is a great concern to all of us. So I think we need to make sure that those vehicles are moving over and slowing down to the proper limits.

Appealing the restrictions of denying the physically disabled persons parking permits here is just giving them another option of dealing with the medical review committee to appeal any decisions that they have had in regard to their parking permits. And then the voluntary provincial identification cards seem fairly straightforward in relation to allowing a person to get a provincial ID card who, say, does not have a driver's licence today or that sort of thing and still needs one to have a second backup for an ID card.

There is one area of caution that I want to put out to the minister, and that is that as we move through the bill I notice a number of areas where there are increased fines. Those fines and a number of the highway traffic violations in Manitoba were already increased earlier this year and quite extensively in some cases doubling, tripling and in some cases five times what the fines were before.

This bill allows for some of those fines to be even higher. I just caution that I would not want a bill to go forward like this to seem to Manitobans

that the government is only increasing those fines because they are short of revenue and trying to balance their books, Mr. Chairman.

I caution the minister that he should not be trying to extract that from the backs of citizens of whom, we hope, 95 or 99 percent of citizens in the province are law abiding. We know that we have to have these rules and laws so that we can take care of the ones who do not slow down and the ones who do sit on railroad crossings and the ones who do not provide due caution in regard to circumstances on our highways.

I just caution the minister that the citizens that I have talked to certainly do not want the government to be raising their dollars for general revenue out of this kind of an area. Also, I admit that, in another bill under 12 that we have dealt with earlier, if these fines and fees are going into that particular part of the road that they come from, and we have to make the assumption that that bill was put in place as pockets for the funds of these bills to go into to improve those roads, that maybe we could have included them all in one bill.

I caution, again, as a last comment, that the ministerial power in this bill is the same as in 32, but there is a good deal of power put in the hands of the minister here, and I just wanted to put that on the record. There are some very hefty fine levels in this bill in regard to proof required.

That is in section 160, section 4, subject to subsections 5 and 6, "A person who is required to give proof of financial responsibility shall give proof of responsibility that (a) is in an amount not less than \$200,000, excluding interest and costs, in respect of liability for any or all of the following arising out of one accident."

Of course, you know we hope that they have insurance to cover those circumstances, and I just caution that this should not be seen as an exercise in replacing government revenue in the highways department by fines on the backs of individuals who are not abiding by the law. There may be other ways of dealing with those types of accidents where death is caused, and so with that I look forward to going through the bill.

Mr. Chairperson: We thank the honourable member for the opening statement.

Shall clauses 1 and 2 pass?

Mr. Lemieux: Just a quick comment with regard to the fines and so on. I know the member had mentioned this before and I tried to assure the member that, no, it is certainly not a tax grab. In fact, the fines for Highway Traffic Act offences are retained by municipalities, for example, who fund the police agency involved in the enforcement where you have Altona, Morden, Winkler, Steinbach, East St. Paul, Brandon, Winnipeg. They retain these fines for the Highway Traffic Act offences, essentially. The Province receives the fine revenue only where it pays for policing. In all cases, it receives the court costs.

It is certainly not a tax grab, but if you do the crime, you pay the fine. As you mentioned, a majority of Manitobans in the large majority are law-abiding citizens, so it is not only the stick that is used, but also the carrot in a sense that we are trying to educate our public with regard to the fact that speed kills and we are trying to ensure, especially when you are talking about ambulances or police or fire trucks, or at an accident scene, or you have construction workers—I mean, these people are at the mercy of people flying by with a vehicle that could be going by at a 100 kilometres an hour, and it does not take very much for a serious accident to take place.

I know we are all concerned about that, and we all agree with that approach of doing something for these people that are really putting their life on the line in many ways, trying to help someone who may be in a serious accident on the roadside.

Mr. Jack Penner (Emerson): Just one comment. I was looking at 86(5.5), and that is the conviction of a fine of overweight, I guess, and I just want to say to the minister that to pay that fine on 200 kilograms overweight would take two cows.

* (21:40)

Mr. Chairperson: To ask this question, because it pertains to another section of the act other than what we are dealing with at the present time, would require leave of the committee.

Is there leave of the committee for Mr. Penner to ask the question at this point? *[Agreed]*

Mr. Lemieux: I know the member is talking about increased fines for overweight offences. I know the statement regarding increased fines for weights and

measures of oversized vehicles is an important one, but the provision in question, section 86(5.5), was an existing provision under The Highway Traffic Act which was numbered due to other changes made to section 86. So it is not a new penalty, and there is no increase that has been made to the fine.

Mr. Penner: Just the point I make, and it is a very serious point. If a person put a cow on the back of a pickup during restriction time to take to market, at the value of the cow today, it would take two cows to pay the fine.

Mr. Lemieux: I thank the Member for Emerson for that point.

Mr. Chairperson: Clauses 1 and 2—pass; clause 3—pass. Shall clauses 4 to 7 pass?

Mr. Maguire, on clauses 4 to 7?

Mr. Maguire: Whoa, that steam that I must have heard earlier must have been the Flames that the minister had there in regard to the bolt of lighting that he was talking about earlier today, being such a hockey fan as he is.

Mr. Chairman, I just have to ask this question, and I have to ask leave to back up to power-assisted bicycle, whatever section that is. How did they determine that the continuous power outage on this bicycle would be 500 watts or less?

Mr. Lemieux: The vehicle equipment standards for E-bikes, as they are called, are adopted from the federal standard under the Canadian motor vehicle safety regulations.

Mr. Chairperson: Clauses 4 to 7—pass; clause 8—pass; clauses 9 and 10—pass; clause 11—pass; clause 12—pass; clauses 13 to 17—pass; clause 18—pass; clause 19—pass; clause 20—pass; clause 21—pass; clauses 22 and 23—pass; clauses 24 to 28—pass; clauses 29 to 36—pass; clauses 37 to 39—pass; clauses 40 and 41—pass; enacting clause—pass; title—pass. Bill be reported.

Thank you to members of the committee and the minister.

Bill 37—The Labour Relations Amendment Act

Mr. Chairperson: The last bill we have for this committee this evening will be The Labour Relations

Amendment Act, Bill 37. Does the minister responsible for Bill 37 have an opening statement?

Hon. Nancy Allan (Minister of Labour and Immigration): Thank you, Mr. Chair. The Labour Management Review Committee is required by law to review the expedited settlement provisions in The Labour Relations Act. The previous minister referred the matter to the Labour Management Review Committee and the Labour Management Review Committee presented the minister with a report in December 2002. That report was tabled inter-sessionally in January 2003, and the bill that you see before you, Bill 37, implements the unanimous recommendations of the Labour Management Review Committee.

I would like to thank the Labour Management Review Committee for their work and look forward to passing this piece of legislation.

Mr. Chairperson: I thank the honourable minister for the opening statement.

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

Mr. Ron Schuler (Springfield): Yes, thank you very much. I had the opportunity to speak on this bill this afternoon and, as I stated at that time, as this deals with Bill 44, a bill that took Manitoba and this Chamber into the dark days of the Doer government where we saw the government go out of its way, pitting business against labour in a definite divisive and ideological battle, which was not just detrimental to workers, it was very offensive to entrepreneurs and to the business community. It was clearly a stumble. It was a mistake on behalf of the Doer government and was viewed as that. It certainly was an opportunity for the government to be very careful how it dealt with labour legislation.

Bill 44, which this bill amends, besides being anti-worker and anti-democracy, it went back to promoting picket line violence and clearly had an anti-business sentiment to it. The government was warned at that time that not just was this a bad bill for all of those groups involved, it was also poorly written. There were glaring errors, glaring mistakes.

Even the former Minister of Labour never understood her own legislation, in fact went out into the hallway and got it wrong, not on one but on two

different occasions. I remember sitting during those dark days here in Manitoba when we sat all night at committee and the minister sat and tried to explain her mechanism of resolution. It was embarrassing to listen to the minister trying to muddle her way through it. It might have been because of the ghastly hour that we were sitting to. I think all members are to be congratulated that we have cut that nonsense out, but, more importantly it was just that it was a poorly written bill.

We believe that this particular bill, Bill 37, is no different than throwing good money after bad. We know the intentions of the Labour Management Review Committee are such that they will have to make the best of the worst. That is certainly what they have attempted to do. We however reject anything to do with Bill 44. I have used the analogy twice now today, and I will use it a third time. It is an attempt to repair the rust on the *Titanic* after the *Titanic* sank.

We think that the best thing that can be done is that Bill 44 should have been amended. The wrongheaded ways of Bill 44 should have been amended. Manitoba should be freed from the confines of Bill 44. The fact that we have Bill 37 in front of us, we feel that it does not address the problems, the glaring problems of Bill 44. It clearly does not do anything to enhance workers. It clearly does nothing to enhance democracy. It does not deal with the problem of picket line violence. It certainly does not help business.

* (21:50)

In the discussions that I have had, another individual brought up the analogy—interesting how every time you talk about Bill 44 *Titanic* analogies tend to come out. The person said to me, he said a labour management review committee was sort of like the captain and the crew both agreeing to change the order of the chairs on the deck of the *Titanic*. It is still going down, it is still bad, but they all agreed that they would shuffle the chairs.

I think we have made it very clear that this is not going to be someplace where we are going to have any agreement. In fact, we asked Legislative Counsel about some amendments and thought the better of it and felt that we were just going to not support Bill 37. Again, it has been bad for Manitoba, it has been bad for Manitobans in all aspects.

I will wrap up my comments and recommend to this committee that Bill 37 should be sent back. There should be some real changes brought forward to Bill 44 that bring Manitoba back into the year 2004 from the dark ages of Bill 44 and that year of 2000 when we went through that very difficult time with that piece of legislation. We will have no part of Bill 37.

Mr. Chairperson: We thank the critic for the official opposition for the opening statement.

Shall clauses 1 and 2 pass?

Mr. Jack Penner (Emerson): I concur with what my colleague has just put on the record.

This government has clearly demonstrated its inability to deal with the economics in this province that rely on good relationships between the private sector and the public sector and those that work within that sector. It is clear that by actions taken now by this government under the new, supposedly, floodway agreement that there will be a requirement by all workers, whether they are unionized, whether they have any union benefits, whether they have any benefits in labour relations or discussions in labour relations, that they are going to have to pay the dues that normally are prescribed to those that voluntarily join unions by either actions of the unions or labour taking votes, or at least they used to be able to take votes, to form a unionized partnership with their co-workers and then able to deal in an organized fashion.

Yet it has become very apparent that this government has no stomach at all for using fairness in arbitration, negotiations and settlements that would allow those that, in large part, make this province tick. Those that make the investments, those that provide the labour in an un-unionized manner that make the choice to work in a non-unionized environment and do it well and have demonstrated an ability to get the job done without having to pay or have deductions made from their paycheques for matters they have no voice in nor have benefits from, simply because a government has made a decision to appease and provide a huge amount of money to his union boss friends.

I am talking about our Premier (Mr. Doer) and his former involvement in the union movement. He was, I guess, one of the most prominent union bosses

in this province and now has made, obviously, a deal with the unions that they will be paid large fees in order to have an agreement that they can work in co-operation with those that are not unionized on a megaproject that is going to happen in this province.

I think, clearly, that demonstrates this government's negative attitude towards a proper developmental strategy and policy that needs to be rethought. I believe that it is imperative that this minister relate to her Cabinet colleagues and the Premier that we are still in, at least we think we are, in a free environment and a free economy and to make choices. So I would respect that the minister would at least take that message forward.

Mr. Chairperson: We thank the member for the opening statement.

Shall clauses 1 and 2 pass?

Some Honourable Members: No.

Some Honourable Members: Yes.

* (22:00)

Voice Vote

Mr. Chairperson: All those in favour of adopting clause 1, please signify by saying yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, by saying nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Yeas have it. Clause 1 is accordingly passed.

Mr. Chairperson: Shall clause 2 pass?

Some Honourable Members: Yes.

Some Honourable Members: No.

Voice Vote

Mr. Chairperson: All those in favour of adopting clause 2, signify by saying yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, by signifying nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Yeas have it. Clause 2 is accordingly passed.

* * *

Mr. Chairperson: Shall clause 3 pass?

Some Honourable Members: Yes.

Some Honourable Members: No.

Voice Vote

Mr. Chairperson: All those in favour of adopting clause 3, signify by saying yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, by signifying nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Yeas have it. Clause 3 is accordingly passed.

* * *

Mr. Chairperson: Shall clause 4 pass?

Some Honourable Members: Yes.

Some Honourable Members: No.

Voice Vote

Mr. Chairperson: All those in favour of adopting clause 4, signify by saying yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, by signifying nay.

Some Honourable Members: Nay.

Mr. Chairperson: In the opinion of the Chair, the Yeas have it. Clause 4 is accordingly passed.

* * *

Mr. Chairperson: Shall the enacting clause pass?

Some Honourable Members: Yes.

Some Honourable Members: No.

Voice Vote

Mr. Chairperson: All those in favour of adopting the enacting clause, signify by saying yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, by signifying nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Yeas have it. The enacting clause is accordingly passed.

* * *

Mr. Chairperson: Shall the title pass?

Mr. Kevin Lamoureux (Inkster): Just one very quick question. Can the Minister of Labour indicate Bill 44, which has, in essence, caused this particular bill, as she made reference to the Labour Management Review Committee, was it unanimous by the Labour Management Review Committee in terms of the recommendations that ultimately led to Bill 44?

Ms. Allan: Bill 44 was amended extensively in committee. Bill 37, that is before you, was unanimous from the Labour Management Review Committee.

Mr. Lamoureux: I can appreciate that, but I guess the question is, in terms of Bill 44, would that have received unanimous support from the Labour Management Review Committee?

Ms. Allan: It was before my time, but I do not believe it did.

Mr. Chairperson: Shall the title pass?

Some Honourable Members: Yes.

Some Honourable Members: No.

Voice Vote

Mr. Chairperson: All those in favour of passing the title, please signify by saying yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, by signifying nay.

Some Honourable Members: Nay.

Mr. Chairperson: In the opinion of the Chair, the Yeas have it. Title is accordingly passed.

Shall the bill be reported?

Formal Vote

Mr. Schuler: I would like to ask for a recorded vote.

Mr. Chairperson: A recorded vote has been requested.

Just as a reminder for members of the committee to make sure, since there have been some substitutions, we want to reflect those members of the committee that are entitled to be part of this committee this evening, and voting members. The honourable Mr. Bjornson, Mr. Schuler, Ms. Irvin-Ross, Mr. Lemieux, Mr. Maguire, Mr. Martindale, Mr. Penner, the Chair, honourable Minister Robinson, Mrs. Taillieu and the honourable Minister of Labour, Ms. Allan, are members of the committee.

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

Mr. Chairperson: The bill being reported is accordingly passed and carried. The bill shall be reported.

* * *

Mr. Chairperson: We thank honourable members for their work here this evening.

The time being 10 p.m., what is the will of the committee?

Some Honourable Members: Committee rise.

Mr. Chairperson: The committee rise.

COMMITTEE ROSE AT: 10 p.m.

**WRITTEN SUBMISSIONS PRESENTED
BUT NOT READ**

Re: Bill 19

June 8, 2004

Committee Branch
Manitoba Legislative Assembly

Rick Yarish,

I am writing to follow up on our telephone conversation regarding Rolling River First Nation (RRFN) trustee representation on the Rolling River School Division (RRSD) school board.

Currently Rolling River First Nation enrolment stands at 58 percent in Erickson Elementary School and 28 percent in Erickson Collegiate. Eight years ago it was only 30 percent and 20 percent respectively. Rolling River First Nation is appreciative of the Rolling River School Division board motion that allows for a representative from our community to sit at board meetings and provide input. However, our representative still does not have voting privileges, nor do Rolling River First Nation community members even have the right to vote for any trustee in Rolling River School Division.

Chief Morris Shannacappo, Grand Chief Dennis Whitebird, Superintendent Neil Whitley and other school and Rolling River First Nation representatives have met with the deputy minister and the minister. Presentations have been made, letters written and assurances made that Rolling River First Nation would have the same democratic right to participate in shaping their children's educations as do other Canadians. Two years have passed and we are still waiting.

Rolling River First Nation, unlike most First Nation communities, decided after careful deliberation not to build its own community school but rather has chosen the challenging path of integrating its students into the public school system. Rolling River First Nation will proudly affirm its Aboriginal heritage while at the same time strive to build *ashogunan*—bridges—to its neighbours.

It is our sincere hope that government will now finally honour its word and pave the way for Rolling River First Nation to fully participate in the education of our children by being able to elect a trustee with full vote privileges, to the Rolling River School Division board.

On behalf of Chief and Council
Councillor Wilfred C. McKay
Rolling River First Nation

* * *

Re: Bill 19

The Winnipeg School Division appreciates having the opportunity to submit our comments regarding Bill 19 for consideration by the Standing Committee on Legislative Affairs.

Bill 19 proposes several different amendments to The Public Schools Act that affect the Winnipeg School Division, including provisions regarding Qualifications and Disqualification of School Trustees; Reserves prescribed as school division wards; Election of School Board Chair and Vice Chair; and Teachers' Agreements.

Section 22

Section 22, as amended, would read as follows:

Qualifications of school trustees

22(1) A person is qualified to be nominated for and elected as a trustee of a school board, if the person (a) is a Canadian citizen; (b) is of the full age of 18 years, or will be of the full age of 18 years at the date of the election; (c) is an actual resident in the school division or school district, and will have been so for a period of at least six months at the date of the election; and (d) is not disqualified under any other provision of this act or under any other act, and is not otherwise by law prohibited from being a trustee or from voting at elections in the school division or school district.

Persons who are disqualified

22(2) The following persons are disqualified from being nominated for election as a trustee and from being elected or remaining as a trustee: (a) a member of the Legislative Assembly or the Senate or House of Commons of Canada; (b) a member of the council of a municipality; (c) a pupil in regular

attendance at a school within the same school division or school district.

Employee elected as a trustee

22(3) An employee of the same school board, school division or school district is disqualified from serving as a trustee unless he or she takes a leave of absence under subsection 48.1(4) (leave of absence for elected candidate).

Proposed Section 39.6(1)

Proposed Section 39.6(1) of The Public Schools Act would read as follows:

Disqualification for violation or conviction

39.6(1) A trustee is disqualified from holding office if he or she (a) violates any provision of this act; or (b) is convicted of (i) an offence punishable by imprisonment for five years or more, or (ii) an offence under section 122 (breach of trust by public officer); 124 (selling or purchasing office) or 125 (influencing or negotiating appointments or dealings in office) of the Criminal Code (Canada).

Result of disqualification

39.6(1.1) When a trustee is disqualified under subsection (1), his or her seat becomes vacant as of the day a declaration is made under subsection 39.7(6) or section 39.8.

Eligibility at next election

39.6(1.2) A trustee who is disqualified under subsection (1) remains disqualified from being nominated for, or elected or appointed as, a trustee for four years after the day a declaration described in subsection (1.1) is made.

The Winnipeg School Division submits the following comments regarding the above proposed changes to Sections 22 and 39.6 of The Public Schools Act.

Sections 39.6(1) and 22(1)

Elected school trustees hold positions of leadership and authority in public school divisions and are regularly invited to participate in activities that involve students from 5 to 21 years of age. In this regard, we believe that the proposed Section 39.6(1) of The Public Schools Act should include disqualification from holding office for any types of convictions that involve child abuse, sexual offences, public morals and disorderly conduct, and not just those that carry a punishment of five years or more.

If an individual is disqualified from holding office as a trustee for child abuse and/or convictions under the Criminal Code of Canada, The Public Schools Act and/or The Local Authorities Elections Act should require that an up-to-date criminal records search and provincial child abuse registry check be submitted as part of the nomination process for a school board trustee.

Section 22(3)

Presently, section 227, The Public Schools Act, provides that "No employee and no pupil in regular attendance at school shall be a trustee of the school division or school district in which he is an employee or pupil." Previous interpretations of this section together with current section 22(d) of The Public Schools Act have meant that an individual could neither be nominated nor elected to serve on the school board of which he or she is an employee. The new section 22(3) proposed under Bill 19 would allow an employee of the same school division to be both nominated and elected to serve on the same school board and be granted leave of absence without pay for the period during which the employee holds office but not exceeding five years.

The Winnipeg School Division has no difficulties with an employee being granted leave of absence without pay to be nominated and campaign as a candidate for the same school board. However, we do not believe an individual should be allowed to retain their employment status by taking a leave of absence while sitting on the board of trustees of the same school division.

Employees on leave of absence from the division maintain an employer/employee relationship. They also remain members of the union if one exists, which covers their position. In all cases, these employees maintain their seniority and benefit entitlements. In some cases, these employees continue to accrue seniority and are entitled to benefits offered as a result of their membership in the union.

The Winnipeg School Division believes that this may lead to potential conflict of interest and bias in the individual's exercise of his/her responsibilities as a trustee. The Winnipeg School Division recommends that the proposed legislative amendment be altered to ensure that there can be no perceived conflict and to require employees who are elected as trustees to resign from their position in the school division.

New Sections 24.1, 24.2, 24.3

Proposed sections 24.1, 24.2 24.3 provide for the minister to make regulations establishing a reserve as a separate ward of a school division if the council of a band has entered into an agreement with the school board under clause 48(1)(q) of The Public Schools Act respecting the attendance and education of children who are the responsibility of the band. We would assume that any regulations made under these sections would apply where a reserve is geographically located within the boundaries of the school division. At present, the Winnipeg School Division has agreements with 29 different bands for the attendance and education of children under their responsibility at division schools. There are no reserves geographically located within the Winnipeg School Division and there is not one predominant reserve represented by the band students attending schools in the division.

Section 29(2)

The Winnipeg School Division supports the proposed changes to section 29(2) of The Public Schools Act with respect to the timing of the election of a chair and vice chair of the board. However, given the repercussions that may result from the federal, provincial, municipal and school trustee elections that have now been called for June 2004, we believe this change should be deferred until September 2005. This would provide the opportunity for any resulting school board by-elections to be held during the fall of 2004 and for the newly elected trustees to participate in the election of a chair and vice chair of the board at the first meeting in November in accordance with the current legislation.

Section 97.7

While we believe there may be some merit in holding school board meetings by remote electronic means in rural areas, we believe this may not be appropriate for urban school divisions. We also believe it would only be appropriate for a meeting to be conducted electronically, or for a member to participate by remote electronic means, where both audio and visual services can be provided in a consistent manner to all members. We believe that in order for sound decisions to be made, all parties need to have access to the same information, including access to the subtle nuances and verbal exchanges that may occur during a formal meeting setting that may not be evident if one or some members were participating in the meeting by remote electronic means.

Section 58.9(3)

The Winnipeg School Division supports the addition to section 58.9 of The Public Schools Act that would allow a school board to meet in camera for the purpose of hearing representations about and determining whether to expel a pupil. At present, school boards must hold their meetings and make decisions in public session. The usual practice regarding whether to expel a pupil is that the school board meets in Committee of the Whole in camera to hear representations and discuss the issue, and returns to public session to report and vote on the decision. With respect to the proposed legislation, clarification is required as to whether the actual decision to expel the pupil can be made in the camera session and treated confidentially, or whether the decision has to be made and/or reported in public session and reflected in public minutes.

Section 92

Proposed sections 92(1.1) and 92(1.2) would enable the minister to make regulations prescribing the form and content of an employment agreement between a teacher and a school division, including agreements containing different terms and conditions for different circumstances.

Currently, the employer/employee relationship which exists between a teacher and a school division is established by division policy, collective agreement and the individual teacher's schedule of employment signed by teachers. The interpretation and meaning of these policies, collective agreements and schedules of employment have been well established over time through negotiation, grievance and court rulings.

The schedules of employment or individual teacher contracts as they are referred to in other divisions have been negotiated in the Winnipeg School Division and are attached to and form part of the collective agreement.

Although we recognize the changes to legislation being recommended are basically enabling legislation, we would urge the government to use caution when considering any changes or additions to existing forms or individual teacher contracts. We particularly would urge the government to ensure that any changes or additions to individual contracts be made without creating a situation where previous understandings and interpretations reached as a result of negotiation or jurisprudence, are drawn into

question and challenged as a result of new language included or old language left out of the schedules of employment.

In the case of the Winnipeg School Division, we would also advise the government that any change to the schedule of employment would mean the government would be changing the terms and conditions of our collective agreement through legislation or regulation, as our individual schedules of employment are defined in and are attached to and form part of the collective agreement between the Winnipeg School and the Winnipeg Teachers' Association. The government, in doing so, would be seen as making a major intrusion in the collective agreement and this would be in direct contravention of the government's philosophy of free collective bargaining.

Section 174(1)

The Winnipeg School Division supports the proposed changes to section 174(1) of The Public Schools Act and the consequential amendment to section 4(1) of The Education Administration Act regarding the authority of the minister to make regulations respecting the disposal of land or a building.

Summary

Again, on behalf of the Winnipeg School Division, I wish to thank you for providing the opportunity for input on this important legislation. We trust our views will be taken into consideration prior to any changes being enacted. Thank you.

Lori Johnson
The Winnipeg School Division

Re: Bill 25

History and Mandate:

Retail Council of Canada (RCC) has been the Voice of Retail in Canada since 1963 by providing advocacy, research, education and services that enhance opportunities for retail success, and increase awareness of retail's contribution to the communities and customers it serves. We speak for an industry that touches the daily lives of Canadians in every corner of the country - by providing jobs, consumer

value, world-class product selection, and the colour, sizzle and entertainment of the marketplace.

RCC is a not-for-profit, industry-funded association whose 9,000 members embrace all retail formats, including department, specialty, discount and independent stores, and online merchants. RCC also acts as the Canadian agent for VSDA, the Video Software Dealers Association. More than 90 per cent of our members are independent storeowners. Canadian retailers take pride in their industry and the contribution it makes to the country's well being.

Whenever the opportunity presents itself, RCC is there promoting retail as a profession; as a portal to the world of work; as an economic driver; as a barometer of consumer tastes and confidence; and as an intensely competitive arena that delivers to Canadian consumers one of the highest standards of living in the world.

Manitoba Overview:

The retail sector is a vital part of Manitoba's economy. It achieved nearly \$11 billion in sales annually and represented more than 5.6 per cent of the provincial GDP in 2003.

There are approximately 7,000 retail establishments in Manitoba. When considering businesses with a payroll and a fixed address (the key criteria Statistics Canada uses to classify a business establishment), the retail industry has the largest number of business establishments in Manitoba.

When including indeterminate businesses such as sole proprietorships and partnerships, (ie. usually without a payroll) retail is still Manitoba's third largest industry. Despite its significant size and scope, retail is dominated by small businesses. The majority of retail businesses in Manitoba employ less than four people and have sales of less than \$500,000 annually.

Employment in retail represents 11 per cent of the province's total employment, directly employing more than 66,000 Manitobans. Retail is Manitoba's third largest employer behind Healthcare and Manufacturing. The contributions made by this economic sector are felt in every corner of the province and affect the lives of all residents.

Commitment to Parents

Canadian retailers are in agreement with the Manitoba government regarding the policy issue of preventing the sale or rental of adult material to children and are committed to assisting parents in making informed entertainment choices for their families regarding the purchase or rental of interactive video and computer games. We share a common objective with provincial governments across Canada – supporting parents in protecting their children.

That is why, at the behest of our members, Retail Council of Canada has initiated a national rollout of *Commitment to Parents*. The *Commitment to Parents* initiative limits the sale or rental of mature or adult oriented video games to children through a system of video game ratings on the packaging and point-of-purchase controls. This is a highly successful voluntary program of self-regulation launched in British Columbia in 2001.

The *Commitment to Parents* program evolved out of the collaborative efforts of Retail Council of Canada, the Entertainment Software Association of Canada (formerly the Canadian Interactive Digital Software Association - CIDsA), the Entertainment Software Ratings Board (ESRB), and the Government of British Columbia.

Participating retailers in BC check age identification to ensure "Mature" rated video games are not sold or rented to customers under the age of 17. Working closely with the Entertainment Software Ratings Board, retailers also work to educate parents on the need to pay close attention to the games their children are playing and how the ESRB ratings system can assist them in that regard. Retail Council of Canada has been consulting with government officials in Manitoba as well as other jurisdictions, including BC and Ontario, in order to create a comprehensive national program.

Under this approach, the video gaming industry will continue to ensure that all of its products are properly rated by the Entertainment Software Rating Board, the North America-wide agency established in 1994 to develop the standardized rating system. The rating system consists of six symbols prominently displayed on game boxes to tell parents what age the game is appropriate for. Also appearing on each box are descriptions of content elements.

The national *Commitment to Parents* program will also ensure that the ESRB ratings are easily recognized and well understood through “OK to Play” marketing material. Retailers have agreed to distribute this educational material that will raise awareness and provide parents with detailed information regarding the ESRB rating system. The video gaming industry, along with major retailers, are working together to make sure that the games purchased or rented by minors are appropriate to their age.

The *Commitment to Parents* program will also include a consumer redress mechanism should a retailer fail to adhere to the national code. The Consumer Complaint process establishes that a retailer that sells or rents an A or M rated video game to a minor will, at minimum, provide the consumer with a full refund on the cost of purchase or a free rental on another video or computer game. For your information, I have attached the full version of the draft *Commitment to Parents* Retailer Code as background information to supplement this presentation.

This *Commitment to Parents* is an extension of retailers’ commitment to customer service, and will help make parents in Canada better equipped to decide what’s appropriate for their children. With the growth of the Internet and other non-traditional forms of retail, parents must be more vigilant than ever in ensuring the games their children play are appropriate to their age.

Educating parents must be an important part of this process. As part of the program, the industry and retailers will be launching a public awareness campaign to educate and inform parents about the rating system. The “OK to Play” campaign will include point-of-purchase displays, informational brochures and rating cards for parents. It is our hope that by taking these actions, retailers in Manitoba and across Canada can support parents in protecting their children.

In this instance we all share the same goal: To support and empower parents... to ensure they have the information and tools they need to make their decisions about what is appropriate video and computer game programming for their children.

We start with the premise that the best control of entertainment is parental control and there is no

better place than a retail store for parents to control the content of the video and computer games to which their children have access.

Above all else, *Commitment to Parents* is about retailers helping parents making more informed entertainment choices for their families through a parental empowerment program that combines ratings education with voluntary ratings enforcement. RCC plans to have the national *Commitment to Parents* program fully operational coast to coast by November 2004.

Bill 25 – The Amusements Amendment Act

RCC appreciates the opportunity to provide the Government of Manitoba with input on this legislation and looks forward to working closely with department officials as the regulations for this legislation are developed.

To begin, I would like to clearly state that retailers agree with the Manitoba government on the policy issue of preventing the sale or rental of adult material to children. We feel that partnering with governments, as was done in British Columbia, is the best and most effective way of reaching this goal.

As you know, Manitoba has been working as part of the Inter-Provincial Film Classification Council of Canada to develop a national approach to addressing this issue. RCC was pleased to present our program to this working group in April and has since worked closely with officials in Ontario and B. C. on this issue. We feel it is vitally important that the work being done to address this issue on a national level be harmonized to the greatest extent possible. We are pleased that Manitoba appears to agree with this position.

RCC feels that it is fundamentally important that the Government adopt the ESRB rating system under this legislation. This rating system is an unbiased, standardized way to help you determine whether a game is appropriate for your child. It is the industry standard for North America and RCC has made it a priority that increasing awareness of the ESRB rating system must be part of any plan to help parents make more informed decisions regarding their children’s’ entertainment choices. Section 3(1)(iii) of Bill 25 will give the government the authority to adopt ESRB as the classification scheme that will be used

to rate video games in Manitoba and we fully expect the government to adopt the industry standard.

We do have a number of specific concerns with the proposed legislation, including the definition of "video game." As currently stated in Section 2(2) of Bill 25, "video games" will include cell phones, any computer with Windows operating software, some digital watches, personal information devices, and interactive learning toys for pre-school children. We feel it is important that the government take these issues into consideration during the regulations drafting process when looking at the exclusion clause that is in this section. It is our opinion that these products should be excluded from the legislation.

Also of concern is the stipulation in the bill regarding the licensing of retailers. Section 6 indicates that video game retailers would be required to be licensed by the Manitoba Film Classification Board in order to sell or rent video games. It is our understanding that the entire licensing issue by the Film Classification Board is being or will be reviewed.

We feel that licensing retailers, especially those in rural Manitoba, under this provision would cause a significant cost increase to their businesses. This may also result in retailers choosing not to offer these products in their stores in order to avoid the administrative burden that will result of licensing. Decreasing consumer choice and stifling business should not be the objective of this legislation. The question has to be asked: What public policy objective is being served by licensing retailers?

As noted earlier, cell phones and children's interactive learning toys may be considered video games under the proposed legislation. Will retailers who sell only cell phones or children games now be required to be licensed by the Manitoba Film Classification Board. This would cause serious concerns over the intent of the bill and would increase costs to retailers. These questions must be answered before this piece of legislation becomes law.

Finally, Section 8(3) of Bill 25 would require retailers to physically and visually segregate adult material from the general viewing area of the public. Most responsible retailers already take steps to place adult video games in a different shelf than games that are intended for children. Retailers would support taking reasonable steps to segregate "A" rated games

that would not involve increased cost to their business.

As I mentioned previously, the *Commitment to Parents* program will establish a consumer complaints process. We feel that the establishment of this process will adequately address and correct any situation that may arise regarding the selling or renting of A or M rated games to minors.

We have been working closely with the Inter-Provincial Film Classification Council of Canada to make sure that Industry self-regulation is the first, best, and most effective way of addressing this situation. We feel that government enforcement of this legislation will not be required and should only be accessed as a last resort only after the redress process established under the *Commitment to Parents* program has been exhausted.

On behalf of Retail Council of Canada, I thank the committee for their attention and consideration.

**BACKGROUNDER:
COMMITMENT TO PARENTS
VOLUNTARY CODE**

**Proposed National Commitment to Parents
Retailer Voluntary Code
DRAFT – June/04**

Statement of Intent

Canadian retailers are committed to assisting parents in making informed entertainment choices for their families regarding the purchase or rental of interactive video and computer games through parental empowerment programs that combine ratings education with voluntary ratings enforcement.

The Commitment to Parents program evolved out of the collaborative efforts of the Retail Council of Canada (RCC), the Entertainment Software Association of Canada (formerly the Canadian Interactive Digital Software Association - (CIDSAs)), the Entertainment Software Ratings Board (ESRB), and the Government of British Columbia.

Purpose

The purpose of the Voluntary Code is to:

1. Visibly demonstrate retailers' commitment to parental empowerment through ratings education and voluntary ratings enforcement;

2. Provide a uniform and consistent framework for industry self-regulation;
3. Provide the retail industry with a mechanism for consumer redress where issues of Voluntary Code non-compliance arise, to be managed by the industry and overseen by a committee representing consumers and industry.

Scope

The Voluntary Code applies to retailers in Canada who have registered with Retail Council of Canada (RCC) as participants in the “Commitment to Parents” program (registration form attached hereto as Appendix 1), and covers video and computer games that have been rated by the Entertainment Software Ratings Board (ESRB).

A retailer volunteering to adopt the Code must abide by the policies outlined below.

1. Retailers’ Commitment to Parents

Retailers participating in the Commitment to Parents program agree:

- 1.1. To apply the Code both in letter and spirit;
- 1.2. Not to sell or rent M-rated (mature) video/computer games to customers under the age of 17 without parental consent or adult accompaniment;
- 1.3. Not to sell or rent AO-rated (Adults Only) video/computer games to customers under the age of 18;
- 1.4. To display, in a conspicuous location near where the product is displayed, signage advising customers of their participation in the program and the store’s policies with respect to age-restricted sale of “Mature” and “Adults Only” rated computer/video games;
- 1.5. To display information material on the ESRB rating system in a conspicuous location near where the product is displayed;
- 1.6. To train appropriate staff members so that they are aware of the Commitment to Parents program and the ESRB rating system;
- 1.7. To establish appropriate internal policies and procedures necessary to maintain a high level of

compliance with the undertakings covered by this Code;

1.8. To respond to consumer complaints in a timely and appropriate manner and to provide complainants with an explanation of the steps that will be taken to achieve future compliance with the Code;

1.9. To provide information to the National Home Video Games Administration Committee in connection with the Retailer’s experience with the consumer complaint process; and

1.10. To abide by the recommendations of the National Home Video Games Administration Committee in connection with consumer complaints that the Committee has determined are legitimate.

2. Code Administration

2.1. The National Home Video Games Administration Committee (“the Committee”) will be established to oversee the implementation and operation of the Commitment to Parents Retailer Voluntary Code in a manner that is transparent and accountable to the public.

2.2. Composition: The Committee will be composed of three members – a public representative appointed by [TBD], a representative of the video game manufacturing industry designated by the Entertainment Software Association of Canada (ESA Canada), and a representative of the retail sector designated by Retail Council of Canada. (*Requires discussion/negotiation with stakeholders.*)

2.3. ESA Canada will assume the administrative and other costs associated with the Committee’s fulfillment of its mandate.

2.4. Mandate: The Committee will:

- 2.4.1. Monitor the operation of the Code;
- 2.4.2. Bring issues of non-compliance to the attention of individual retailers when required;
- 2.4.3. Monitor the effectiveness of the consumer complaint and redress protocols outlined in this Code and recommend amendments where warranted;
- 2.4.4. Receive and recommend ways to resolve complaints that have been brought to the

Committee's attention through the consumer complaint process.

2.4.5. Consult with participating retailers (where appropriate) on proposed amendments to the Code;

2.4.6. Raise public awareness of the ESRB ratings system, the Voluntary Code and its dispute resolution procedures;

2.4.7. Promote dialogue between manufacturers, retailers, and consumers of video/computer games;

2.4.8. Liaise with the ESRB, ESA Canada and RCC in the furtherance of the objectives outlined herein;

2.4.9. Prepare Annual Reports on the Code and its administration:

- Volume of complaints received from members of the public with respect to alleged non-compliance of the Code and the manner of their disposition;
- Issues of concern related to video game content brought to the Committee's attention by members of the general public;
- The results of any surveys, which may be conducted from, time to time to monitor public awareness of the Commitment to Parents program and the ESRB ratings system.

2.4.10. Meet quarterly or more frequently as required;

3. Consumer Complaint Process

3.0 In the event a participating retailer has sold or rented an M-rated video game to a person under the age of 17 without parental consent or adult accompaniment adult, or an AO-rated video game to a person under the age of 18, the retailer agrees at a minimum to:

- Provide a full refund on the cost of the purchase or a free rental of the video or computer game;

In the event a participating retailer has failed to post signage educating customers on the ESRB rating system, or to post signage advising customers of their participation in the Commitment to Parents Program, or to make appropriate staff members aware of the program, the retailer agrees at a minimum to:

- Provide the consumer with an explanation of how the non-compliance occurred, and details of whatever steps the retailer deems appropriate to achieve future compliance.

3.1. Where a consumer has reason to believe that a retailer participating in the Commitment to Parents program has not complied with the voluntary code, that consumer shall in the first instance bring the complaint to the attention of the store manager or supervisor.

3.2. A customer dissatisfied with the store manager or supervisor's decision shall be directed to a designated company representative.

3.3. The time period for considering a particular complaint should be left to the discretion of the retailer. However, generally complaints should be resolved as expeditiously as possible and, in any event, no more than one month after the non-compliance is alleged to have occurred.

3.4. In the event that the dispute between a consumer and a retailer cannot be resolved:

a) Either party may refer the matter to the Video Games Advisory Committee by contacting the ESRB's website for referral to the Committee;

3.5. The Video Games Advisory Committee will review the facts of the complaint and determine whether or not it is legitimate; if the complaint is deemed legitimate, the Committee will recommend ways to resolve the complaint.

3.6. If the dispute remains unresolved it may, at the request of either party, be referred to a designated arbitrator on a cost recovery basis.

APPENDIX 1

CODE RETAILER PARTICIPANT REGISTRATION FORM

Participation in Commitment to Parents Retailer
Voluntary Code

I _____

(Name of authorized representative
of the Retailer) being duly authorized to enter this
agreement for and on behalf of

(Name of Retailer), hereby agree

that _____
(Name of Retailer) will abide

by the letter and spirit of the Code (a copy of which
is attached to this Registration form,

so as to ensure the interests of our customers are
protected in the sale and/or rental of
interactive video and/or computer games.

Signed

Signature of authorized company officer, and
position

On this date

Lanny McInnes, Manager of Member & Government
Relations (Manitoba)
Retail Council of Canada